

(Decision No. C80-2291)
BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE AMENDMENT OF)
THE RULES OF THE PUBLIC UTILITIES)
COMMISSION OF THE STATE OF COLORADO)
REGULATING THE SERVICE OF GAS)
UTILITIES WITHIN THE STATE OF)
COLORADO - INFORMATION PROVIDED TO)
CONSUMERS OF GAS RETAIL UTILITIES -)
RULE 9.)

CASE NO. 5321
ORDER OF THE COMMISSION

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December 5, 1980
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Appearances: Donald D. Cawelti, Esq., Denver,
Colorado, for Intervenors Public
Service Company of Colorado and
Greeley Gas Company;

Gregory L. Johnson, Esq., Colorado
Springs, Colorado, for Intervenor
City of Colorado Springs Department
of Public Utilities;

Thomas C. Stifler, Esq., Colorado
Springs, Colorado, for Intervenor
Peoples Natural Gas Division of
Internorth, Inc.;

D. Bruce Coles, Esq., Denver, Colorado,
for Colorado Energy Advocacy Office and
the Office of Consumer Services;

Debra Knapp, Esq., and Bettieanne C. Hart,
Esq., Denver, Colorado, for Intervenors
Jessie Corona, Vercina Belcher and
Concerned Citizens of Northeast Denver.

STATEMENT OF THE CASE

On September 23, 1980, this Commission issued its Order and Notice of Proposed Rulemaking With Respect To The Provision Of Information To Consumers Of Retail Gas Energy. The Commission stated that it proposed to establish rules regulating the provision of information to consumers of retail gas energy as the same regarding retail electric energy are described by Public Law 95-617 (16 U.S.C. 2601, et seq.), commonly known as the "Public Utility Regulatory Policies Act of 1978" ("PURPA" or "ACT"), by amending Rule 9 of the Gas Rules Regulating Information Provided To Consumers of Gas Retail Utilities.

Section 113 of PURPA requires this Commission to provide public notice and conduct a hearing on certain regulatory standards contained in Section 113 of PURPA. In considering the adoption of most of the standards of Section 113 the Commission must determine if such standards are appropriate and that such standards are otherwise consistent with State law. By this same order and notice (Decision No. C80-1845), the Commission set hearing on the matter for October 31, 1980, at 10 a.m., in the Hearing Room, Fifth Floor, 1525 Sherman Street, Denver, Colorado. Any person, firm or corporation desiring to intervene in or participate as a party in this proceeding was ordered to file his, her or its petition for leave to intervene within 15 days after the effective date of such order and notice. Petitions for Leave to Intervene were filed on October 3, 1980, by the City of Fort Morgan; on October 6, 1980, by Peoples Natural Gas Company, Division of Internorth, Inc.; on October 6, 1980, by Kansas-Nebraska Natural Gas Company, Inc.; on October 7, 1980, by the City of Colorado Springs Department of Public Utilities; on October 8, 1980, by the Colorado Energy Advocacy Office, Citizens Utility Company, Greeley Gas Company and Public Service Company of Colorado; on October 16, 1980, by Florinda Bellino; and on October 27, 1980, by Jessie Corona, Vercina Belcher and Concerned Citizens Congress of Northeast Denver. On October 7, 1980, by Decision No. C80-1947 leave to intervene was granted to the City of Fort Morgan, the Kansas-Nebraska Natural Gas Company, Inc., and Peoples Natural Gas Company, Division of Internorth, Inc.; on October 15, 1980, leave to intervene was granted to the City of Colorado Springs Department of Public Utilities, the Colorado Energy Advocacy Office, Citizens Utilities Company, Greeley Gas Company and Public Service Company of Colorado, pursuant to Decision No. C80-1978; and on October 21, 1980, leave to intervene was granted to Florinda Bellino, pursuant to Decision No. C80-2018.

Various objections, suggestions or modifications were filed on October 17, 1980, by the City of Fort Morgan; on October 20, 1980, by the City of Colorado Springs Department of Public Utilities, Florinda Bellino, Peoples Natural Gas Company, Division of Internorth, Inc., Public Service Company of Colorado, and Greeley Gas Company; on October 21, 1980, by the Colorado Energy Advocacy Office and the Kansas-Nebraska Natural Gas Company, Inc.; and on October 27, 1980, by Jessie Corona, Vercina Belcher and Concerned Citizens Congress of Northeast Denver. Hearing on the matter commenced as scheduled, the same being called on a joint record with Case No. 5320 regarding amendment of the Rules of the Public Utilities Commission Regulating the Service of Electric Utilities within the State of Colorado - Information Provided To Consumers Of Electric Retail Utilities - Rule 9, and as a preliminary matter the Petition for Intervention by Jessie Corona, Vercina Belcher and Concerned Citizens Congress of Northeast Denver was granted. Nine witnesses testified at the hearing, and eleven exhibits were marked for identification and introduced into evidence. At the conclusion of the hearing, parties who desired to file statements of position were directed to do so on or before Wednesday, November 12, 1980. The matter was then taken under advisement. Statements of Position were subsequently received from the Public Service Company of Colorado, the City of Colorado Springs Department of Public Utilities, the Colorado Energy Advocacy Office, and Jessie Corona, Vercina Belcher and Concerned Citizens Congress of Northeast Denver.

Pursuant to 40-6-109(6), CRS 1973, the Commission hereby enters the following decision and order in this matter.

FINDINGS OF FACT AND CONCLUSIONS ON FINDINGS OF FACT

A. PURPOSE OF THE PROPOSED AMENDMENTS

Section 113 of PURPA requires this Commission to provide public notice and conduct a hearing on certain regulatory standards contained in Section 113 of PURPA. In considering the adoption of most of the standards of Section 113, the Commission must determine if such standards are appropriate and if such standards are otherwise consistent with State law. Section 113(b)(3) PURPA established a standard concerning information to customers. In addition, this Commission shall consider whether the standard, as expressed in Section 113(b)(3) PURPA, should be adopted for all the gas utilities in the State of Colorado, subject to the jurisdiction of this Commission.

B. DISCUSSION AND FINDINGS OF FACT CONCERNING RULE 9 AS PROPOSED BY THIS COMMISSION

Although no requirement exists regarding notice and hearing to amend Rule 9 regarding information provided to consumers of gas retail utilities, additional information required to be provided to consumers of electric energy is equally applicable to consumers of gas retail utilities. Any amendment to Rule 9 regarding information provided to consumers of electric retail utilities should also be reflected by amending Rule 9 regarding information provided to consumers of gas retail utilities whenever such rule amendment is applicable to gas energy consumption.

Based upon objections, suggestions and modifications submitted prior to the hearing; testimony, exhibits and information presented at hearing; and subsequent statements of position, the issues to be determined in the above-captioned matter may be summarized as follows:

1. What information should be provided?
2. At what frequency should information be transmitted?
3. What methods shall be used in transmitting information?
4. What value will transmitted information have to the consumer?
5. What will be the cost of providing required information?
6. Who should bear the burden of costs incurred?

In general, utility companies participating in this proceeding object to any rule change which requires direct mailing of significant amounts of additional information to all consumers whether the same is requested or not. The primary basis for this objection is cost of providing such service. The evidence at this proceeding established a mailing cost of 25¢ to 30¢ per customer would be incurred for each mailing. The cost of data accumulation, preparation, presentation and separate distribution could well surpass any benefit to be derived therefrom. On the other hand, Intervenor, Colorado Energy Advocacy Office and Jessie Corona, Vercina Belcher and Concerned Citizens Congress of Northeast Denver suggest significant expansion of Rule 9 to include regular distribution by all utilities of information not presently included in the rule as proposed by this Commission. A discussion of each paragraph of the Rule as proposed by this Commission incorporating the six criteria previously set forth and pertinent suggestions and positions of parties in this proceeding is set forth below.

PROPOSED RULE 9 INFORMATION FOR CUSTOMERS

(a) Paragraph (a) of the proposed rule is identical to Paragraph (a) as it presently exists. Public Service Company of Colorado has suggested deletion of the first sentence in this paragraph as being outdated since many utilities are now no longer in the merchandising business. Intervenor Jessie Corona, et al., have suggested expansion of the second sentence to read "Each utility shall inform each customer by direct mail 30 days in advance of any major change made or proposed to be made in any condition of its service." With regard to the suggestion of Public Service Company, the evidence does not establish that this sentence is totally inapplicable to all utilities, and the same should be retained. With regard to the suggestion by Intervenor Jessie Corona, et al., there is no suggestion as to what would constitute a major change although it was suggested a major change would include participation in proceedings, notice, complaint procedure, hearings, customer deposits, billing practices and discontinuance of service. There is no evidence to establish the frequency of mailing should information to each customer be required in the above instances. The cost would be significant in any event and excessive when considering that each of the above topics has been considered elsewhere in the Rules Regulating the Service of Gas Utilities and/or the Rules of Practice and Procedure of this Commission.

(b) Paragraph (b) of the proposed Rule 9 is also identical to the present rule. This rule as written is generally acceptable to the utility companies, and the only recommended change was offered by Intervenor, Jessie Corona, et al., who proposed that such information be transmitted by mail not less frequently than once per year or at the commencement of service whether such information was requested or not. Such repeated mailings are not cost justified, and Paragraph (b) should be adopted as proposed by the Commission.

(c) Paragraph (c) of proposed Rule 9 received considerable adverse comment as being redundant, since the information therein is set forth in detail in the subsequent paragraphs. The recommendation by several utility companies to delete Paragraph (c) has merit, and this paragraph should be deleted from Rule 9.

(d) Paragraph (d) of proposed Rule 9 proposes the transmitting of new and additional information to electric consumers pursuant to Section 115(f) of PURPA. This paragraph received considerable comment from the utility companies stating this paragraph is unclear, unnecessary and costly. The lack of clarity occurs in this paragraph in that portion which requires transmission by an electric utility to each of its electric consumers a clear and concise explanation of the existing rate schedule and rate schedule applied for applicable to such consumer. That portion of this paragraph which requires an explanation of the rate schedule applied for applicable to such consumer is already covered by this Commission's Rules of Practice and Procedure relating to notice of rate changes for fixed utilities. In order to avoid either conflict or repetition, this portion of Paragraph (d) should be deleted. It is further pointed out that inclusion of this paragraph in the rule would require separate notice for each Fuel Cost Adjustment authorized by this Commission. Intervenor, Jessie Corona, et al., have suggested all such costs adjustments be transmitted to each consumer by direct mail; however, several utilities companies already provide on each bill a fuel cost adjustment, and such information should be made available, but on request only. The Colorado Energy Advocacy Office, while claiming to support the disclosure of additional utility information (especially rate details), requests limited and restricted information regarding declining block rates. This recommendation can only be considered a request for suppression of information to further its own special interests.

(e) Proposed Paragraph (e) of Rule 9 would require utilities to transmit to each consumer summaries of existing rate schedules applicable to each major class of its electric consumers for which there is a separate rate. Objections of utility companies that a requirement to supply such large amounts of information to each and every customer would not be cost justified, are valid. Details of the numerous existing rate schedules of various classes would in many instances constitute a summary of considerable length.

(f) Paragraph (f) of proposed Rule 9 received little adverse comment and, as proposed, may be helpful in assisting consumers in energy conservation. This paragraph should be adopted as proposed.

In summary, Intervenor Jessie Corona, et al., and the Colorado Energy Advocacy Office have recommended rules which would require the transmission of an abundance of information to each and every consumer. Any evidence of either need or desire has not been presented by the public, but by "expert witnesses," who by reference to various governmental studies, have themselves attempted to determine consumer needs. Supplying the abundance of information suggested by these Intervenor would increase expenses of utility companies and these costs would ultimately be passed on to all consumers in general rate increases. Where interest and concern of certain consumers is of a magnitude indicated during this proceeding, the time, effort and expense incurred by those particular consumers to receive the information needed are not excessive.

C. BILINGUAL NOTICE

It has been suggested that in order to provide adequate notice to all consumers, bilingual notices be required in geographic areas where they are needed. This issue has been addressed previously by the Commission and a determination here should be similar. Any information provided pursuant to this rule should contain a statement to the effect that "If you do not read English you should request someone who understands Spanish and English to translate this notice for you."

D. METHOD OF TRANSMITTING INFORMATION

During the course of this proceeding, several utility companies suggested a means for "transmitting" required information. These means included such periodicals as Colorado Country Life and the Public Service Company's "Update." Any information required to be supplied to each and every customer should be supplied by some means which assures receipt of the same by each customer of that utility. To the extent such periodicals are received by every customer of a utility, the same should be adequate for transmitting any required information.

E. CONCLUSION

Information received during this proceeding included suggestions of providing more data at greater frequency, all at additional expense to all consumers, while at the same time expressing a primary concern of consumers to be the high cost of energy.

Testimony and statements of position establish that a cost/benefit determination must be made for each requirement which compels a utility company to make additional direct mailings of information.

Evidence of actual consumer need or desire was minimal. Although certain witnesses testified as members or officers of various organizations, there is no evidence that such testimony was adopted or approved by organization members.

Rule 9 - Information For Customers of this Commission's Rules Regulating the Service of Gas Utilities should therefore be amended pursuant to the following Order.

The Commission finds that due and timely execution of its functions imperatively and unavoidably requires that the recommended decision of the Hearings Examiner be omitted and that this Decision should be the initial decision of the Commission.

An appropriate Order will be entered.

O R D E R

THE COMMISSION ORDERS THAT:

1. Rule 9 - Information for Consumers - of this Commission's Rules Regulating the Service of Gas Utilities be, and hereby is amended to read as follows:

RULE 9 INFORMATION FOR CUSTOMERS

INFORMATION FOR CUSTOMERS.-(a) Each utility shall at any time, on request, give its customers such information and assistance as is reasonably possible in order that customers may secure safe and efficient service and may secure appliances properly adapted to the service furnished. Each utility shall inform each customer of any such change made or proposed to be made in any condition as to its service as would affect the efficiency of the service or the operation of the appliances or equipment which may be in use by said customer.

(b) Each utility supplying metered service, on request, shall explain to its customers the method of reading meters.

(c) Each gas utility shall transmit to each of its gas consumers a clear and concise explanation of the existing rate schedule applicable to such consumer. Such statement shall be transmitted to each consumer:

1. Upon application for service, but not later than 60 days after the date of commencement of service to such consumer or 90 days after the establishment of this rule, whichever last occurs, and
2. Not later than 10 days after request of a gas consumer of such utility.

(d) Each gas utility, on request of a gas consumer of such utility, shall transmit to each such consumer:

1. A clear and concise summary of the existing rate schedule applicable to each of the major classes of its gas consumers for which there is a separate rate, and

2. An identification of any classes whose rates are not summarized. Such summary may be transmitted together with such consumer's billing or in such other manner as each gas utility deems appropriate.

(e) Each gas utility, on request of a gas consumer of such utility, shall transmit to each such consumer a clear and concise statement of the actual consumption (or degree-day adjusted consumption) of gas energy by such consumer for each billing period during the prior year (unless such consumption data is not reasonably ascertainable by the utility).

(f) Transmit shall be by such method as to assure receipt by each and every consumer of information required to be provided pursuant to this Rule, including "bill stuffer," periodical or direct mail where the same is mailed to all consumers.

(g) Any information required to be transmitted pursuant to this Rule shall contain a statement to the effect that "If you do not read English you should request someone who understands Spanish and English to translate this notice for you."

2. All gas utilities subject to the jurisdiction of this Commission shall comply with Rule 9 - Information for Consumers - of this Commission's Rules Regulating the Service of Gas Utilities as the same is therein set forth.

3. Rule 9 of the Rules Regulating the Service of Gas Utilities of the Public Utilities Commission of the State of Colorado, as amended herein, shall be submitted by the Executive Secretary of the Commission to the appropriate committee of reference of the Colorado General Assembly, if the General Assembly is in session at the time this Order becomes effective, or to the Committee on Legal Services, if the General Assembly is not in session, for its opinion as to whether the rule adopted herein conforms with Section 24-4-103(8)(a).

4. An opinion of the Attorney General of the State of Colorado will be sought regarding the constitutionality and legality of the proposed rule as set forth in Ordering Paragraph 1 herein.

5. The Executive Secretary of the Commission shall file with the Office of the Secretary of State of the State of Colorado a copy of the aforementioned rule and, when obtained, a copy of the opinion of the Attorney General of the State of Colorado regarding the constitutionality and legality of the same.

6. The Executive Secretary of the Commission shall publish the Rule 9 as adopted herein by Ordering paragraph 1, in accordance with the provisions of CRS 1973, 24-4-103(11)(k).

7. Rule 9 of the Rules Regulating the Service of Gas Utilities of the Public Utilities Commission of the State of Colorado as adopted pursuant to ordering paragraph 1 above, shall become effective on the twentieth (20th) day after publication of the same in the Rules Register of the Secretary of State.

8. This Decision shall become effective twenty-one (21) days from the date and date hereof, unless stayed or postponed according to law.

5. The Executive Secretary of the Commission shall file with the Office of the Secretary of State of the State of Colorado a copy of the aforementioned rule and, when obtained, a copy of the opinion of the Attorney General of the State of Colorado regarding the constitutionality and legality of the same.

6. The Executive Secretary of the Commission shall publish the Rule 9 as adopted herein by Ordering paragraph 1, in accordance with the provisions of CRS 1973, 24-4-103(11)(k).

7. Rule 9 of the Rules Regulating the Service of Electric Utilities of the Public Utilities Commission of the State of Colorado as adopted pursuant to ordering paragraph 1 above, shall become effective on the twentieth (20th) day after publication of the same in the Rules Register of the Secretary of State.

8. This Decision shall become effective twenty-one (21) days from the date and date hereof, unless stayed or postponed according to law.

This Order shall be effective forthwith.

DONE IN OPEN MEETING the 5th day of December, 1980.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Edythe S. Miller

Daniel E. Munn
Commissioners

COMMISSIONER L. DUANE WOODARD ABSENT

jkm:ao/l/B

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE AMENDMENT OF)
THE RULES OF THE PUBLIC UTILITIES)
COMMISSION OF THE STATE OF COLORADO)
REGULATING THE SERVICE OF GAS)
UTILITIES WITHIN THE STATE OF)
COLORADO - INFORMATION PROVIDED TO)
CONSUMERS OF GAS RETAIL)
UTILITIES - RULE 9.)

CASE NO. 5321

ERRATA NOTICE

December 17, 1980

Decision No. C80-2291
(Issued December 5, 1980)

Delete "and The Office of Consumer Services;" from
appearance of:

D. Bruce Coles, Esq., Denver, Colorado
for Colorado Energy Advocacy Office and
the Office of Consumer Services;

Add the appearance of:

"Jeffrey G. Pearson, Esq., Denver,
Colorado for the Office of Consumer
Services;"

Strike in its entirety that unnumbered paragraph appearing
below paragraph No. 8, on page 8 which states: "This Order
shall be effective forthwith."

Strike the word "that" from the twelfth line up from the
bottom of page 6 in paragraph (c) 1. of the amended rule
and substitute the word "than" therefore.

Strike the word "transmit" from the first line of
paragraph (f) on page 7 and substitute the word "
transmittal" therefore.

Add the following words: "in spanish" after the word
"statement" in the second line of paragraph (g) on page 7.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


HARRY A. GALLIGAN, JR., Executive
Secretary

Dated at Denver, Colorado, this
17th day of December, 1980.