

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

\* \* \*

IN THE MATTER OF GENERIC HEARINGS )  
CONCERNING THE RATE STRUCTURE OF )  
ALL ELECTRIC UTILITIES OPERATING )  
UNDER THE JURISDICTION OF THE )  
PUBLIC UTILITIES COMMISSION OF )  
THE STATE OF COLORADO. )

CASE NO. 5693

- - - - -  
July 13, 1976  
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S T A T E M E N T

BY THE COMMISSION:

I

GENERIC HEARINGS

(a)

Substantive Aspect

During the past several years, state and federal regulatory commissions have been considering nontraditional pricing and costing methodologies as factors in determining rate structure. They have been impelled to do this by considerations of economic efficiency, concerns about the environment, a newly awakened awareness of the desirability and necessity for energy conservation, and a recognition of the capital shortages with which electric utilities recently have been confronted. In view of these concerns, it has become increasingly evident that a commission which fails to take action in this area is, in fact, taking action by indirection; that is, it is putting its stamp of approval on an existing rate structure which may, in the long run, be detrimental to individual consumers and to the public at large. A number of states have held generic hearings on the topic of rate design, and several are in the process of urging or requiring electric utilities to adopt variable load pricing structures based upon marginalist principles.

Until recently, it was common practice to incorporate promotional features in the rate structure so as to encourage increased consumption and capture the advantages of economies of scale. During the past few years it would appear that economies of scale no longer obtain and that marginal costs have surpassed average costs. For this and other reasons it is presently being suggested that the traditional declining block rate structure, with its alleged promotional features, be abandoned in favor of nonpromotional, cost-tracking rates which would tend more to discourage use.

In Colorado, several of these nontraditional pricing and costing methodologies were examined to a limited extent by the Commission in 1975 during the course of a major rate proceeding involving Public Service Company of Colorado (Investigation and Suspension Docket No. 935: In the Matter of Proposed Increased Rates and Charges Contained in Tariff Revisions Filed by Public Service Company of Colorado; hereinafter referred to as "I&S Docket No. 935"). That proceeding was divided into two phases, the first phase devoted to the issue of revenue requirements and the second phase to the question of rate structure.

During the second phase of I&S Docket No. 935, there was testimony from witnesses favoring alternative pricing and costing methodologies, including "time-of-use" pricing and marginal or long-run incremental cost (LRIC). Time-of-use pricing refers to the method of differentially pricing on- and off-peak energy sales, on the basis that on-peak sales impose greater costs upon the system. The "marginal cost" of any commodity is the change in cost incurred by virtue of the production of an additional (or incremental) unit of a product.

It is a tenet of economic theory that, with certain qualifications, when price is set equal to marginal cost this results in an optimal allocation of resources; that is, in the most effective use of society's productive resources to satisfy the needs and wants of the consuming public. This is so because price reflects the consumer's evaluation of the benefits to be obtained from the purchase of the last unit produced. Cost, on the other hand, reflects the opportunity cost to society of that production, i.e., the alternatives foregone by society in producing that last unit of output. When these are equal, production should be neither expanded nor contracted, and society is using its scarce resources in an optimal manner.

It is possible to base price upon time of use and implement a costing methodology not based upon marginalist principles. The use of the LRIC costing methodology, however, does imply the use of a time-differentiated pricing technique.

In Decision No. 87640 (issued at the conclusion of the second phase of I&S Docket No. 935), this Commission stated that the complexity of the above issues, the statutory time constraints under which the Commission operates in a rate hearing, and the fact that only one electric utility, albeit the largest in Colorado, was a party to the proceeding, made I&S Docket No. 935 an inappropriate forum for the determination of the intricate issues involved. The Commission further stated that separate proceedings would be instituted in the future for the purpose of investigating the general principles of electric rate design.

One purpose of the generic hearings which the Commission will hereinafter order is, then, to more fully explore pricing and costing alternatives within the context of the specific cost and load characteristics of electric utilities operating under the jurisdiction of this Commission. Advocates of peak responsibility pricing based upon LRIC or marginal cost principles claim that traditional rate structures are not appropriate to the current, and will be even less so to the near-term future, economic climate. They also claim that some of the benefits to society which would flow from the adoption of new methods (in addition to the above-noted economically efficient allocation of resources) are as follows: 1) The new methods are highly cost tracking. Their adoption would ensure, even in the unlikely event that the load and capacity utilization improvements which are foreseen were not to materialize, that utilities would recover required revenues from those customers whose demand imposes costs on the system and thereby creates the necessity for those revenues. In the process, utilities would experience a stabilization of revenues; 2) Pricing on the basis of costs would encourage energy conservation and the retardation of peak demand by creating price signals which indicate to consumers the actual costs of the resources allocated to produce the electricity they are using. At the same time it would give consumers a greater degree of control over energy expenditures. Consumers would have the price signals which would enable them to make informed economic choices both about the level and the timing of their energy demands; 3) The system load factor thereby would be improved and the fuller utilization of capacity encouraged;

4) The need for future utility capacity expansion would, in turn, be decreased; and 5) These factors would serve, to a great extent, to free all of us--customers, investors, regulators--from the "tyranny of the rate case cycle."

Opponents of implementation at this time and advocates of the use of different methodologies note several problem areas which must be addressed. Some of these are as follows: 1) We know very little about the own- and cross-elasticities of demand, especially of demand at the peak, for energy. We need more data on this question before we can make even rough approximations of the results of the costing and pricing methodologies under discussion upon capacity use and needs; 2) Insufficient consideration has been given by advocates of these new methods to the possibility that they will induce needle or shifting peaks. Load factors would not improve if needle peaks resulted, nor would this serve to minimize the need for future capacity. The possibility of shifting peaks greatly complicates the problem of efficient price calculation as it requires data about both costs and the positions of the relevant demand functions. Insufficient information could result in an exaggeration of the problems we seek to resolve; and 3) Any benefits to be gained from the adoption of such methodologies would be more than offset by the additional costs of metering and administering so complex a system. Opponents of peak load pricing and LRIC urge either the continued use of traditional methods of costing and pricing or the adoption of still other methodologies. Public Service Company of Colorado, for example, in I&S Docket No. 935, proposed a demand-energy residential price structure to be derived through application to historical test-year data of an average and excess demand cost allocation methodology. Moreover, Public Service Company witnesses before this Commission directed attention to the fact that the Company's favorable load factor of 67.8% and other uniquely auspicious circumstances decrease the need or desirability of making too dramatic departures from traditional practices at this time.

The generic hearings, as hereinafter ordered, will be devoted to an investigation of the full range of alternatives in the complex area of rate design. The purpose of such hearings will be to explore the theory and practical application of the various pricing and costing techniques, using data currently available and becoming available during the course of the hearing. The generic hearings will include, but will not be limited to, considerations of the following topic areas: In regard to the marginal cost analysis, it will be necessary to consider methodologies for estimating cost components, relevant periods, customer groupings, etc. With respect to time-of-use pricing, the feasibility of application through time-of-day metering, interruptible service, load management techniques, and so forth must be considered. An associated area to be explored is that of available metering technology, as well as new technology being developed, with special emphasis upon the comparative costs and benefits of particular metering technologies. The utilities should be prepared to supply load data which has been and is presently being collected so that a determination can be made of information gaps which must be filled so as to determine consumer use patterns and appropriate cost assignments. In addition, some attention should be given to the measurement of demand elasticities and the extent to which these should be reflected in the rates. The above is intended to indicate particular areas of interest and not to limit the proceedings.

(b)

#### Procedural Aspect

Because of the complexity of the issues to be pursued in the generic hearings and the ramifications that may flow from same, all electric utilities operating under the jurisdiction of the Commission shall be named as parties in this proceeding. Also, any persons, firms, or corporations desiring to participate shall be given until September 13, 1976, to file appropriate pleadings.



Subsequent to the September 13, 1976, deadline, the Commission will issue a decision which shall set forth the following: 1) A service list setting forth all parties to the proceeding; and 2) A proposed agenda for the conduct of the proceedings.

The proposed agenda will cover certain matters. First, the agenda will divide the generic hearings into several phases and set forth the subjects to be covered in each phase. Second, all parties shall be advised as to in which phases the presentation of viewpoints shall be limited to written material exclusively and in which phases formal cross-examination shall be utilized in addition to submission of written material. It is the present opinion of the Commission that certain phases (e.g., economic theory) may be fully developed without the necessity of formal hearings.

Within 20 days of the issuance of the above decision setting forth a proposed agenda, the parties shall submit in writing a statement requesting changes in the proposed agenda and their reasons for same. The parties shall also advise the Commission as to in which phases and the manner in which they intend to participate.

Upon receiving the above statements the Commission will issue a revised agenda incorporating any suggestions deemed meritorious and setting forth a list of the parties that will participate in each phase and the manner in which they will participate. Approximately 20 days after the issuance of the decision, a prehearing conference will be held for the purpose of clarifying any matters in the revised agenda.

The Commission will attempt to give the parties as much advance notice as is possible of any dates for submitting material with respect to each phase of the proceeding and of hearing dates which will be scheduled.

In view of the above and foregoing, the Commission finds and concludes that it will be in the public interest for it to enter into generic hearings as hereinafter ordered concerning the rate structure of all electric utilities operating under the jurisdiction of the Public Utilities Commission of the State of Colorado.

An appropriate order will be entered.

ORDER

THE COMMISSION ORDERS THAT:

1. Case No. 5693 be, and hereby is, instituted for the purpose of holding generic hearings concerning the rate structure of all electric utilities operating under the jurisdiction of the Public Utilities Commission of the State of Colorado.


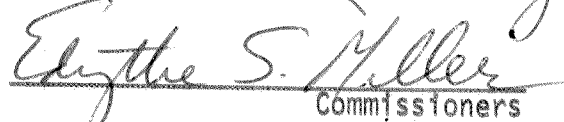
2. All electric utilities, as set forth in "Appendix A" attached hereto, be, and hereby are, made parties to Case No. 5693.

3. Any person, firm or corporation desiring to intervene as a party in Case No. 5693 shall, on or before September 13, 1976, file with the Executive Secretary of the Commission an original and six copies of an appropriate pleading for leave to intervene.

This Order shall be effective forthwith.

DONE IN OPEN MEETING the 13th day of July, 1976.

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

  
  
Commissioners

COMMISSIONER HENRY E. ZARLENGO DISSENTS.  
vjr

COMMISSIONER HENRY E. ZARLENGO DISSENTING:

I respectfully dissent for the following reasons:

A.

The Commission is ordering a hearing referred to as "generic hearings".

In its decision it is stated:

"The generic hearings, as hereinafter ordered, will be devoted to an investigation of the full range of alternatives in the complex area of rate design. The purpose of such hearing will be to explore the theory and practical application of the various pricing and costing techniques, using data currently available during the course of the hearing."

It is also stated:

"Because of the complexity of the issues to be pursued in the generic hearings and the ramifications that may flow from same, all electric utilities operating under the jurisdiction of the Commission shall be named as parties in this proceeding."

It is stated:

". . . all parties shall be advised as to in which phases the presentation of viewpoints shall be limited to written material exclusively and in which phases formal cross-examination shall be utilized in addition to submission of written material."

In the decision it is ordered:

"1. Case No. 5693 be, and hereby is, instituted for the purpose of holding generic hearings concerning the rate structure of all electric utilities operating under the jurisdiction of the Public Utilities Commission of the State of Colorado."

(Emphasis supplied.)

No finding of fact is made, nor is there any evidence thereof, that the 46 utilities who are ordered to be made parties to the hearing and who are directed to participate in, to provide information and to be subject to cross-examination in the so-called "generic hearings" have any actual issue to be determined, or are, or will be, actually affected by any decision which may be made pursuant to the hearing. In fact, no actual issue is to be determined and no decision affecting their rights is to be rendered.

Section 40-3-111(2), CRS 1973, provides that the Commission shall have the power upon hearing to investigate the rates and rate structure of any public utility and to establish new rates and rate structure in lieu thereof. The Commission is a tribunal of limited powers. As to rates, it is empowered to investigate rates and to establish rate structures and to this power it is restricted and limited. In this case the Commission is neither investigating rates or the rate structure of any public utility, nor is it establishing any rates or rate structure. The purpose of the hearing clearly is to conduct a study and to explore possible theories for establishing rate structures of utilities in future rate cases. The purpose of the law and power given the Commission do not include the authority to conduct a hearing solely for the purpose of study, or exploration, to educate itself, and maybe the utilities. This "debating society" approach to rate making may appear to be a sound objective, but it is not legal. In my opinion the Commission is exceeding its authority.

B.

The Commission is limited in its personnel. Other matters of far greater importance to the public interest involving actual issues not possible issues, facts not theories, are continually before the Commission and should be heard and decided which are not being heard and decided because of this limitation of personnel. At the conclusion of this hearing no decision will be entered affecting any of these actual issues. In my opinion the wrong priorities are being addressed.

C.

The rate structure of any utility can be legally determined only after a hearing concerning the relevant and material conditions under which it operates. To indiscriminately require 46 electric utilities who may be operating under different material and relevant conditions to participate in a long, drawn-out hearing to investigate "the full range of alternatives in the complex area of rate design" and "to explore the theory" will impose a heavy burden on the utilities. It will involve great expenditure of time, effort and money and will be of no practical benefit to anyone. It must be

borne in mind that it is the consumer who indirectly pays all the costs of regulation in the charges required of him and the very substantial cost of this hearing, whether it be expenses of the utilities or of the Commission itself, will be paid by the consumers. There being no apparent practical benefit to be derived, the resources of the utilities and of the Commission are being misused to the detriment of the consumer. The cost cannot be legally, or reasonably, justified.

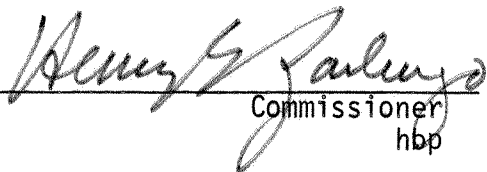
D.

In ordering this hearing the Commission is placing 46 electric utilities in the difficult and embarrassing position of either participating in a hearing which will not affect their actual rights and interests but involving only hypothetical facts, and theories and issues to be debated; or, of refusing to comply with the request of a tribunal to which they must from time to time submit for determinations of rights and interests of great importance to them.

E.

It is not clear if the rights of the consumers will be affected and if so how. How are they to participate and how can they efficiently protect their rights in a proceeding so comprehensive and complex? The procedure is so cumbersome and inefficient as to be arbitrary and capricious.

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

  
\_\_\_\_\_  
Commissioner  
hbp



APPENDIX A

Central Telephone & Utilities  
Corporation  
P. O. Box 82888  
1201 N Street  
Lincoln, Nebraska 68501

Home Light and Power Company  
810 - 9th Street  
Greeley, Colorado 80631

Public Service Company of Colorado  
550 - 15th Street  
Denver, Colorado 80202

City of Colorado Springs  
Department of Public Utilities  
18 South Nevada Avenue  
Colorado Springs, Colorado 80900

Town of Estes Park  
Electric Department  
P. O. Box 1200  
Estes Park, Colorado 80517

City of Fort Morgan  
c/o City Clerk  
110 Main Street  
P. O. Box 100  
Fort Morgan, Colorado 80701

Town of Fountain  
c/o Town Clerk  
Fountain, Colorado 80817

City of Glenwood Springs  
Electric System  
Municipal Building  
806 Cooper Avenue  
Glenwood Springs, Colorado 81601

City of Gunnison  
c/o City Manager  
201 West Virginia Avenue  
P. O. Box 239  
Gunnison, Colorado 81230

Town of Holly  
c/o City Clerk  
Holly, Colorado 81047

City of Lamar  
c/o City Clerk  
100 North Second Street  
Lamar, Colorado 81052

Las Animas Municipal Light & Power  
c/o Manager of Electric Department  
532 Carson Avenue  
Las Animas, Colorado 81054

City of Longmont  
Electric Department  
c/o City Clerk  
Longmont, Colorado 80501

City of Loveland  
c/o City Finance Director  
Light and Power Department  
410 East 5th Street  
P. O. Box 419  
Loveland, Colorado 80537

Platte River Power Authority  
3030 South College Avenue  
Fort Collins, Colorado 80521

Carbon Power and Light, Inc.  
110 East Spring Street  
P. O. Box 577  
Saratoga, Wyoming 82331

Colorado-Ute Electric Association, Inc.  
P. O. Box 1149  
Montrose, Colorado 81401

Delta-Montrose Electric Association  
121 East 12th Street  
P. O. Box 59  
Delta, Colorado 81416

Empire Electric Association, Inc.  
801 North Broadway  
P. O. Drawer "K"  
Cortez, Colorado 81321

Grand Valley Rural Power Lines, Inc.  
2727 Grand Avenue  
Grand Junction, Colorado 81501

The Gunnison County Electric  
Association, Inc.  
Highway 50 West  
P. O. Box 180  
Gunnison, Colorado 81230

Highline Electric Association  
P. O. Box 57  
407 Denver Street  
Holyoke, Colorado 80734



Holy Cross Electric Association, Inc.  
P. O. Box 250  
1301 Grand Avenue  
Glenwood Springs, Colorado 81601

The Intermountain Rural Electric  
Association  
2100 West Littleton Boulevard  
P. O. Box 1130  
Littleton, Colorado 80120

K. C. Electric Association, Inc.  
P. O. Box 8  
Hugo, Colorado 80821

Kit Carson Electric Cooperative, Inc.  
P. O. Box 587  
Taos, New Mexico 87571

La Plata Electric Association, Inc.  
P. O. Box 180  
Durango, Colorado 81301

Moon Lake Electric Association  
188 West 2nd North  
P. O. Box 278  
Roosevelt, Utah 84066

Morgan County Rural Electric Assn.  
P. O. Box 738  
Fort Morgan, Colorado 80701

Mountain Parks Electric, Inc.  
P. O. Box 66  
Granby, Colorado 80446

Mountain View Electric Assn., Inc.  
P. O. Drawer "M"  
1655 - 5th Street  
Limon, Colorado 80828

Poudre Valley Rural Electric  
Association, Inc.  
P. O. Box 1727  
4809 South College Avenue  
Fort Collins, Colorado 80521

Rural Electric Company  
P. O. Box 518  
Pine Bluffs, Wyoming 82082

San Isabel Electric Association, Inc.  
Box 892  
Pueblo, Colorado 81002

San Luis Valley Rural Electric  
Cooperative, Inc.  
Route 3, P. O. Box 111  
Monte Vista, Colorado 81144

San Miguel Power Association, Inc.  
P. O. Box 128  
Nucila, Colorado 81424

Sangre de Cristo Electric  
Association, Inc.  
P. O. Drawer "J"  
Buena Vista, Colorado 81211

Southeast Colorado Power Association  
901 West 3rd Street  
P. O. Box 521  
La Junta, Colorado 81050

Springer Electric Cooperative, Inc.  
420 Maxwell Avenue  
P. O. Box 698  
Springer, New Mexico 87747

Tri-County Electric Cooperative, Inc.  
300 East Glaydas  
P. O. Drawer #7  
Hooker, Oklahoma 73945

Tri-State Generation and Transmission  
Association, Inc.  
10520 Melody Drive  
P. O. Box 29198  
Denver, Colorado 80229

Union Rural Electric Association, Inc.  
P. O. Box 359  
Brighton, Colorado 80601

Wheatland Electric Cooperative, Inc.  
101 Main Street  
P. O. Box 130  
Scott City, Kansas 67871

White River Electric Association, Inc.  
233 - 6th Street  
P. O. Box 1  
Meeker, Colorado 81641

Yampa Valley Electric Association, Inc.  
32 Tenth Street  
P. O. Box 1218  
Steamboat Springs, Colorado 80477

Y-W Electric Association, Inc.  
250 Main  
Box Y  
Akron, Colorado 80720