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PUBLIC UTILITIES - COLORADO

San Isabel Electric Association, Inc. v. Public Utilities Commission

Supreme Court of Colorado - June 1, 2021 - P.3d - 2021 WL 2197981 - 2021 CO 36

Rural cooperative electric association sought review of Public Utilities Commission's (PUC) order, determining that association's certificates of public convenience and necessity (CPCN) did not give association the right to provide station power to another electric utility's wind farms that were located in association's certificated service territory.

The District Court affirmed. Association appealed.

The Supreme Court, en banc, held that:

- Association's CPCNs did not preclude utility from self-supplying station power to wind farm, and
- Association did not have a due process right to provide station power thus precluding any right to hearing on purported deletion of service area.

Rural cooperative electric association did not have a right under its certificates of public convenience and necessity (CPCN) to provide station power to another electric utility's wind farms that were located in association's certificated service territory, and other utility, as a vertically integrated utility, could continue to self-supply such power using its own interconnected transmission network and electric generation resources; self-supply of station power did not involve a sale, prohibiting self-supply of power would have resulted in inefficient duplication, and allowing self-supply of power promoted state's renewable energy policy.

Rural cooperative electric association did not have a due process property right under its certificates of public convenience and necessity (CPCN) to provide station power to winds farms of a vertically-integrated electric utility that were located in association's certificated service territory, and therefore lack of a PUC hearing on whether association was unwilling or unable to serve its certificated territory, relating to the purported deletion of portion of territory, did not violate due process.