

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE RULES OF THE)	
PUBLIC UTILITIES COMMISSION OF THE)	CASE NO. 5320
STATE OF COLORADO REGULATING THE)	
SERVICE OF ELECTRIC UTILITIES)	DECISION ADOPTING REVISION OF RULE 18
WITHIN THE STATE OF COLORADO:)	OF THE RULES OF THE PUBLIC UTILITIES
RULE 18 RELATING TO CONSTRUCTION)	COMMISSION OF THE STATE OF COLORADO
REQUIREMENT.)	REGULATING THE SERVICE OF ELECTRIC
)	UTILITIES WITHIN THE STATE OF COLORADO

April 7, 1981

STATEMENT AND FINDINGS OF FACT

BY THE COMMISSION:

On January 13, 1981 the Commission issued Decision No. C81-75 wherein it reopened the Case No. 5320 with regard to the proposed revision of Rule 18 of the Rules regulating the service of electric utilities before the Public Utilities Commission of the State of Colorado.

Decision No. C81-75 also provided that any interested person, firm or corporation desiring to intervene in or participate as a party in this proceedings shall file his or its petition for leave to intervene within fifteen (15) days after the date of the order and notice contained in Decision No. C81-75. Decision No. C81-75 further provided that any person, firm or corporation desiring to file any objection, suggestion, or modification to the proposed revision of Rule 18 of the rules regulating the service of electric utilities before the Public Utilities Commission should file the same in an original and six (6) copies with the Executive Secretary of the Commission on or before March 2, 1981. The following persons, firms or corporations moved to intervene in the within proceeding which intervention was granted by the Commission:

- Public Service Company of Colorado
- Colorado Rural Electric Association
- Tri-State Generation and Transmission Association, Inc.
- San Luis Valley Rural Electric Association, Inc.
- Colorado Office of Consumer Services
- Colorado-Ute Electric Association, Inc.

Each of the foregoing also filed variously titled pleadings incorporating suggestions, objections, and proposed modifications to the proposed revision of Rule 18.

As originally proposed by Decision No. C81-75 dated January 13, 1981, Rule 18 of the rules regulating the service of electric utilities would have been amended by adding new subsections (c) and (d) as follows:

"(c) The term, 'ordinary course of business,' as used in C.R.S., 1973, 40-5-101, pertains to its extensions of facilities, lines, plant, or system. Extensions which are in the 'ordinary course of business' do not exceed the following specifications:

- "1. Construction of distribution facilities within the public utility's certificated area, and the construction of any transmission line less than 230 kv within the public utility's certificated area;
- "2. Plant remodeling;
- "3. Modernization of equipment, except for any change or substitution which adds additional generating capacity;
- "4. Installation of any equipment or building space required for pollution control systems; or
- "5. Any facility, plant, line, or system which permits service to existing customers, except when additional generating capacity is required.

"(d) Any extension or construction of facility, plan, line or system, other than those excluded in paragraph (c) above, requires a certificate of public convenience and necessity therefor prior to the beginning of construction unless the utility involved has filed with the Commission an application for a determination by the Commission that proposed construction is in the ordinary course of business and does not require a certificate of public convenience and necessity, and said application for such determination has been granted by the Commission."

The Commission has considered the various objections, suggestions, and proposed modifications to the proposed revision of Rule 18 as set forth above, and the Commission now finds and concludes that Rule 18 of the Rules Regulating the Service of Electric Utilities should be amended to read as set forth in the Order below:

The Commission states and finds that in the revision of Rule 18, as set forth in the Order below, utilities will have the Commission's interpretation of those items of construction which it considers to be in the ordinary course of business. Of course, the Rule cannot set forth a definitive list of all of the possible items of construction that may or may not be in the ordinary course of business. However, when a utility contemplates additional construction which does not fall into the category of those extensions which are set forth in subparagraph (d) that utility will have the opportunity, pursuant to subparagraph (e) to file an application for a determination by the Commission that the proposed construction is in the ordinary course of business and does not require a certificate of public convenience and necessity. The Commission recognizes that any rule interpreting a statute will not be totally free of difficulty of application. However, in our judgment, the modified rule as adopted herein, to a large extent, will remove some of the uncertainty that now surrounds the question of whether or not a public utility is required to have a certificate of public convenience and necessity with regard to various items of construction.

An appropriate order will be entered.

O R D E R

THE COMMISSION ORDERS THAT:

1. Rule 18 of the Rules of the Public Utilities Commission of the State of Colorado Regulating the Service of Electric Utilities is amended to add subparagraphs (c), (d), (e) so that Rule 18, in its entirety, shall now read as follows:

Construction Requirement:

(a) The electric plant of the utility shall be constructed, installed, maintained and operated in accordance with accepted good engineering practice in the electric industry to assure as far as reasonably possible, continuity of service, uniformity in the quality of service furnished and the safety of persons and property.

(b) The utility shall use as the minimum standard of accepted good practice the current edition of the National Electrical Safety Code as published by the National Bureau of Standards Handbooks:

- A. NBS Handbook H 30 containing--
USA (United States of America) Standard Safety Rules for the Installation and Maintenance of Electrical Supply Stations, C2.1-1941 (Reaffirmed 1947)
USA Standard Safety Rules for the Installation and Maintenance
USA Standard Safety Rules for Operation of Electric Equipment and Lines, C2.4-1939 (Reaffirmed 1947)
USA Standard Safety Rules for Radio Installation, C2.5-1940 (Reaffirmed 1947)
- B. NBS Handbook H81-1961 containing--
USA Standard Safety Rules for the Installation and Maintenance of Electric Supply and Communication Lines, C2.2-1960.
- C. C2.2a-1965--Supplement to C2.2-1960.
- D. C2.2b-1967--Supplement to C2.2-1960.

(c) The term "ordinary course of business" as used in 40-5-101(1), C.R.S. 1973, pertains to extensions of facilities, plants or systems

- 1. within the city and county, or city or town within which the utility has heretofore law fully commenced operations;
- 2. for an extension into territory, either within or without a city and county, or city or town contiguous to a utility's facility, line, plant, or system and not theretofore served by a public utility providing the same commodity or service;
- 3. or for an extension within or to territory already served by the utility.

(d) The following extensions shall be deemed to occur "in the ordinary course of business" and shall not require a certificate of public convenience and necessity:

1. Construction of distribution and substation facilities within the public utility's certificated area, within non-certificated areas which are historically, have been and currently are served by the utility, and across or in the certificated territory of another utility when necessary to serve within the service territory of the constructing utility, and the construction of any transmission line less than 230 Volts within the public utility's certificated area.
2. Plan remodeling.
3. Modernization of equipment, except for any change or substitution which adds 50 megawatts or more of additional generating capacity.
4. The installation of any equipment or building space required for pollution control systems.
5. Any facility, plant, line or system which permits service to existing customers, excepting when 50 megawatts or more of additional generating capacity is required.

(e) Any extension or construction of facility, plant, line, or system except those set forth in paragraph (d) above requires a certificate of public convenience and necessity therefor prior to the beginning of construction unless the utility involved has filed with the Commission an application for a determination by the Commission that proposed construction is in the ordinary course of business and does not require a certificate of public convenience and necessity, and said application for such determination has been granted by the Commission.

2. All electric utilities subject to the jurisdiction of this Commission shall comply with Rule 18 of the rules regulating this service of electric utilities, as amended as the same is set forth herein.

3. Rule 18 of the Rules regulating the service of electric 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), C.R.S. 1973.

4. An opinion of the Attorney General of the State of Colorado will be sought regarding the constitutionality and legality of the 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 Rule 18, as amended, as adopted herein by Ordering Paragraph 1, in accordance with the provisions of 24-4-103(11)(k), C.R.S. 1973.

7. Rule 18 of the Rules Regulating Service of Electric Utilities of the Public Utilities Commission of the State of Colorado as amended and adopted pursuant to Ordering Paragraph 1 above, shall become effective on the twentieth (20) 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 days and date hereof, unless State or postponed according to law.

DONE IN OPEN MEETING the 7th day of April, 1981.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Edythe S. Miller

Daniel E. Bruce

L. Duane Woodard

Commissioners

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 ELECTRIC UTILITIES)
WITHIN THE STATE OF COLORADO:)
RULE 18 RELATING TO CONSTRUCTION)
REQUIREMENT.)

CASE NO. 5320

ERRATA NOTICE

- - - - -
April 16, 1981
- - - - -

Decision No. C81-655
(Issued April 7, 1981)

On Page 2, second line from the top of the page, change the word "facilities" to "facilities."

On Page 2, at the end of the third full paragraph up from the bottom of the page, delete the colon and replace with a period.

On Page 4, entirely delete the first paragraph at the top of the page, which paragraph is numbered 1, and replace with the following new paragraph number 1:

"1. Construction of distribution and substation facilities within the public utility's certificated area; within non-certificated areas which historically have been, and currently are served by, the utility; and across or in the certificated territory of another utility when necessary to serve within the service territory of the constructing utility; and the construction of any transmission line less than 230 kilovolts within the public utility's certificated area."

On Page 4, the second paragraph from the top of the page, which paragraph is numbered 2, change the word "plan" to "plant."

On Page 4, the first line of the paragraph identified as (e), change the word "facility" to "facility."

On Page 4, entirely delete the full paragraph numbered 3, four paragraphs up from the bottom of the page, and replace with the following new paragraph number 3:

"3. Rule 18 of the Rules Regulating the Service of Electric Utilities of the Public Utilities Commission of the State of Colorado, as amended herein, shall be submitted by the Executive Secretary of the Public Utilities Commission

to the Legislative Drafting Office of the Colorado General Assembly, in the form and manner prescribed by the Committee on Legal Services, for review and opinion of the staff of the Committee on Legal Services to determine whether said amendments to Rule 18 are within the rulemaking authority of the Public Utilities Commission, and for later review by the Committee on Legal Services for its opinion as to whether the amendments to Rule 18, adopted herein, conforms with Section 24-4-103(8)(a), CRS 1973."

On Page 4, the full paragraph numbered 5, being the second paragraph up from the bottom of the page, change the first line thereof to read as follows:

"5. The Executive Secretary of the Commission shall file, for publication in the Colorado Register, with"

On Page 4, the full paragraph numbered 5, being the second paragraph up from the bottom of the page, change the word "consttutionality" appearing in the fourth line of said paragraph and replace with the word "constitutionality."

On Page 4, entirely delete paragraph 6, being the last paragraph on said page.

On Page 5, the last line of existing paragraph 8, change the word "state" to "stayed."

On Page 5, renumber existing paragraph 7 to paragraph 6, and renumber existing paragraph 8 to paragraph 7.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


HARRY A. GALLIGAN, JR., Executive
Secretary

Dated at Denver, Colorado, this 16th
day of April, 1981.