Decision No. C98-556

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 97A-622G

IN RE: APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO CONSTRUCT AND OPERATE A 53-MILE LONG, 24-INCH NATURAL GAS PIPELINE.

COMMISSION INITIAL DECISION
APPROVING APPLICATION

Mailed Date: June 4, 1998
Adopted Date: June 4, 1998

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Appearances:

James Albright, Esq., Denver, Colorado, for Public Service Company of Colorado;

T. J. Carroll, Esq., Lakewood, Colorado, and Alvin Meiklejohn, Esq., Denver, Colorado, for the K N Group;

Mark Minich, Esq., Colorado Springs, Colorado, for the Colorado Interstate Gas and Wyoming Interstate Company;

Thomas R. O'Donnell, Esq., Denver, Colorado, for Greeley Gas Company;

Judith Matlock, Esq., Denver, Colorado, for HS Resources, Inc.;

Thomas McKee, Esq., Denver, Colorado, for the Colorado Oil and Gas Association;

Michelle Norcross, Assistant Attorney General, Denver, Colorado, for the Colorado Office of Consumer Counsel; and

Gregory Sopkin, Assistant Attorney General, Denver, Colorado, for the Staff of the Commission.

I. <u>BY THE COMMISSION</u>

A. Statement

1. This application was filed on December 23, 1997 by Public Service Company of Colorado ("Public Service"). As noted in the caption, it seeks from this Commission: (1) a Certificate of Public Convenience and Necessity ("CPCN") to construct and operate a 53-mile long, 24-inch diameter natural gas pipeline and appurtenant facilities from its existing Chalk Bluffs station

near Rockport, Colorado to an interconnection point with its existing 24-inch pipeline located adjacent to the Fort St. Vrain Generating Station near Platteville, Colorado; (2) authorization to sell such facilities, once constructed, to Wyco Development, LLC ("Wyco") and to immediately lease such facilities back under a long-term lease; (3) a declaratory ruling that Wyco will not be a public utility; and (4) such other and further relief as the Commission may deem necessary. The Commission gave notice of the application on December 30, 1997.

2. Timely petitions to intervene were filed by the Colorado Oil and Gas Association ("COGA"); Conoco, Inc.; Western Gas Resources, Inc.; Patina Oil and Gas Corporation; HS Resources, Inc. ("HS"); Colorado Natural Gas, Inc.; Barrett Resources Corporation; the Natural Gas Clearinghouse; the Montana Power Trading and Marketing Company; Greeley Gas Company ("Greeley Gas"); K N Services, Inc., K N Energy, Inc., and K N Wattenberg Transmission Limited Liability Company ("K N Wattenberg") (collectively the "K N Group"); Enron Capital and Trade Resources Corporation; Colorado Springs Utilities; K.P. Kauffman Company, Inc.; Duke Energy Trading and Marketing, LLC; Engage Energy U.S., L.P.; Colorado Interstate Gas Company ("CIG"); Wyoming Interstate Company, Ltd. ("WIC"); and e prime, inc. Those petitions were granted by Decision No. R98-178-I, February 13, 1998. Staff of the Commission and the Colorado Office of Consumer Counsel ("OCC") filed Notices of Intervention.

3. Untimely Petitions to Intervene were filed by Platte River Solutions, LLC on January 30, 1998; and by Rocky Mountain Natural Gas and Electric, LLC on February 3, 1998. Those petitions were denied by Decision No. R98-178-I.

4. On January 28, 1998, the Commission at its Weekly Meeting deemed the application complete as of February 13, 1998. Since the application was accompanied by the Applicant's supporting testimony and exhibits, the Commission's decision is due no later than 120 days from the date the application is deemed complete. *See* § 40-6-109.5, C.R.S. On January 29, 1998, in Decision No. C98-95, the Commission requested supplemental information to enable the Commission to consider the application in an expedited manner, consistent with Public Service's request. The supplemental information was timely filed by Public Service on February 11, 1998. In addition, the Commission determined in Decision No. C98-95 that it would enter an initial Commission decision under § 40-6-109(6), C.R.S. A procedural schedule was developed which called for the matter to be heard during the week of April 27, 1998 through May 1, 1998.

5. At the assigned place and time an Administrative Law Judge ("ALJ") of the Commission called the matter for hearing. As a preliminary matter HS sought leave to withdraw from the proceeding. Such leave was granted and it was dismissed from the proceeding. The matter then proceeded to hearing. During the course of the hearing Exhibits 1, 1A, 2, 3, 6, 8

through 51 (including 8A, 12A, and 31A), 59 through 82 (including 66A), 84 through 88, 90, 91, 93, and 94 were identified, offered, and admitted into evidence. Pursuant to order of the ALJ Exhibits 42A and 44A were late-filed on May 5, 1998.[1]

6. At the conclusion of the hearing the parties were ordered to file closing statements of position no later than May 7, 1998. By oral ruling on May 6, 1998, the deadline was extended until May 8, 1998. Timely statements of position were filed by Public Service, Greeley Gas, CIG and WIC jointly, the KN Group, OCC, and Staff.

7. The Commission, having previously found that due and timely execution of its functions imperatively and unavoidably require it, omits the recommended decision of the ALJ, and makes the initial decision in this application.

B. Findings of Fact

1. Proposed Benefits

a. The Front Range Pipeline which is the subject of this application is a proposed 53-mile long, 24-inch diameter natural gas pipeline and related facilities which would extend from Public Service's existing Chalk Bluffs station near Rockport, Colorado, to an interconnection point with Public Service's existing 24-inch pipeline located adjacent to the Fort St. Vrain Generating Station near Platteville, Colorado. The

[1] Exhibits 42A and 44A are the pre-filed testimony of the K N Group witnesses with certain testimony removed, but with the original pagination

Front Range Pipeline would be capable of transporting up to 269,000 decatherms (Dth) per day of natural gas from Chalk Bluffs to the existing Public Service system. This pipeline is estimated to cost approximately $25.1 million. The Front Range Pipeline would parallel an existing eight-inch Public Service natural gas line that is currently capacity constrained.

b. The Front Range Pipeline would give Public Service greater access to natural gas available at Chalk Bluffs from several interstate gas pipelines that interconnect there. Public Service has no firm contracts for the receipt of gas at Chalk Bluffs, nor did it provide evidence of any other commitments from suppliers or pipeline companies at Chalk Bluffs, but it anticipates being able to obtain gas supplies there.

c. Recently Public Service has received some of its gas supply through the Chalk Bluffs receipt point. However, a majority of the gas it purchased to supply the Front Range metropolitan area has come from the Denver/Julesberg Basin ("DJ Basin"), a large production area located generally northeast of the Denver metropolitan area, or has been transported through CIG's interstate pipeline system and received into the Public Service system through several receipt points in the Front Range area. Lately, gas in the DJ Basin and gas available through CIG's southern transportation system has been more expensive than gas available for receipt at Chalk Bluffs. In the last several years

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intact.

the premium of DJ Basin gas over gas available in Wyoming through Chalk Bluffs has varied from zero to 44 cents per decatherm.

d. Public Service is experiencing growth in its peak day demand of approximately 41,000 decatherms per day each year. Public Service currently has adequate access to gas supplies to meet the needs of current customers and to meet growth needs for at least the near term.

e. If the pipeline were built, Public Service anticipates that it would shift up to 75,000 decatherms per day from existing supply sources to the Chalk Bluffs receipt point during the four peak winter months. Public Service has also received 65 separate requests for firm transportation service from the Chalk Bluffs receipt point totaling 114,454 decatherms per day. Approximately 15 percent of these requests reflect new service, with 85 percent representing existing shippers seeking a change in receipt points to Chalk Bluffs. It is these three components (growth in demand, supply shift, and transportation shift) that Public Service suggests create a need for, and will result in full utilization of the Front Range Pipeline.

f. Public Service projects gas cost savings during the winter months of 15-20 cents per decatherm. By Public Service’s own estimates, this savings would not cover the cost of the pipeline until the third year after completion. *See* Exhibits 19 and 24.

2. System Considerations

a. Public Service notes that maintaining operational control[2] of the pipeline confers benefits to Public Service which are unavailable when it simply purchases transportation services from another pipeline. For example, it would not have to deal with nominated volumes, imbalances, and the various bookkeeping requirements related to purchasing natural gas transportation.

g. Public Service experiences some operational constraints on the eight-inch line from Chalk Bluffs during warm winter days and cool spring and fall days. However, this is not a peak day problem caused by a shortage of gas; rather, it is caused by an excess of gas moving in the northern system which is committed elsewhere. This forces Public Service to receive more gas from CIG's southern system, at a correspondingly higher cost than would be incurred if additional capacity were available from Chalk Bluffs.

h. The proposed pipeline is also a part of Public Service's long-term facility plan and is designed to work in conjunction with other facilities that have been recently installed to enhance operational efficiency.

i. Public Service currently provides transportation services system-wide under a rolled-in pricing

[2] Public Service proposes to sell the pipeline and lease it back. *See discussion.*

mechanism referred to as a postage stamp rate. Under this arrangement all non-discounted transportation customers pay the same rate for transportation of gas regardless of the location of the receipt point or the distance the gas is transported. Though Public Service does not propose to address rate issues in this proceeding, it states that it intends to include the Front Range Pipeline under this rolled-in pricing methodology.

3. Proposed Sale/Leaseback Arrangement

a. Public Service seeks approval to transfer title of the pipeline, upon the completion of construction, to Wyco. Public Service would immediately lease the facility back under a 30-year lease. Wyco is a Colorado limited liability company formed by affiliates of Public Service and CIG, specifically, NC Enterprises, Inc. and CIG Supply Company. Wyco would have no day-to-day operating responsibility for the Front Range Pipeline; instead this would be Public Service's responsibility. Wyco would be a passive investor. Public Service's lease payments to Wyco under the proposed 30-year lease would be based on a formula that incorporates, and would track over its term, Public Service's Commission-approved rate of return, depreciation rates, income tax factors, and rate methodologies. The lease payment calculation is structured to mirror the rate impacts that customers would experience if Public

Service owned the Front Range Pipeline outright.[3] The first annual lease payment is projected to be approximately $4.2 million. Public Service seeks to include the lease payments in its operating expenses in future rate cases.

b. In connection with the transfer of the pipeline, Public Service requests specific approval to include Allowance for Funds Used During Construction (“AFUDC”) in the sales price of the Front Range Pipeline and requests that the Commission declare that Wyco will not be a public utility by virtue of its ownership interest. Public Service states that it does not seek an advance determination with respect to the amount of Front Range Pipeline related costs that it may recover in its rates. Instead Public Service anticipates that it will include the lease payment in its upcoming rate case to be filed by October 1, 1998 and that the Commission and parties to the rate case would then have an opportunity to review the level of Front Range Pipeline costs that Public Service may include in its rates.

4. KN Wattenberg FERC Application

K N Wattenberg has an application pending before the Federal Energy Regulatory Commission (“FERC”) for authority to build the Front Runner Pipeline, which is similar in many ways

[3] Whether the proposed lease payment would so mirror the rate impacts is contested by Staff and OCC.

to Public Service's proposed Front Range project.[4] Specifically, the Front Runner Pipeline would connect the Chalk Bluffs area to the Fort St. Vrain area with a similar though slightly smaller sized pipeline. While the comparative merit of each pipeline is not properly before this Commission, the Commission notes that K N Wattenberg could receive approval from the FERC to build the Front Runner Pipeline under an optional certificate.[5] K N Wattenberg states that it plans to build Front Runner whether or not the Front Range Pipeline is built. The Front Runner Pipeline could present a serious bypass challenge to Public Service by providing direct service to customers currently receiving service from Public Service, while at the same time, Front Runner could provide transportation service to Public Service as any other transportation customer.

C. Discussion

Public Service suggests that there are two primary reasons why the CPCN should be granted for the Front Range Pipeline. First, it suggests that growth in demand from its customers requires additional physical capacity. Second, it suggests that it has an obligation to obtain the cheapest gas

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[4] This Commission has filed a motion to dismiss the K N Wattenberg application on the grounds that it, not FERC, has jurisdiction over the proposed Front Runner Pipeline.

[5] Under the FERC's optional certificate program an applicant seeking to build an interstate pipeline and must be willing to bear the financial risk for that pipeline without any assurance of full cost recovery if the pipeline is not fully utilized.

supply possible, and Front Range will permit it to access cheap gas at Chalk Bluffs. These claims will be discussed separately.

1. Need for Additional Capacity

a. First, concerning the alleged need for additional physical capacity, no party disagrees that at some point in the future Public Service will need additional physical capacity into the Front Range area to serve customer demand. However, Public Service now has adequate access to gas supply to serve its existing customers plus anticipated growth for at least two years. According to the record, the pipeline can be built in approximately four to five months. There was no evidence that the pipeline is required in the short-term to prevent possible curtailment, interruption of firm customers, or moratoriums on new connections. There was also no evidence establishing substantial distribution inadequacies. On rebuttal, Public Service noted that it was investigating a possible physical constraint in the southeast portion of its system which may be affected by the Front Range Pipeline, but that the study had not yet been completed. This was the sole evidence of any physical constraints to the system that would exist over the next few years. The Commission concludes that this is insufficient in and of itself to justify the Front Range Pipeline.

j. While Public Service has received a number of transportation requests for immediate service at Chalk Bluffs, this may simply be a reflection of the desire of shippers to obtain cheaper supplies at little or no additional transportation costs, since Public Service proposes to include the Front Range Pipeline under its postage stamp rate. The transportation requests do not provide evidence that customers are willing to pay the full cost of the pipeline in order to shift receipt points to Chalk Bluffs.

k. Public Service also notes that there are operational advantages associated with the Front Range Pipeline. However, administrative ease by itself does not rise to the level of public convenience and necessity.

2. Access to Cheaper Gas Supplies

a. Public Service's second justification for building the pipeline is to access gas supplies at Chalk Bluffs that are cheaper than gas supplies available at southern sources. No party disputes, and the Commission finds, that gas available at Chalk Bluffs is generally cheaper than gas that is available at other Front Range receipt locations. Further, long-term growth of the Front Range will likely continue to increase this price differential if additional pipeline capacity is not extended to Chalk Bluffs. However, to what level this differential would remain after the pipeline is built is a matter of some speculation. Public Service has not attempted to quantify the effect on the price of the gas supply available at Chalk Bluffs were it to commence receiving an additional 269,000 decatherms, or approximately 250 million cubic feet (MMcf), per day at this location. If the total gas supply available at Chalk Bluffs is 1.6 billion cubic feet (Bcf) per day, simple economics indicate that additional demand in the amount Public Service is proposing will have an upward pressure on prices, causing the price advantage to lessen. Further, gas cost savings are not shown to exceed pipeline costs for the first two years of operation, until the line is projected to operate at capacity.

l. Public Service's estimate of proposed short-term savings in gas supply purchases compared with the cost of the pipeline is based on favorable assumptions concerning the gas pricing differential as well as a favorable cost allocation methodology. The Commission agrees with the Staff and the OCC that the gas cost savings cannot be predicted with any certainty due to the potential fluctuation in market prices.

3. Opposition by Staff, OCC

a. Staff and the K N Group oppose granting the certificate primarily on the grounds that the need for the pipeline has not been established. The OCC suggests that the pipeline is not needed for at least a couple of years, but proposes issuing a CPCN subject to certain conditions. These conditions would limit the amount of annual cost of the pipeline assigned to residential and commercial sales customers, based upon the volume of natural gas that is actually transported through the pipeline. The OCC claims that this will protect these captive ratepayers in the event that Public Service's predictions concerning gas cost savings prove overly optimistic.

m. The OCC's proposed conditions may not protect the residential and commercial sales customers, nor the transportation customers from a failure to realize gas cost savings. We believe the OCC's proposed mechanism is at first blush a cap on annual costs assigned to residential and commercial sales customers. However, the basis for the cap is volumes transported by Public Service for sales, transportation, and growth. Under rolled-in pricing even a slight price differential between Chalk Bluffs and southern sources, *e.g.*, one cent per decatherm, would provide an incentive to acquire supplies through Chalk Bluffs. The receipt of volumes for sales customers would depend only on a comparison of gas prices between Chalk Bluffs and other receipt points. While this is within the discretion of Public Service, it is very likely that the minimum sales volumes would always be met. Similarly, transportation customers would prefer to receive gas through Chalk Bluffs. Under rolled-in pricing the pipeline will likely be operated at full capacity regardless of whether sufficient price differential exists to offset the costs of the pipeline. Consequently the OCC's suggested conditions do not protect against failure to realize net projected gas cost savings; they are dependent solely on volumes transported, not market rate differentials. *See*

Ex. 59, pp. 11-12. The Commission therefore rejects the OCC proposal.

4. Short-Term Economic Benefits

The Commission finds and concludes that the short-term economic benefits of the Front Range Pipeline do not warrant granting CPCN authority to construct and operate the pipeline under a rolled-in postage stamp pricing methodology. Under this method, general rate payers would be subject to the risks of unrealized projected gas cost savings.

5. Standalone CPCN Authority

a. Instead, the Commission finds that the transportation service afforded by the Front Range Pipeline, on a stand-alone basis, will likely provide public and economic benefits under certain market conditions. These market conditions can best be analyzed by Public Service, as a pipeline operator and gas purchaser, where the risks are placed on shareholders, not general ratepayers. Further, the transmission market dynamics of the Front Range could be adversely affected by rates which do not reflect the incremental costs of the proposed facilities. The Commission therefore finds it to be in the public interest to grant CPCN authority to Public Service to install and operate the proposed pipeline under separate, stand-alone rates, where Public Service shareholders are "at risk" for unrealized projected market price differentials, and the resulting under-utilization of the pipeline. CPCN authority granted in this order is contingent upon construction of the Front Range Pipeline project being complete on or before December 1, 2001.

b. If Public Service chooses to construct the Front Range Pipeline under this stand-alone rate condition, it shall, at a minimum, be required to offer transportation service on a nondiscriminatory basis, pursuant to the Commission's transportation Rules, 4 CCR 723-17, as a separate service from its existing transportation service. Procedures shall be established to allow customers to transport gas through the line in a manner consistent with industry standards. Public Service shall be required to establish tariffs and rates for the Front Range Pipeline through a separate proceeding, pursuant to the Commission's Rules of Practice and Procedure.

c. Additionally, separate books of accounts shall be maintained in order to clearly differentiate all costs associated with the Front Range Pipeline from existing utility services. As part of the tariff rate proceeding, cost allocation procedures shall be established for any costs which are, or could be, common to the Front Range Pipeline and any existing utility services consistent with the principles established in the Commission's cost allocation rules found at 4 CCR 723-47[6].

[6] Not all of the administrative requirements in the rules will apply here, since the rules are intended to apply to nonregulated services. However, we find that the cost allocation principles are equally applicable here.

d. Public Service claimed, in testimony and reiterated in its statement of position, that “at risk” conditions are not consistent with the utility’s obligation to serve. Since the Commission has determined that physical capacity limitations do not require facility installation at this time, the utility’s obligation to serve is not affected by the optional “at risk” authority established in this order, nor is the economical operation of the Front Range Pipeline affected by the obligation to serve.

e. The Commission recognizes that placing Public Service at risk for under-utilization of the Front Range Pipeline produces an incentive for the Company to use the pipeline whenever possible. In order to demonstrate that Front Range Pipeline capacity purchased on behalf of captive sales customers provides reasonable gas cost for these customers, Public Service shall identify all costs associated with the Front Range Pipeline and provide comparisons to other available sourcing options as a part of its reporting under the Gas Cost Adjustment Rules 4 CCR 723-8.

6. Sale/Leaseback Arrangement

a. With respect to the sale/leaseback arrangement Public Service states on page 24 of its statement of position, “…under its sale/leaseback arrangement, customers will be in the same position they would have occupied if Public Service owned the Front Range Pipeline outright.” However, several parties claim that customers would not be in the same position under the sale/leaseback. With certain requirements listed in (1) through (4) below, the Commission finds that the sale/leaseback is consistent with the public interest and should be approved. Thus Public Service may enter into the sale/leaseback arrangement at its option. CPCN authority for installation and operation of the Front Range Pipeline as granted in this order is not contingent upon execution of the sale/leaseback arrangement. However, Applicant must petition the Commission for approval for any other type of pipeline ownership other than complete ownership by Public Service or the arrangement approved here.

(1) With regard to the CIG veto power over capacity increases, the Commission finds that under certain circumstances requirements in the lease agreement could prevent Public Service from expanding capacity. Public Service would not have such a constraint if it owned the line outright, and such a constraint is not found to be in the Public interest. Therefore approval of the sale/leaseback arrangement is contingent upon the deletion of ARTICLE III – EXPANSIONS, IMPROVEMENTS AND ADDITIONS of the lease agreement. Further, neither the sale/leaseback arrangement nor any other agreements between Public Service or its affiliates, and CIG or its affiliates shall inhibit Public Service’s ability to use, expand, operate or control the Front Range Pipeline in any way compared to how it could use, expand,

operate or control the pipeline if it owned the facilities outright.

(2) Staff states that Public service has failed to adequately justify the need for the proposed true-up mechanism. This mechanism is designed to change the rent payments from Public Service to Wyco over time to reflect changes in the Commission approved depreciation rate, overall return rate, and tax rate for Public Service. The true-up mechanism was proposed to allow rent payments to mirror costs that would be included in rates if Public Service owned the facility outright. The Commission finds that the true-up mechanism is not warranted under the "at risk" conditions granted in this order, though further consideration of the true-up mechanism or factors affected by the mechanism may be appropriate in the proceeding in which the Front Range Pipeline rates are established. The Commission recommends removal of the true-up mechanism from the lease agreement.

(3) Staff recommends the disallowance of AFUDC. Due to the relatively short construction period and potential interest compounding, the Commission agrees with Staff and finds that AFUDC should not be allowed, whether or not the sale/leaseback arrangement is executed. Accordingly, the statement "The book value shall include AFUDC", Section 3 of the FRONT RANGE PIPELINE PURCHASE AND SALES AGREEMENT, page 4, shall be stricken.

(4) Since assignment, transfer or modification of the lease could affect the public interest, approval by the Commission is required prior to any assignment, transfer or modification of the lease.

n. The OCC raises the issue of passing lower cost financing on to ratepayers. Given the "at risk" authority granted in this order, the Commission finds that the OCC's proposed lease modifications are not required. However, Public Service shall be required to maintain Wyco's actual capitalization and financing costs for the Front Range pipeline for Commission inspection.

o. Under the sale/leaseback arrangement, as modified above, Wyco will perform only a financing function for the Front Range Pipeline. Moreover, the operation and control of the Front Range Pipeline will remain with Public Service, an entity subject to the Commission's jurisdiction. Therefore, the Commission finds and declares that Wyco is not a public utility under § 40-1-103(1), C.R.S.

D. Conclusion

1. The Commission finds and determines that the construction and operation of the proposed Front Range Pipeline is, and will continue to be, subject to the jurisdiction of this Commission pursuant to § 40-1-103(1), C.R.S.

8. Many questions have been raised in this proceeding that the decision in this application cannot resolve. For

example, what would be the impact on Colorado ratepayers if K N Wattenberg's Front Runner Pipeline is built, and substantial bypass from Public Service's system occurs? If the Front Range Pipeline were approved under rolled-in rates, what impact would that have on this potential bypass? On an even more general level, will gas unbundling be legislatively addressed in the near future? Nonetheless it is the Commission's obligation to act on the application before it Since Public Service's physical system is adequate to handle the present and near future need, and since Public Service has adequate access to gas supply to serve present and near future requirements, the only remaining justification for the pipeline is gas cost savings. Sufficient justification does not exist to warrant granting authority to construct and operate the pipeline under rolled-in postage stamp rates. Since the Front Range Pipeline may provide economic benefits under certain market conditions, CPCN authority under incremental stand-alone rates, where shareholders are at risk for under-utilization of the pipeline, should be granted. With the specific modifications listed in this order, the sale/leaseback arrangement places Public Service customers in the same position they would have occupied if Public Service owned the pipeline outright, and results in Wyco performing only a financing function. Therefore, the sale/leaseback arrangement should be approved, and Wyco should be declared not to be a public utility

II. ORDER

A. The Commission Orders That:

1. Consistent with the above discussion, the application of Public Service Company of Colorado for a certificate of public convenience and necessity ("CPCN") to construct and operate a 53-mile long, 24-inch diameter natural gas pipeline and appurtenant facilities from its existing Chalk Bluffs station near Rockport, Colorado to an interconnection point with its existing 24-inch pipeline located adjacent to the Fort St. Vrain Generating Station near Platteville, Colorado, ("Front Range Pipeline") is granted. Specifically, CPCN authority to construct and operate the Front Range Pipeline under incremental stand-alone rates is granted, subject to the requirements specified above.

9. Authorization to sell such facilities, once constructed, to Wyco Development, LLC and to immediately lease such facilities back under a long-term lease is granted subject to requirements specified above.

10. Under the sale/leaseback terms specified above, Wyco Development, LLC is declared not to be a public utility.

11. The 20-day time period provided for in § 40-6-114(1), C.R.S., to file an application to the Commission for rehearing, reargument, or reconsideration, begins on the day after the Mailed Date of this Decision.

12. This Order is effective on its Mailed Date.

B. ADOPTED IN COMMISSIONERS' DELIBERATIONS MEETING June 4, 1998.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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Commissioners