

Colorado

Public Utilities Commission



For Your Information

EG-4

UNDERSTANDING THE PROCESS FOR APPEALING DECISIONS ON UTILITY SITING ISSUES

In 2001, the Colorado Legislature passed a law that provides a legal means for public utilities to appeal local land use decisions on utility siting issues to the Public Utilities Commission (PUC). The PUC subsequently adopted rules implementing the law, which can be found at 4 CCR 723 Part 3, Rules 3700-3707. This fact sheet briefly describes the procedures to be used for resolving conflicts between utilities and local governments concerning the location, construction and improvement of major electrical and natural gas facilities.

- The law declares that conflicts over utility siting issues are matters of statewide concern and gives the PUC the authority to resolve appeals. The PUC's role is to balance local government determinations with the broader statewide interest of meeting growing demands for electric and natural gas service.
- The law gives public utilities or power authorities the ability to appeal to the PUC if a local government denies a permit or application that relates to the location, construction, or improvement of major electrical or natural gas facilities, or imposes unreasonable conditions on such a permit or application.
- When filing an appeal with the PUC, a public utility or power authority must include the following information in its application for consideration by the PUC:
 - A statement of why the local government action would unreasonably impair the ability of a public utility or power authority to provide safe, reliable, and economical service to the public.
 - The demonstrated need for the major electrical or natural gas facility.
 - The extent to which the proposed facility is inconsistent with existing applicable local or regional land use ordinances, resolutions, or master or comprehensive plans.
 - Whether the proposed facility would exacerbate a natural hazard.
 - Applicable utility engineering standards, including supply adequacy, system

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reliability, and public safety standards.

- The relative merit of any reasonably available and economically feasible alternatives proposed by the public utility, the power authority, or the local government.
 - The impact that the local government action would have on the customers of the public utility or power authority who reside within and outside of the boundaries of the local government.
 - The basis for the local government's decision to deny the application or impose additional conditions to the application.
 - The impact the proposed facility would have on residents within the local government's jurisdiction, including, in the case of a right of way for facilities placed underground, whether those residents have already paid to place such facilities underground.
 - The safety of residents within and outside of the boundaries of the jurisdiction of the local government.
- The law requires the PUC to deny any appeal if the public utility or power authority has failed to properly notify and consult with the affected local governments prior to seeking a permit.
 - In addition to a formal evidentiary hearing on the appeal, the law requires the PUC to hold a public hearing to receive public comment at a location specified by the local government.
 - Once the PUC rules on an appeal, that decision is subject to appeal to state district court.

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