

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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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

ORDER OF THE COMMISSION
GRANTING APPLICATION FOR
REHEARING, REARGUMENT OR
RECONSIDERATION

November 30, 1983

STATEMENT AND FINDINGS

BY THE COMMISSION:

On May 4, 1982, the Commission issued Decision No. C82-675. This Decision reopened Case No. 5320 to consider revisions to Rule 18 of the Commission's Rules Regulating the Service of Electric Utilities Within the State of Colorado. By Decision No. C82-675, the Commission also gave notice to all interested persons, firms or corporations of proposed rulemaking.

The Commission stated in Decision No. C82-675 that Case No. 5320 was reopened for the purpose of implementing and interpreting the requirement in CRS 1973, 40-5-101, for utilities to obtain a certificate of public convenience and necessity for new construction and extensions, and to set forth the requirement for utilities to submit generation and transmission construction schedules. The Commission also stated in Decision No. C82-675 that it proposed to amend Rule 18 to revise subsection (b) and to add new subsections (c), (d), (e), and (f). The Commission also ordered in Decision No. C82-675 that Case No. 5320 be reopened to consider the foregoing proposed revisions to Rule 18 and established various procedural and filing requirements.

On December 29, 1982, the Commission issued notice vacating scheduled hearing and reset such for April 13, 14 and 15, 1983. As rescheduled, the matter was heard. Numerous parties intervened, filed objections, suggestions or modifications to the proposed revisions to Rule 18, and filed briefs or statements of position.

On November 1, 1983, the Commission issued Decision No. C83-1692 wherein the Commission promulgated Rule 18 of the Rules Regulating the Service of Electric Utilities. On November 18, 1983, Public Service Company of Colorado (Public Service) filed an application for rehearing, reargument or reconsideration of Commission Decision No. C83-1692. Therein, Public Service contends that Rule 18 as promulgated by Decision No. C83-1692 appropriately addressed the concerns raised during the hearings by Staff of the Commission. However, the one area not addressed by such promulgated Rule 18 is the clarification that any electric plant constructed or installed is subject to the National Electric Safety Code then in effect and does not become subject to later editions of the Code. Public Service has attached to its application for rehearing, reargument or reconsideration proposed changes to subsections (a) and (b), which would address the above concern stated by Public Service.

After review of the foregoing application for rehearing, reargument or reconsideration of Commission Decision No. C83-1692, filed by Public Service Company on November 18, 1983, the Commission states and finds that such application sets forth appropriate grounds for the modification of Rule 18 as promulgated by Commission Decision No. C83-1692 to clarify that any electric plant constructed or installed is subject to the National Electric Safety Code then in effect, and does not become subject to later editions of the Code. Accordingly, the application for rehearing, reargument or reconsideration filed by Public Service Company on November 18, 1983 will be granted, and Rule 18 as promulgated by Commission Decision No. C83-1692 will be modified to add the changes as proposed by Public Service in its foregoing application for rehearing.

An appropriate Order will be entered.

ORDER

THE COMMISSION ORDERS THAT:

1. The application for rehearing, reargument or reconsideration of Commission Decision No. C83-1692, filed by Public Service Company of Colorado on November 18, 1983, is granted.

2. Rule 18, Construction Requirements, Rules Regulating the Service of Electric Utilities, as promulgated by Commission Decision No. C83-1692, is modified, and as modified is adopted by the Public Utilities Commission of the State of Colorado to read as follows:

Intention

The basis and purpose for Rule 18, as amended, are:

- (1) To set forth the construction requirement to be observed by utilities offering electric service;
- (2) To implement and interpret the term "ordinary course of its business" as used in 40-5-101(1), C.R.S. 1973, as said term pertains to extensions of facilities, plants or systems, and (3) to provide that each electric utility shall submit, on an annual basis, its proposed construction schedule with respect to generation and transmission facilities.

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.
 - (1) The utility shall use as the minimum standard of accepted good engineering practice the current edition of the National Electric Safety Code, dated September 26, 1983, published by the Institute of Electrical and Electronics Engineers, Inc., and endorsed by American National Standards Institute (ANSI), for all electric plant con-

struction or installation commenced on or after September 26, 1983. This rule does not include later amendments to or editions of the National Electric Safety Code.

- (2) With regard to electric plant constructed or installed prior to September 26, 1983, the minimum standard of accepted good engineering practice shall be the edition of the National Electric Safety Code in effect at the time of commencing construction or installation of the electric plant.
 - (3) Any electric plant of the utility that is constructed, installed, maintained and operated in accordance with the National Electric Safety Code in effect at the time of its construction or installation shall be presumed to comply with accepted good engineering practice in the electric industry and the provisions of this rule.
- (b) Certified copies of the complete text of the National Electric Safety Code shall be maintained by the Public Utilities Commission, which copies shall be available for public inspection during regular business days and hours. Certified copies of the National Electric Safety Code shall be provided at cost upon request. The Executive Secretary of the Public Utilities Commission, Fifth Floor, 1525 Sherman Street, Denver, Colorado 80203, will provide information regarding how the National Electric Safety Code may be obtained or examined.
 - (c) Distribution facilities are those lines designed to be operated at the utility's normal distribution voltage in the area, or lower, and substations constructed under existing lines, regardless of voltage. Extensions of distribution facilities (lines and substations) shall be deemed to occur in the ordinary course of business of utilities, and shall not require a certificate of public convenience and necessity.
 - (d) Transmission facilities are those lines designed and operating at above the utility's normal voltage for distribution facilities in the area, or higher, and related substation facilities.
 1. Each Colorado electric utility shall file annually, no later than April 30 of each year, the information required by Section (f) of this rule, pertaining to any proposed new construction or extensions of transmission facilities for the next three calendar years.

2. Staff of the Commission shall review the data filed by utilities pursuant to Subsection (d)(1) of this rule and make recommendations to the Commission within the time as set forth in subsection (d)(3). The Commission will designate those transmission projects which the utility is not required to obtain a certificate of public convenience and necessity, or file an application for a certificate of public convenience and necessity or a formal determination that no such certificate is required, within the time periods as set forth in subsection (d)(3) and (4).
 3. For new construction or the extension of transmission projects, the construction of which are to begin in the next calendar year, Staff shall make its recommendations within 30 days of April 30 of the year the data is filed. The Commission shall issue its decision on whether a certificate is not required, or whether an application for a certificate or formal determination that no certificate is required, within 60 days of April 30 of the calendar year such data is filed.
 4. For new construction or the extension of transmission projects, the construction of which are to begin in the second and third calendar year subsequent to the filing of annual data, Staff shall make its recommendations within 120 days of April 30 of the year such data is filed. The Commission shall issue its decision on whether a certificate is not required, or whether an application for a certificate or formal determination that no certificate is required, within 60 days of Staff's recommendation.
- (e) Each Colorado electric utility shall annually file, no later than April 30 of each calendar year for the next three subsequent calendar years, the information required by Section (f) of this rule concerning any new construction or extensions which will result in an increase in generating capacity for the utility of ten (10) megawatts or more.
- (1) Staff of the Commission shall review the data filed by utilities pursuant to Section (e) of this rule and make recommendations as set forth in subsection (e)(2). The Commission will designate those generation projects

which do not require a certificate of public convenience and necessity, and those generation projects which the utility shall file an application for a certificate of public convenience and necessity or a formal determination that no such certificate is required.

- (2) For any new construction or extension which will result in an increase in generating capacity for the utility of ten megawatts or more, the construction of which is to begin in the next calendar year, the Staff shall make its recommendations within 30 days of April 30 of the year the data is filed. The Commission shall issue its decision on whether a certificate is not required, or whether an application for a certificate or a formal determination that no certificate is required within 60 days of April 30 of the calendar year in which the data is filed.
- (3) For any new construction or extension which will result in an increase in generating capacity for the utility of ten megawatts or more, the construction of which is to begin in the second or third calendar year subsequent to the year the data is filed, Staff shall make its recommendations within 120 days of April 30 of the year such data is filed. The Commission shall issue its decision on whether a certificate is not required, or whether an application shall be filed by the utility seeking a certificate or formal determination that no certificate is required, within 60 days of Staff's recommendation.
- (4) Any extension of generation capacity which will result in an increase in generating capacity for the utility of less than ten (10) megawatts is deemed to be in the ordinary course of its business for a utility and shall not require a certificate of public convenience and necessity.
- (5) Generating plant remodeling and the installation of any equipment or building space required for pollution control systems shall be deemed to occur in the ordinary course of its business for a utility, and shall not require a certificate of public convenience and necessity.

(f) Each electric public utility, whether or not each such utility is deregulated pursuant to CRS 1973, 40-9.5-101, et seq., shall submit to the Commission, no later than April 30 of each year, a schedule of its proposed new construction or extensions for the next three subsequent calendar years pertaining to generation and transmission facilities as described in Sections (d) and (e) of this rule. For each such project, each utility shall set forth the following:

1. Name of the project
2. The function of the project
3. The estimated cost of the project
4. The manner in which the project is expected to be financed
5. The projected date for the start of construction of the project
6. The estimated date of completion of each project
7. The estimated date of commencement of operation of each project
8. The proposed general location

(g) The information and data filed by each utility pursuant to Section (f) of this rule shall be public information, available for inspection at the offices of the Commission, during regular business days and hours.

- (1) The Commission will give notice of the filing of such data to all those, who in the opinion of the Commission, are interested persons, firms, or corporations.
- (2) Any interested person, firm, or corporation may file comments in regard to the projects identified by the data filed with the Commission, pursuant to Section (f) of this rule, within fifteen (15) days of the filing of such data. The Commission will consider such comments in determining which projects do not require a certificate of public convenience and necessity, or which projects the utility will be required to file an application for a certificate of public convenience and necessity, or a formal determination that such a certificate is not required.

- (h) No utility may commence new construction or an extension of either transmission or generation facilities or projects as described in Sections (d) and (e) of this rule until they are notified by the Commission that such facilities or projects do not require a certificate of public convenience and necessity, or until such a final certificate is issued by the Commission.

3. Rule 18, Construction Requirements, Rules Regulating the Service of Electric Utilities, 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 rules adopted herein conform with Section 24-4-103(8)(a), CRS 1973.

4. An opinion of the Attorney General of the State of Colorado will be sought concerning the constitutionality and legality of the proposed rules 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 rules 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 above rules adopted herein by ordering paragraph 1 in accordance with the provisions of CRS 1973, 24-4-103(11)(k).

7. Rule 18, Construction Requirements, 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. The twenty (20) day time period provided for pursuant to CRS 1973, 40-6-114(1) within which to file an application for rehearing, reargument, or reconsideration shall commence to run on the first day following the mailing or serving by the Commission of the decision herein.

This Order shall be effective thirty (30) days from the day and date hereof.

DONE IN OPEN MEETING the 30th day of November, 1983.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Edythe S. Miller

Daniel E. Muse

Arden Schmitt
Commissioners

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