

(Decision No. 88068)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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| IN THE MATTER OF THE APPLICATION OF) | |
| SAN ISABEL ELECTRIC ASSOCIATION,) | |
| INC., DBA SAN ISABEL ELECTRIC) | APPLICATION NO. 28579 |
| SERVICES, INC., A COLORADO CORPORA-) | |
| TION, ENTERPRISE DRIVE AND AEROSPACE) | |
| DRIVE, PUEBLO WEST, COLORADO, FOR A) | RECOMMENDED DECISION OF |
| CERTIFICATE OF PUBLIC CONVENIENCE) | ROBERT L. PYLE, EXAMINER |
| AND NECESSITY TO FURNISH ELECTRIC) | |
| SERVICE FOR LIGHT, HEAT, POWER, AND) | |
| OTHER PURPOSES IN THE TERRITORY) | GRANTING APPLICATION |
| DESCRIBED IN THIS APPLICATION LO-) | |
| CATED IN COSTILLA COUNTY, STATE) | |
| OF COLORADO.) | |

January 14, 1976

Appearances: Leo S. Altman, Esq., Pueblo,
Colorado, for San Isabel
Electric Association, Inc.,
doing business as "San Isabel
Electric Services, Inc.";
Tucker K. Trautman, Esq., Denver,
Colorado, for the Commission.

PROCEDURE AND RECORD

The above-entitled application was filed with the Commission on August 15, 1975, to which the Commission assigned Docket No. 28579 and gave due notice in accordance with the provisions of 40-6-108, CRS 1973.

No protests were filed, and, after due and proper notice to all interested parties, the application was set for hearing on Wednesday, December 10, 1975, at 10 a.m. in the Hearing Room of the Commission, 500 Columbine Building, 1845 Sherman Street, Denver, Colorado, at which time and place the matter was heard by Examiner Robert L. Pyle, to whom it was duly assigned.

Testimony was taken from Mr. Edward Gaither, President and General Manager of Applicant, and Exhibits 1, 2, and 3 were tendered and admitted into evidence. At the conclusion of the hearing, the subject matter was taken under advisement.

Pursuant to the provisions of 40-6-109, CRS 1973, Examiner Robert L. Pyle now transmits herewith to the Commission the record and exhibits of this proceeding and a written recommended decision containing findings of fact, conclusions thereon, and the recommended order or requirement.

FINDINGS OF FACT

Based upon all the evidence of record, the following is found as fact:

1. The Commission has jurisdiction over the Applicant and the subject matter of this application and is fully advised in the premises.

2. San Isabel Electric Association, Inc., doing business as "San Isabel Electric Services, Inc.," is a corporation organized and existing under and by virtue of the laws of the State of Colorado. Its principal place of business is Enterprise Drive and Aerospace Drive, Pueblo West, Colorado. The company is a public utility subject to the jurisdiction and regulation of this Commission and, in Colorado, is engaged in the business, among other things, of the transmission, distribution, and sale of electric energy in the counties of Pueblo, Huerfano, Las Animas, Fremont, Otero, and Custer, in the State of Colorado. Applicant's Certificate of Incorporation, together with all amendments thereto, has been heretofore filed with the Commission.

3. Applicant herein applies for an exclusive certificate of public convenience and necessity for that portion of Costilla County described in Exhibit 1 known as Forbes Park.

Forbes Park is adjacent to and contiguous to that area certificated to Applicant by Public Utilities Commission Decision No. 49302, dated January 13, 1958, in that the point of beginning of the description of Forbes Park is on the western boundary of the certificated area at the point where the southerly right-of-way line of the D.&R.G.W. Railroad Company crosses the Huerfano County-Costilla County line. The Huerfano County-Costilla County line is also the easterly boundary of the Sangre de Cristo Grant and Forbes Park. The intersection of the railroad right-of-way and the Huerfano County-Costilla County line is in Section 36, Township 29, South of Range 70, West of the 6th P.M.

4. Applicant's Exhibits 2 and 3 herein are maps showing how the area known as Forbes Park for which Applicant is seeking an exclusive certificate to serve adjoins Applicant's presently certificated area.

5. It is to Applicant's best interests and to the best interests of the public in general that the described territory be exclusively certificated to Applicant.

6. Applicant is the public utility whose facilities are closest to the area described in Paragraph 3 hereof, and it has adequate employees and personnel to perform the services proposed. Applicant is financially able to perform the service and conduct the operations at a profit, and Applicant is in compliance with the laws of the State of Colorado and this Commission's rules and regulations as well as the rules and regulations of other authority having jurisdiction over its operations.

7. No other electric public utility has lines and electric facilities within the area covered by the application, and the nearest other such utility is approximately 15 miles away. Further, no other utility is presently serving the area.

8. Forbes Park is a resort and vacation area and will have that type of construction as distinguished from permanent type residences and commercial establishments. Development of the area is presently in progress, and the developer will stand the capital construction costs of utility facilities in the area pursuant to Rule 31 of the Commission's rules.

9. The present and future public convenience and necessity require that Applicant be issued a certificate of public convenience and necessity authorizing it to operate as an electric utility distributing electric energy in the territory above described, and Applicant is fit, willing, and able financially and otherwise to perform the service proposed.

CONCLUSIONS ON FINDINGS OF FACT

Based on the foregoing findings of fact, it is concluded that:

1. The granting of the application will be in the public interest, and it should be granted.

2. Pursuant to 40-6-109, CRS 1973, it is recommended by the Examiner that the following Order be entered.

O R D E R

THE COMMISSION ORDERS THAT:

1. Applicant, San Isabel Electric Association, Inc., doing business as "San Isabel Electric Services, Inc.," be, and it is hereby, granted a certificate of public convenience and necessity to render electric service as a public utility in the area known as Forbes Park in Costilla County, Colorado, particularly described in Appendix "A" attached hereto, and this shall be deemed to be a CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY therefor.

2. All capital construction costs shall be born by the developer.

3. The total area certificated to Applicant pursuant to this Commission's Decision No. 49302, dated January 13, 1958; Decision No. 74182, dated January 15, 1970; Decision No. 76421, dated December 9, 1970; Decision No. 79878, dated March 30, 1972, and this decision is described by the perimeter description as set forth in Appendix "B" attached hereto.

4. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if such be the case, and is entered as of the date hereinabove set out.

5. As provided by 40-6-109, CRS 1973, copies of this Recommended Decision shall be served upon the parties, who may file exceptions thereto; but if no exceptions are filed within twenty (20) days after service upon the parties or within such extended period of time as the Commission may authorize in writing (copies of any such extension to be served upon the

parties), or unless such Decision is stayed within such time by the Commission upon its own motion, such Recommended Decision shall become the Decision of the Commission and subject to the provisions of 40-6-114, CRS 1973.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


Examiner
vc
jp

Appendix A

FORBES PARK

A certain tract of land located in an unsurveyed portion of the Sangre de Cristo Grant, Costilla County, Colorado, being more particularly described as follows, to wit: Beginning at a point which is the intersection of the south right of way line of the Denver and Rio Grande Western Railroad and the eastern boundary of the Sangre de Cristo Grant, being the summit of the Sangre de Cristo Range of mountains and the divide between the waters that flow to the Arkansas River and the waters that flow to the Rio Grande; thence southerly along the eastern boundary of the Sangre de Cristo Grant, said boundary line being the summit of the Sangre de Cristo Range of mountains and the divide between the waters that flow to the Arkansas River and the waters that flow to the Rio Grande, to the summit of a peak southeasterly of Harrison Peak; thence N38°00'W 5600 feet to a point on the summit of Harrison Peak; thence generally following the top of a ridge in a northwesterly direction as follows: approximately N21°30'W a distance of 10,600 feet; thence approximately N25°30'W a distance of 12,100 feet; thence approximately N53°00'W a distance of 2,600 feet; thence approximately N11°00'W a distance of 3,800 feet; thence approximately N34°30'W a distance of 9,600 feet; leaving last said ridge line, approximately N59°15'32"W a distance of 12,248.666 feet; to a point, said point being the most northeasterly point of the Sangre de Cristo Ranches Boundary; thence N35°00'W a distance of 2,700 feet; thence S87°00'W to the point of intersection with the south right of way line of the Denver and Rio Grande Western Railroad; thence on and along said south right of way line approximately 44,000 feet to the point of beginning. The above tract of land containing approximately 13,900 acres.

Appendix B

Beginning at a point on the Pueblo County-Otero County Line, which point is the Southeast corner of Section 24, Township 23 South, Range 60 West; thence West along the South line of Sections 24, 23, 22, 21, 20, and 19, Township 23 South, Range 60 West; thence continuing West along the South line of Sections 24, 23, 22, 21, 20, and 19, Township 23 South, Range 61 West; thence continuing West along the South line of Sections 24, 23, 22, 21, 20, and 19, Township 23 South, Range 62 West; thence continuing West along the South line of Sections 24, 23, 22, 21, 20, and 19 to the Southwest corner of Section 19, Township 23 South, Range 63 West; thence North along the West line of Sections 19, 18, 7, and 6, Township 23 South, Range 63 West; thence continuing North along the West line of Sections 31, 30, 19, 18, and 7 to the Northwest corner of Section 7, Township 22 South, Range 63 West; thence West along the South line of Sections 1, 2, 3, and 4 to the Southwest corner of Section 4, Township 22 South, Range 64 West; thence North along the West line of Section 4 to the Northwest corner of Section 4, Township 22 South, Range 64 West; thence West along the South line of Sections 32 and 31, Township 21 South, Range 64 West; thence continuing West along the South line of Sections 36, 35, 34, 33, 32, and 31, Township 21 South, Range 65 West; thence continuing West along the South line of Sections 36, 35, 34, 33, and 32 to the Southwest corner of Section 32, Township 21 South, Range 66 West; thence North along the West line of Sections 32, 29, 20, 17, 8, and 5, Township 21 South, Range 66 West; thence continuing North along the West line of Sections 32, 29, and 20, Township 20 South, Range 66 West, to the North right-of-way line for the relocation of the Denver and Rio Grande Western Railroad; thence Easterly along the said North right-of-way line to the East line of Section 20, Township 20 South, Range 66 West; thence continuing Easterly along the said North right-of-way line to the West line of Section 22, Township 20 South, Range 66 West; thence North along the West line of Section 22 to the North line of the SW 1/4 of Section 22, Township 20 South, Range 66 West; thence East along the North line of the SW 1/4 of Section 22, to the East line of the SW 1/4 of Section 22 to the South line of Section 22, Township 20 South, Range 66 West; thence South along the East line of the SW 1/4 of Section 22 to the South line of Section 22, Township 20 South, Range 66 West, being a point in the Fryingpan-Arkansas take line; thence Easterly along said Fryingpan-Arkansas take line to the East line of the W 1/2 of Section 23, Township 20 South, Range 66 West; thence North along said East line of the W 1/2 of Section 23 to the North line of Section 23, Township 20 South, Range 66 West; thence East along the North line of the E 1/2 of Section 23, Township 20 South, Range 66 West; thence continuing East along the North line of Section 24 to the Northeast corner of Section 24, Township 20 South, Range 66 West; thence North 1588.66 feet along the East boundary of Tract 341 of Pueblo West Metropolitan District according to Recording No. 390171, dated April 20, 1970; thence Northwesterly 1077.89 feet along the North boundary of Tract 341 according to Recording No. 390171, dated April 20, 1970; thence Northwesterly 821.17 feet along the North boundary of Tract 336 according to Recording No. 389760, dated April 9, 1970; thence Northwesterly 4322.11 feet along the East boundary of Tract 335 according to Recording No. 383545, dated October 16, 1969; thence Northwesterly 5957.49 feet along the East boundary of Tract 331; thence Westerly 1025.08 feet along the North boundary of Tract 331; thence Southerly 125 feet along the West boundary of Tract 331 to the North right-of-way of Abarr Drive according to Recording No. 380801, dated August 7, 1969; thence Westerly 276.09 feet along the North

right-of-way of Abarr Drive to the Easterly right-of-way of McCulloch Boulevard; thence Northerly along the Easterly right-of-way of McCulloch Boulevard to the Northwest corner of future Tract 374 as shown in File No. 69 M.P.I. PC-P-10-157 date of revision September 9, 1970; thence Westerly along the Northerly boundary to the Northwest corner of future Tract 367 as shown in File No. 69 M.P.I. PC-P-10-157 date of revision September 9, 1970; thence Southerly 1516.41 feet along the East boundary of Tract 343 according to Recording No. 389373, dated March 30, 1970; thence Westerly 60 feet along the South boundary of Tract 343, which is the most South-easterly corner of Lot 55, Block 2, as shown on recorded map No. 343, Reception No. 389373, records of said county; thence along the Southerly Boundary of recorded map No. 343, North 73°10'00" West, 670.01 feet; thence South 74°30'00" West, 719.01 feet; thence South 89°35'00" West, 374.22 feet; thence South 29°27'38" West, 257.51 feet; thence South 50°00'00" West, 577.09 feet; thence South 73°00'00" West, 947.13 feet; thence South 46°28'37" West, 289.56 feet; thence South 61°00'00" West, 1040.00 feet; thence North 89°06'03" West, 126.90 feet; thence South 5°50'00" West, 632.48 feet; thence Southwesterly 442.97 feet along the South boundary of Tract 343; thence Northerly 1517.33 feet along the West boundary of Tract 343 to the North right-of-way of Spaulding Avenue according to Recording No. 389373, dated March 30, 1970; thence Westerly 251.14 feet along the North right-of-way of Spaulding Avenue; thence Northerly 3073.17 feet along the East boundary to the Northeast corner of Tract 346; thence Westerly 2068.18 feet along the North boundary of Tract 346 to a point on the South right-of-way line of McCulloch Boulevard; thence continue Westerly 2767.97 feet along the South right-of-way boundary of McCulloch Boulevard to the West boundary of Tract 346 according to Recording No. 386612, dated January 16, 1970; thence Northerly 100 feet along the East boundary to the Northeast corner of Tract 307 according to Recording No. 393647, dated July 10, 1970; thence Westerly 2377.19 feet along the North right-of-way boundary of McCulloch Boulevard to the Northwest corner of Tract 307 according to Recording No. 393647, dated July 10, 1970; thence Northwesterly 2945.22 feet along the North right-of-way boundary of McCulloch Boulevard to the Northwest corner of Tract 309 according to Recording No. 393651, dated July 10, 1970; thence Northwesterly 831.88 feet along the North boundary of Tract 306 as shown in Recording No. 396770, dated September 17, 1970; thence Northwesterly 2430.23 feet along the Northerly boundary of Tract 300; thence Southwesterly 1011.02 feet along the Northerly boundary of Tract 300; thence Northwesterly 469.08 feet along the Northerly boundary of Tract 300 according to Recording No. 383035, dated October 2, 1969; thence North 265.91 feet along the East boundary of Tract 304; thence Westerly 5434.70 feet along the North boundary of Tract 304 to the Northwest corner of said Tract 304, according to Recording No. 389758, dated April 9, 1970; thence West 2659.60 feet along the North boundary of Tract 301 according to Recording No. 384476, dated November 13, 1969; thence South along the West line of the E 1/2 of Section 1, Township 20 South, Range 67 West, to the South line of Section 1, Township 20 South, Range 67 West; thence West along the South line of W 1/2 of Section 1; thence continuing along the South line of Sections 2 and 3, to the Southwest corner of Section 3, Township 20 South, Range 67 West; thence North along the West line of Section 3 to the Northwest corner of Section 3, Township 20 South, Range 67 West; thence West along the South line of Sections 33, 32, and 31 to the Southwest corner of Section 31, Township 19 South, Range 67 West, which is a point on the Pueblo County-Fremont County line; thence North to the Northwest corner of Section 31, Township 19 South, Range 67 West; thence Westerly on the section line eight miles to the Northwest corner of Section 35, T 19S, R69W; thence Southerly on the section line three miles to the Northwest corner of Section 14, T20S, R69W; thence Westerly on the section line two miles to the Northwest corner of Section 16, T20S, R69W; thence Southerly on the section line four miles to the Southeast corner of Section 32, T20S, R69W, which point is on the Fremont-Custer County line; thence Westerly on the Fremont-Custer County line two miles to the Southwest corner of Section 31, T20S, R69W; thence Southerly

on the Section line eight miles to the Southwest corner of Section 7, T22S, R69W; thence Westerly on the section line three miles to the Northwest corner of Section 15, T22S, R70W; thence Southerly on the section line four miles to the Southwest corner of Section 34, T22S, R70W; thence Westerly on the section line three miles to the Southwest corner of Section 31, T22S, R70W; thence Southerly on the section line twelve miles to the Southwest corner of Section 31, T24S, R70W, which point is on the Custer-Huerfano County line; thence Westerly along the Custer-Huerfano County line to a point common to Custer, Huerfano, and Saguache Counties; thence Southerly along the Huerfano-Saguache County line to a point common to Huerfano-Saguache, and Alamosa Counties; thence along the Huerfano-Alamosa County line to a point common to Huerfano, Alamosa, and Costilla Counties; thence along the Huerfano-Costilla County line to a point of intersection with the South right-of-way line of the Denver and Rio Grande Western Railroad, said point being in the NW 1/4, Section 36, Township 29 South, Range 70 West; thence Northwesterly on and along said South right-of-way approximately 44,000 feet; thence N87°00' E a distance approximately 2,342 feet; thence S35°00' E a distance approximately 2,700 feet to a point, said point being the most Northeasterly point of the Sangre de Cristo Ranches boundary; thence approximately S59°15'32" E a distance of 12,248.666 feet; thence generally following the top of a ridge in a Southeasterly direction as follows: approximately S34°30' E a distance of 9,600 feet; thence approximately S11° E a distance of 3,800 feet; thence approximately S53°00' E a distance of 2,600 feet; thence approximately S25°30' E a distance of 12,100 feet; thence approximately S21°30' E a distance of 10,600 feet to a point on the summit of Harrison Peak; thence S38°00' E a distance of 5,600 feet to the summit of a peak, said peak being on the Huerfano-Costilla County line; thence Southerly along the Huerfano-Costilla County line to a point common to Huerfano, Las Animas, and Costilla Counties; thence along the Las Animas-Costilla County line to a point where said County line intersects with the Colorado-New Mexico State Boundary; thence East along the Colorado-New Mexico Boundary to a point where the West line of Section 33, Township 34 South, Range 64 West, if extended, intersects with the Colorado-New Mexico Boundary; thence North along said section line, if extended, to the Northwest corner of said Section 33; thence East along the North lines of Sections 33 and 34 to a point in the Southwest corner of Section 26, Township 34 South, Range 64 West; thence North along the West lines of Sections 26, 23, 14, 11, and 2, Township 34 South, Range 64 West; thence continuing North along the section line to the Northwest corner of Section 35, Township 33 South, Range 64 West; thence East along the North line of said Section 35 a distance of 1,275.95 feet to a point; thence N 75°16' E a distance of 9,402.69 feet to a point on the East line of Section 25, Township 33 South, Range 64 West; thence South along the East lines of Sections 25 and 36, Township 33 South, Range 64 West; thence continuing South along the East boundary of Range 64 West approximately five miles to the Northeast corner of Section 36, Township 34 South, Range 64 West; thence East along the North lines of Sections 31 and 32 to the Northeast corner of Section 32, Township 34 South, Range 63 West; thence South along the East line of said Section 32, if extended, to a point of intersection on the Colorado-New Mexico border; thence East along the Colorado-New Mexico boundary to a point where the East line of Section 9, Township 35 South, Range 55 West, if extended, intersects with the Colorado-New Mexico boundary; thence North along the East lines of Sections 9 and 4, Township 35 South; Range 55 West; thence continuing North along the East lines of Sections 33, 28, 21, 16, 9, and 4, Township 34 South, Range 55 West; thence continuing North along the East lines of Sections 33, 28, 21, 16, 9, and 4, Township 33 South, Range 55 West; thence continuing North along the East lines of Sections 33, 28, and 21 to a point in the Northeast corner of Section 21, Township 32 South, Range 55 West; thence West along the North lines of Sections 21, 20, and 19, Township 32 South, Range 55 West; thence continuing West along the North lines of Sections 24 and 23 to a point in

the Northwest corner of Section 23, Township 32 South, Range 56 West; thence North along the East lines of Sections 15, 10, and 3, Township 32 South, Range 56 West; thence continuing North along the East lines of Sections 34, 27, 22, 15, 10, and 3, Township 31 South, Range 56 West; thence continuing North along the East lines of Sections 34, 27, 22, 15, 10, and 3, Township 30 South, Range 56 West; thence continuing North along the East lines of Sections 34, 27, 22, 15, 10, and 3, Township 29 South, Range 56 West; thence continuing North along the East lines of Sections 34, 27, 22, 15, 10, and 3, to a point on the Las Animas-Otero County line in the Northeast corner of Section 3, Township 28 South, Range 56 West; thence West along the Las Animas-Otero County line to a point in the Southeast corner of Section 33, Township 27 South, Range 57 West; thence diagonally in a Northwesterly direction across Sections 33, 29, 20, 19, and 18, Township 27 South, Range 57 West; thence continuing in a Northwesterly direction across Sections 12, 1, and 2, Township 27 South, Range 58 West; thence continuing in a Northwesterly direction across Sections 35, 34, 27, 21, 16, 17, 8, 7, and 6, Township 26 South, Range 58 West to a point in the Southeast corner of Section 36, Township 25 South, Range 59 West; thence North along the East boundary of Range 59 West to a point in the Southeast corner of Section 12, Township 24 South, Range 59 West; thence diagonally in a Northwesterly direction across Sections 12, 1, and 2, Township 24 South, Range 59 West; thence continuing in a Northwesterly direction across Sections 35, 34, and 27 to a point in the Northwest corner of Section 27, Township 23 South, Range 59 West; thence West along the North lines of Sections 28, 29, and 30, Township 23 South, Range 59 West, to a point in the Southeast corner of Section 24, Township 23 South, Range 60 West which is the point of beginning, on the Pueblo-Otero County line.