

Gas utility raises constitutional concerns over Colo. line extension policy

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Colorado is violating constitutional principles and the state's regulatory compact with utilities by eliminating a long-standing approach to expanding natural gas distribution systems, according to a legal filing before a state court.

The [Colorado Public Utilities Commission](#) (PUC) overstepped its statutory authority by requiring gas utilities to terminate line extension allowances for gas mains, [Colorado Natural Gas Inc.](#) (CNG) said in a May 19 petition. The PUC also "erred in refusing to address" the company's argument that the policy raises "serious" concerns about private contract and property rights enshrined in the federal and state constitutions, according to the [Summit Utilities Inc.](#) subsidiary.

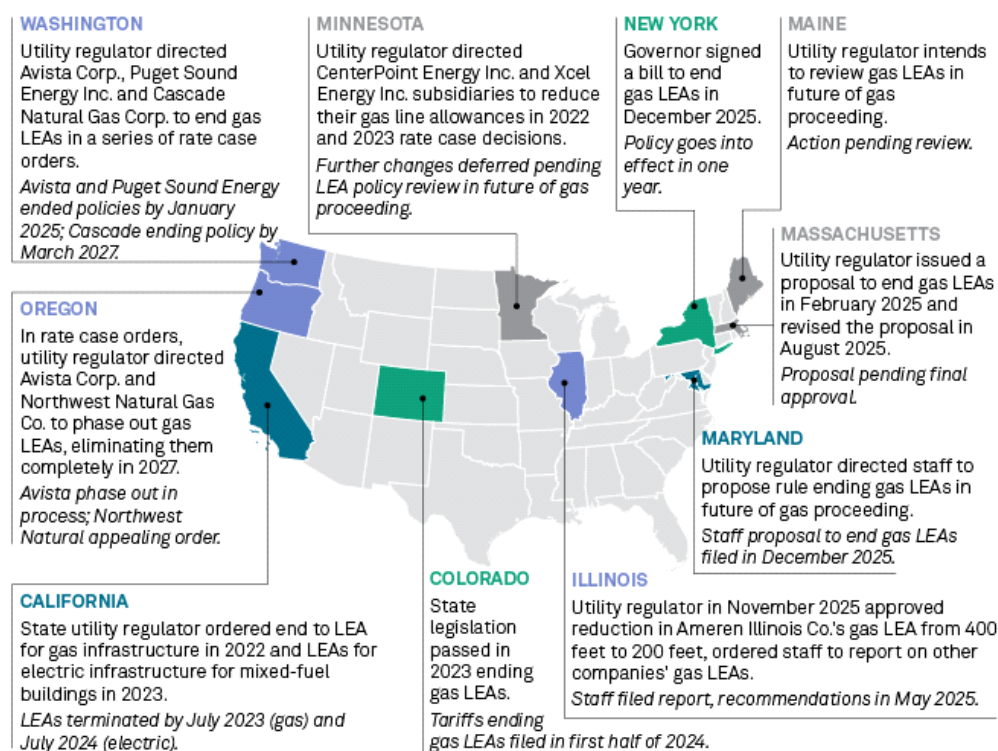
The petition represents a challenge to a policy that has recently [gained momentum](#) in states seeking to [limit gas system growth](#): Ending a practice of charging the existing customer base for all or part of the cost of extending pipes to new customers. Without line extension allowances, new customers must pay the entire cost of connecting to the gas grid.

States phase out gas line extension allowances

Mechanism for ending policy

STATE
Policy Status

- Utility regulator order
- State legislation
- Rate case order
- Under review



As of May 25, 2026.

LEA = line extension allowance.

Sources: S&P Global Energy; The Building Decarbonization Coalition.

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Colorado was the first state to end [gas line extension allowances](#) through legislation, though several other states have also ended that practice or are considering it. It was not immediately clear whether the Colorado challenge could have implications for similar policies in other states.

Notably, attorneys from Reichman Jorgensen Lehman & Feldberg LLP have applied to represent CNG, including lawyers who [successfully challenged](#) Berkeley,

California's first-in-the-nation [gas ban](#) for new construction. That outcome prompted dozens of cities to [roll back](#) similar policies and placed building electrification requirements across the US at [legal risk](#).

A PUC spokesperson said the commission cannot comment on pending litigation. Attorneys for CNG did not respond to requests for comment, and the company referred Platts, part of S&P Global Energy, to its petition for writ of certiorari or review.

In the petition, CNG asked the Denver County District Court to review the PUC's March 30 decision and find that commissioners erred in interpreting the underlying law. The company additionally asked the court to overturn or set aside the PUC's final judgment and remand the case to the commission.

Constitutional concerns prompt debate

The dispute stemmed from passage of Colorado Senate Bill 23-291, which defined and prohibited gas line extension allowances and set a deadline for gas utilities to submit new tariffs that strip out existing allowances.

CNG, which has historically focused on extending gas service to unserved areas in Colorado, submitted an updated tariff sheet in December 2023. However, CNG filed under protest, saying the statute violated the contracts and takings clauses of the US and Colorado constitutions. These clauses protect contract obligations and private property from government action.

The statute impaired the company's contract rights under PUC-approved agreements with cities and other entities, CNG said at the time. It deprived the company of its "contractual prerogative" to make capital investments to expand into unserved areas — and to earn a fair return on those investments.

Additionally, prohibiting line extension allowances "dismantles the company's protected property right to invest in its system in furtherance of expanding service in its certificated areas," the utility said. This eliminated CNG's ability to earn a return by blocking the company from including new mains and service lines in its rate base, it said.

The PUC fully litigated the matter after staff said the company's tariff sheet may not satisfy the statute and recommended legal analysis of the constitutional concerns.

Parties dispute statutory meaning

During litigation, CNG asserted that the text of SB 23-291 did not explicitly prohibit allowances for gas mains. However, the PUC ultimately concluded that the statute broadly disallowed incentives for applicants, including "a line extension allowance" for mains.

The company argued in its petition that the PUC misinterpreted the statute, saying the text only specifically prohibited "construction allowances for new service lines, meters, and other infrastructure associated with the addition of a new customer to a gas utility's distribution system."

CNG said mains should be considered part of "shared infrastructure that makes up the 'distribution system' to which a new customer would connect." It added: "This infrastructure is essential to the overall utility system's basic operation, and its associated costs reflect more than the cost of connecting one new customer."

The PUC's interpretation raised concerns under the contracts and takings clauses, CNG said. In keeping with the canon of constitutional doubt, the PUC should adopt the narrower statutory reading — that the law does not prohibit allowances for mains — because it avoids or mitigates serious constitutional concerns, the company said.

The PUC said it would not follow the canon because it is designed for interpreting ambiguous statutory language, and in the commission's view, SB 23-291 is not ambiguous. Additionally, following the cannon would serve no purpose because CNG believes both readings raise constitutional concerns.

An administrative law judge also noted that gas utilities operated by [Atmos Energy Corp.](#), [Black Hills Corp.](#) and [Xcel Energy Inc.](#) reached settlements on new tariffs with PUC staff, indicating that the policy is not unduly burdensome for gas distributors.

CNG said its reading of the statute was plausible, so the PUC erred by "refusing to address the constitutional concerns" on the grounds that the commissioners found the statute unambiguous.

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