

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE RULES OF THE)
PUBLIC UTILITIES COMMISSION OF THE)
STATE OF COLORADO REGULATING THE)
SERVICE OF GAS UTILITIES WITHIN)
THE STATE OF COLORADO - RULE 14.)

CASE NO. 5321
ORDER OF THE COMMISSION
MODIFYING RULE

September 23, 1980

STATEMENT AND FINDINGS OF FACT

BY THE COMMISSION:

On February 16, 1979, the Commission entered Decision No. C79-220 which reopened Case No. 5321, and gave notice of proposed rulemaking with respect to revising Rule 14 of the Rules Regulating the Service of Gas Utilities before the Public Utilities Commission of the State of Colorado. Basically, the proposed revision of Rule 14 was for the purpose of prohibiting installations of master meters after January 1, 1980.

In said decision the Commission stated that any person, firm, or corporation desiring to file any objections, suggestions, or modifications with respect to the proposed revision of Rule 14 of the Rules Regulating the Service of Gas Utilities could do so by filing the same with the Commission. Said decision also set forth the procedure for any person, firm, or corporation desiring to intervene in, or participate, as a party in the rulemaking proceeding.

The following parties filed appropriate pleadings requesting leave to intervene which were granted by the Commission:

Home Builders Association of Metropolitan Denver
City of Colorado Springs
Iowa Electric Light and Power Company
Colorado Congress of Senior Organizations
Kansas-Nebraska Natural Gas Company, Inc.
Peoples Natural Gas Company
Colorado Energy Advocacy Office
Colorado Apartment Association-Metro Denver Chapter
Colorado Association of Realtors.

The following parties filed statements of position with respect to Rule 14.

Home Builders Association of Metropolitan Denver
Peoples Natural Gas Company
Colorado Apartment Association-Metro Denver Chapter
Colorado Association of Realtors

Thereafter, several hearing dates which had been set were vacated and the matter finally reset for July 24, 1980 and heard by the Commission on that date on that date. Subsequent to the hearing on July 24, 1980, post hearing statements of position were filed by the following:

City of Colorado Springs
Home Builders Association of Metropolitan Denver

In the herein Case No. 5321, the Commission took official notice of the proceedings in Case No. 5320 which had been heard on the previous day. In addition, three exhibits were admitted without objection of the parties upon stipulation without the necessity of a sponsoring witness.

During the hearing in Case No. 5320, the Commission received testimony from several witnesses, none of whom testified in favor of a prohibition of master metering. Basically, said public witnesses indicated that master metering would be more expensive, would not materially lessen usage, if at all, and that central heating was more efficient. It was also pointed out that with individual heating, there would be a tendency to turn down the heat too much which potentially could endanger health and safety that with master metering, the landlord would have incentive to keep the units air tight.

The Commission in Case No. 5320 also heard testimony from Dr. Lou McClelland, who is a research associate of the Institute of Behavioral Science of the University of Colorado. Dr. McClelland described the Resident Utility Billing System (RUBS). Dr. McClelland sponsored Exhibit No. 2, which was a report prepared for the United States Department of Energy, entitled "Encouraging Energy Conservation in Multi-Family Housing: RUBS And Other Methods of Allocating Energy Costs to Residents."

The Commission in Case No. 5320 also heard from Christine Larke from the Office of Consumer Services.

On balance, the Commission is unable to find that the prohibition of master metering necessarily would be cost effective, necessarily would result in conservation in the use of gas or that it would be in the public interest. Without an affirmative finding that the prohibition of master metering would be cost effective, result in the conservation of energy, or both, the Commission cannot make the requisite finding which would sustain a prohibition of master metering. We are also persuaded by the testimony of witnesses that an outright prohibition of master metering very well may be counter productive in that it would increase costs rather than decrease them, would reduce the incentive for landlords to engage in energy conservation measures and might, in certain instances, tend to endanger the health of persons living in multi-residential units.

There is one issue, that of so-called "sub-metering"; that is, resale of energy by a person who is responsible for paying a master metered bill, which the Commission believes needs clarification in Rule 14. A number of utilities have tariffs which prevent the sale of gas which is initially sold by them to the master-metered customer. This, of course, is appropriate inasmuch as a master metered customer who resells energy by the means of sub-metering to tenants or other lessees would himself be a public utility under the Colorado Public Utilities Law.

On the other hand, the Commission has no objection to so-called "check-metering" which is not a resale of gas initially sold to the master metered customer, but rather is an allocation based upon usage among tenants or other lessees of the master-metered customer of his bill which does not result in the collection of any revenues over and above that necessary to pay the master metered utility bill. Accordingly, we shall add a paragraph to Rule 14 which will make this distinction clear.

An appropriate order will be entered.

O R D E R

THE COMMISSION ORDERS THAT:

1. Rule 14 of the Rules Regulating the Service of Gas Utilities is amended to read as follows:

14. Meters and Service Connections - (a) All meters used in connection with gas service shall be furnished, installed and maintained at the expense of the utility.

(b) Any equipment, devices, or facilities furnished at the expense of the utility or on which the utility bears the expense of maintenance and renewal shall remain the property of the utility and may be removed by it at any time after discontinuance of service.

(c) Gas service connections to the customer's premises or property line shall be installed and maintained at the expense of the utility. This rule shall not apply when unusual conditions are encountered, or to very long service connections. When such special cases arise, the Commission will, if necessary, prescribe the proper charge.

(d) Sub-metering, which is the resale of gas by a master-metered customer of an gas utility is prohibited. Nothing in the foregoing sentence shall prohibit a master-metered customer from check-metering tenants, lessees, or other persons, to whom ultimately the gas is distributed, for the purpose of reimbursing the master-metered customer by an appropriate allocation procedure, provided the master-metered customer does not receive more than is necessary to pay the master-metered bill.

2. Rule 14 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).

3. 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.

4. 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.

5. The Executive Secretary of the Commission shall publish the Rule 14 as adopted herein by ordering paragraph 1, in accordance with the provisions of CRS 1973, 24-4-103(11)(k).

6. Rule 14 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.

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

DONE IN OPEN MEETING the 23rd day of September, 1980.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Edythe S. Miller

Daniel E. Inuse

L. Duane Woodard
Commissioners