



Brooks Kaufman
Lands and Rights of Way Director

September 20, 2018

Nina Ruiz, Planner II
El Paso County, Colorado
Development Services Department
2880 International Circle, Suite 110
Colorado Springs, Colorado 80910

Re: AASI-Revisions to Chapter 5 - Site Selection and Construction of Major Facilities of a Public Utility

Case No.: AASI184

Dear Ms. Ruiz:

The Intermountain Rural Electric Association (“the Association”) operates and maintains underground and overhead electric facilities within El Paso County (“the County”) that will be affected by the County’s proposed revisions to Chapter 5 – Site Selection and Construction of Major Facilities of a Public Utility.

The Association recognizes the County’s authority to consider and designate matters of state interest pursuant to Colo. Rev. Stat. § 24-65.1-101, *et seq.* (“the 1041 Statute”). However, the Association opposes the language adding the term “minor transmission facilities” and corresponding regulations to Chapter 5 because the 1041 Statute does not grant the County statutory authority to regulate the site selection and construction of electric distribution facilities.

The 1041 Statute allows the County to identify, designate, and regulate areas and activities of state interest through the local permitting process. Activities of state interest include “site selection and construction of major facilities of a public utility.” C.R.S. §24-65.1-203(1)(f). Major facilities of a public utility are defined in relevant part as “transmission lines, power plants, and substations of electrical utilities.” C.R.S. § 24-65.1-105(8)(b). The Colorado Public Utilities Commission defines transmission facilities as follows:

“Transmission facilities are those lines and related substations designed and operating at voltage levels above the utility’s voltages for distribution facilities, including but not limited to related substation facilities such as transformers, capacitor banks, or breakers that are integral to the circuitry of the utility’s transmission system.” 4 C.C.R. 723-3, Rule 3001(hh).

INTERMOUNTAIN RURAL ELECTRIC ASSOCIATION

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Transmission lines are classified by operating voltage (*e.g.*, 44 kV, 69 kV, 115 kV, etc.). Neither the State of Colorado, Colorado Public Utilities Commission, nor the utility industry identifies transmission lines on a “major” or “minor” basis as the County proposes. The site selection and construction of all transmission lines regardless of operating voltage are subject to regulation pursuant to the 1041 Statute.

The 1041 Statute does not grant the County authority to regulate the site selection and construction of electric distribution lines. The County’s proposed term “minor transmission line” actually refers to electric distribution lines, not transmission lines. The Colorado Public Utilities Commission defines distribution facilities as follows:

"Distribution facilities are those lines designed to operate at the utility's distribution voltages in the area as defined in the utility's tariffs including substation transformers that transform electricity to a distribution voltage and also includes other equipment within a transforming substation which is not integral to the circuitry of the utility's transmission system." 4 C.C.R. 723-3, Rule 3001(j).

Distribution lines transmit electrical energy “from a substation/transmission site to individual commercial or residential customers” (*quoting* the County’s proposed definition of a “minor transmission line”).

Transmission lines and distribution lines are two distinct types of electric facilities that serve two different purposes. The County has the authority to regulate the site selection and construction of transmission lines under the 1041 Statute. Distribution lines are not an enumerated state interest under the 1041 Statute and no authority to regulate distribution lines as such exists.

The term “transmission” is distinct from other types of electric lines, and the County cannot expand its statutory authority merely by relabeling distribution lines as “minor transmission lines.” The County’s proposal to subject electric distribution lines to 1041 permit requirements exceeds the County’s statutory authority in violation of Colorado law. Such government overreach is subject to reversal in litigation.

For the foregoing reasons, the Association requests that the County withdraw from consideration the proposed changes in 5.103(3)-(8), (12), and (15), the references to “major transmission line” in 5.104(2), the proposed changes in 5.104(4), and 5.204 in its entirety.

Sincerely,



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