

(Decision No. C80-1039)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE PROPOSED	)	
INCREASED RATES AND CHARGES	)	INVESTIGATION AND SUSPENSION
CONTAINED IN TARIFF REVISIONS	)	DOCKET NO. 1420
FILED BY PUBLIC SERVICE COMPANY	)	
OF COLORADO, 550 15TH STREET,	)	ORDER OF THE COMMISSION
DENVER, COLORADO, UNDER ADVICE	)	AUTHORIZING INCREASED RATES
LETTER NO. 791-ELECTRIC, ADVICE	)	
LETTER NO. 293-GAS, AND ADVICE	)	
LETTER NO. 23-STEAM.	)	

May 27, 1980

P R E C I S

PUBLIC SERVICE COMPANY OF COLORADO AUTHORIZED TO INCREASE ITS
ELECTRIC, GAS AND STEAM RATES SO AS TO PROVIDE, ON A TEST YEAR BASIS,
ADDITIONAL REVENUE OF \$56,406,487.

Appearances: Kelly, Stansfield and O'Donnell by
Bryant O'Donnell, Esq.,
James R. McCotter, Esq., and
James K. Tarpey, Esq.,
Denver, Colorado, for
Public Service Company of Colorado;

John L. Mathews, Esq., San Francisco,
California, Western Area Chief Counsel
for Regulatory Law, General Services
Administration for the Executive
Agencies of the United States;

Richard L. Fanyo, Esq.,
Denver, Colorado, for
CF&I Steel Corporation;

Kathleen Mullen, Esq.,
Denver, Colorado, and
Gregory D. Lewis, Esq.,
Denver, Colorado, for
Vira Gilde, Concerned Citizens
Congress of Northeast Denver,
Colorado Association of Community
Organizations for Reform Now;

D. Bruce Coles, Esq.,
Denver, Colorado, for
Colorado Energy Advocacy Office;

Jeffrey G. Pearson, Esq.,
Denver, Colorado, for the
Colorado Office of Consumer
Services;

David P. Nefzger, Denver,
Colorado, for the
Interim Board People's
Utility Alliance;

Elbridge Burnham, pro se,
Denver, Colorado;

Steven H. Denman, Esq.,
Denver, Colorado, for
The Staff of the Commission;

John E. Archibold, Esq.,
Denver, Colorado,
For the Commission.

BY THE COMMISSION:

I.

BACKGROUND

On March 26, 1980, Public Service Company of Colorado (hereinafter Public Service, or Company, or Respondent) filed three advice letters seeking increases, effected by across-the-board percentages, in base rates as follows:

	<u>Annual Amount</u>	<u>Percentage</u>
Advice Letter No. 791-Electric	\$56,290,000	11.4%
Advice Letter No. 293-Gas	\$11,348,000	2.77%
Advice Letter No. 23-Steam	\$ 659,000	11.36%

In the three aforementioned advice letters Public Service states that its present rates are seriously inadequate and confiscatory. Public Service requested the Commission permit the tariff sheets accompanying its three advice letters to become effective, as requested, on or before April 25, 1980.

The Commission was, and is, mindful of the economic climate in general and the particular circumstances confronting Public Service. The Commission further recognized that although it could legally permit the Public Service filings to go into effect without hearings and suspensions, the revenues generated by such increased tariff rates would not be subject to refund. Accordingly, the Commission, in its judgment, determined that the March 26, 1980 Public Service tariff filings should

be set for hearing on an expedited basis. This the Commission accomplished by entering Decision No. C80-675 on April 8, 1980. In that decision the Commission limited the scope of the hearing in this docket to two basic issues:

- (1) Do the instant filings, in fact, implement the regulatory principles established in Investigation and Suspension Docket No. 1330? and
- (2) Do the emergency financial conditions outlined by Public Service in its advice letters justify accelerated relief?

The two issues herein will be considered in inverse order in the discussion which follows since the second question is the threshold issue.

In Decision No. C80-675, the Commission established April 18, 1980 as the date by which any interested person, firm or corporation could file an appropriate pleading to intervene and be a party in this docket. Public Service was ordered to file copies of its Summary of Direct Testimony and Exhibits on or before April 21, 1980. The Commission also ordered that any person, or party, including the staff of the Commission, who intended to present evidence that Public Service's filings did not comply, in whole or in part, with the regulatory principles established in Investigation and Suspension Docket No. 1330 (I&S 1330), or who intended to present evidence that the financial or operating conditions of Public Service do not amount to an emergency justifying accelerated relief, to so advise the Commission in writing on or before April 25, 1980.

Testimony from public witnesses was received by Commissioner L. Duane Woodard and Examiner Robert E. Temmer on April 28, 1980, and a transcript of that testimony has been provided to the Commission.

The hearings in chief were held before the Commission on April 30, May 1, and May 2, 1980.

Public Service called as witnesses the following:

Mr. D. D. Hock
Mr. J. N. Bumpus
Mr. R. F. Walker.

General Services Administration (GSA) called as witnesses:

Mr. Robert L. Marshall
Dr. William R. Belmont.

The staff of the Commission called James A. Richards as a witness.

The parties were permitted to provide, on an optional basis, statements of position on or before May 12, 1980. Such statements of position were filed by the following:

1. Public Service Company of Colorado
2. General Services Administration
3. Colorado Office of Consumer Services
4. Colorado Energy Advocacy Office
5. Vera Gilde, Concerned Citizens Congress
of Northeast Denver, Colorado Association
of Community Organizations for Reform Now.

As a preliminary matter on April 30, 1980, motions to dismiss filed by the Concerned Citizens Congress of Northeast Denver, Vera Gilde, Colorado Association of Community Organizations for Reform Now, and Colorado Office of Consumer Services were orally argued to the Commission. The motions were denied.

At the conclusion of the hearings, the matter was taken under advisement.

Pursuant to the provisions of the Colorado Sunshine Act of 1972, C.R.S. 1973, 24-6-401, et seq., and Rule 32 of the Commission's Rules of Practice and Procedure, the subject matter of this docket has been placed on the agendas of the open public meetings of the Commission. At an open public meeting on this date, the within decision was entered by the Commission.

II.

FINANCIAL AND OPERATING CONDITIONS JUSTIFYING ACCELERATED RELIEF

A. Financial Conditions

The initial question to be considered by the Commission is whether or not the financial and operating conditions faced by Public Service justify accelerated relief at this time, rather than waiting to consider the entire matter in a general rate case.

Public Service has demonstrated in the hearings herein that its financial ability to raise capital is seriously impaired, and that its ability to incur unsecured debt will be exhausted before the end of 1980 or in early 1981. At the present time the current dividend rate of Public Service is \$1.60 per year, which Public Service's earnings do not presently cover. In fact, for the 12 months ended February 29, 1980, the earnings were \$1.24 per year, and improved only slightly so that the earnings for the 12 months ended March 31, 1980 increased to \$1.36 per year. More than half of Public Service's earnings are non-cash earnings in connection with allowance for funds used during construction (AFUDC). Stated conversely, less than 50 percent of Public Service's current earnings represent cash earnings.

GSA states that earnings improved from \$1.35 for the 12 months ended March 31, 1979 to \$1.36 for the 12 months ended March 31, 1980, and that this represented three full months of the effective increased rates as authorized by the Commission in I&S 1330. The one cent per year earnings improvement is less than one percent. It should also be recognized, as indicated above, that the slight improvement from \$1.35 to \$1.36 per share was interrupted by a decline to \$1.24 per share for the 12 months ended February 1980.

Solomon Brothers has ranked one hundred electric utilities in terms of their respective returns on average equity. The median average return on equity was 12.8%, and the average was 12.46%. Public Service ranked 97th out of the hundred utilities with an average return on

equity of 7.7%. Even more disturbing is the fact that, in terms of dividend payout ratio shown in the Solomon Brothers study, only one utility out of the hundred had a higher payout ratio than Public Service. As indicated above, Public Service's dividend payout exceeds the totality of Public Service's cash and non-cash earnings. It needs no special insight to recognize that a potential investor is not likely to be interested in risking his money in an enterprise that earns only about fifty percent of its authorized rate of return and whose current dividend payout exceeds the earnings of the company.

Since the conclusion of hearings in I&S Docket No. 1330 (which docket, it must be remembered, dealt with a 1978 test year) interest rates have moved sharply upward. Certain of the intervenors in this docket appear to take a position that since interest rates have declined from their earlier 1980 peaks, the financial conditions facing Public Service are moderated to the extent that a financial "emergency" no longer exists. The fact is, however, that the interest rates currently in effect are appreciably higher than those in existence when I&S 1330 was decided based upon a 1978 test year. Thus, even though there may have been some improvement in the past several weeks, nevertheless it remains true that the prime interest rates, bond rates and commercial paper rates are still higher than the rates existent in late 1979 by almost half.

On February 22, 1980, Public Service sought to issue an additional \$75 million of first mortgage bonds with a maturity date of March 1, 2010 (30 years). The size of issue had to be reduced from \$75 million to \$50 million and the maturity date was cut back by 23 years to March 1, 1987. As a result of Public Service's recent downgrading by Standard & Poor's from an AA- rating to A and by Moody's from Aa to A, Public Service's 1980 debt was issued at a rate which was 75 basis points higher than it would have if it retained its double A rating. On \$50 million this differential amounts to \$375,000 per year. The interest rate on the

February 1980 issue of first mortgage bonds was 15%, or approximately 550 basis points higher than any previous debt issue of the Company and approximately some 806 basis points higher than its embedded cost of debt.

Similarly, the market-to-book ratio of Public Service's common stock is still below 1.0, hovering at about the .81 level. During the recent market decline, the market-to-book ratio declined down to the level of about .66, and at no time since January 1979, has the market-to-book ratio been at 1.0 or above. Nor has Public Service, in its last six offerings, been able to market common stock at book or above.

Public Service must raise capital to finance its construction program. If the Company is unable to have access to the market on reasonable terms and to thereby continue funding its ongoing construction, the construction has to be slowed down or stopped. Public Service Company witness, Mr. Bumpus, indicated a number of cut backs, cancellations and maturity revisions experienced by a number of utilities in the early part of 1980. Thus, the Commission recognizes that the unsettled market conditions not only affect this Company, but a number of other utilities as well. It is the responsibility of course, of this Commission to respond to the economic realities of the capital market place, and we cannot avoid our responsibility in this regard merely on the basis that other utilities in other parts of the country also have been experiencing similar financing difficulties.

The articles of incorporation of Public Service do not permit it to issue or assume any unsecured notes, debentures or other securities in excess of the fifteen percent of the aggregate of (i) the total principal amount of all bonds or other securities representing secured indebtedness issued or assumed and then outstanding, and (ii) the total of the capital and surplus then recorded on the books of the Company, in the absence of an affirmative vote of more than one-half of the voting power of the outstanding shares of preferred stock of all series ("the fifteen percent limitation"). At the present time the fifteen percent

limitation on the amount of unsecured debt is approximately \$241 million. At its present rate of borrowing, Public Service will exceed the fifteen percent limitation by December of 1980, or January of 1981. To assume that it would be financially prudent of Public Service to go to the very edge of its legal fifteen percent limitation strains common sense. It is true that the last day of the month may not reflect an outstanding unsecured balance as high as the peak day of the month, but the differential is not substantial. In any event the fifteen percent limitation is breached at any time when the unsecured debt of the Company goes over fifteen percent. In other words, Public Service cannot legally breach the fifteen percent limitation on the theory that perhaps a few days later its outstanding borrowings will fall below the fifteen percent limitation.

The Commission also takes official notice of its Decision No. C79-1824, dated November 27, 1979, wherein it authorized Public Service to issue short-term debt in an amount not exceeding \$150 million. Thus, in addition to the fifteen percent limitation set forth in the articles of incorporation, this Commission itself has set a \$150 million limitation on the issuance of short-term debt.

GSA questions whether certain current liabilities, such as invoices and payrolls, would fall under the fifteen percent limitation inasmuch as the articles of incorporation limitations speaks in terms of "unsecured notes, debentures or other securities representing unsecured indebtedness." The phrase "issue or assume any unsecured notes, debentures or other securities representing unsecured indebtedness for any purpose other than the refunding of secured or unsecured indebtedness therefore created or assumed . . ." is certainly broad enough to cover any method used by Public Service to finance outstanding invoices and payrolls. In any event, GSA presented no evidence to show that Public Service does not meet its short term liabilities other than by borrowings or cash.

Public Service faces restrictions on the issuance of additional preferred stock or first mortgage bonds. Public Service's bond indenture requires earnings coverage of not less than two and one-half times the interest requirements, including any new bonds proposed to be issued. Had Public Service issued further bonds at the time its interest coverage was 2.97 an issue of \$69,911,000 of mortgage bonds would have been the maximum size that it legally could have issued and would have been the last mortgage bonds that could have been issued until there was a substantial improvement in the earnings of the Company. Public Service did, in fact, issue \$50 million in first mortgage bonds in February of 1980.

GSA contends that the SEC method of calculation (3.5 coverage) is more stringent than the times interest earnings ratio (TIER). The TIER requirement is that gross income must be 1.5 times the total of (1) the annual interest requirement on old indebtedness to be outstanding for more than one year, and (2) the annual dividend requirements on its preferred stock outstanding. It is true that the TIER method appears to be less stringent than the so-called TIER indenture requirement. However, the SEC method is a uniformly used method which has more recognition in the investment community. Even though under the SEC method coverage has improved from a 2.97 to 3.27 coverage, it is still below the 3.5 coverage which we deem necessary to maintain the Company's financial standing.

If Public Service were to issue preferred stock and were able to do so at a 12 percent rate, it could issue such stock in the amount of approximately \$45 million. The total capitalization of Public Service is approximately \$1,462,000,000, and the Company is now at the point that its maximum borrowing capacity through bonds and preferred stock is an additional five percent of its existing capital. Thus, it is clear that the Company's various options for raising capital have become increasingly constricted.

In summary, the position of intervenors that, "the roof may be leaking, but it's really not that bad and we can fix it later" is not one

which we consider as a realistic response to the present filing. Whatever short-term improvement in capital markets has occurred in recent weeks cannot obscure the fact that the capital market today is less favorable than it was at the close of Phase I hearings in I&S Docket No. 1330. Accordingly, the Commission finds that the financial condition of the Company warrants rate relief at this time.

B. Operating Conditions

Richard F. Walker, president and chief executive officer of Public Service, indicated that the continued construction of the Pawnee plant would have to be halted in the event inadequate or untimely rate relief resulted from this proceeding. The in-service date of Pawnee has already been deferred from early 1981 until October 1981, which has resulted in a decrease in anticipated expenditures of some \$22 million for 1980. The construction budget as a whole has been reduced from \$266 million to \$252 million, with a further \$5 to \$10 million reduction forecasted for the remainder of 1980. Slowing the construction schedule of Pawnee so that it were to become operational in 1982 rather than in 1981 would leave the Company in the difficult situation of having a megawatt reserve at peak of only 36. For each year that Pawnee is delayed, the construction costs with respect to its completion will go up by about \$50 million. These additional costs, which would be substantial, ultimately will be borne by the Company's ratepayers.

Furthermore, the optimistic reliance upon the ability of the Company to "take up the slack" with additional "firm purchases of power" from other sources is misplaced. Public Service could be forced into a negative reserve position with the failure of any one of twenty of its forty-two units (representing about 92% of Public Service's capacity). Recognition also needs to be given to the fact that some of the "firm purchases" are not altogether that firm. For example, Public Service has an agreement to buy 225 megawatts from the Basin Electric Cooperative

which is one of the participants in the Laramie River Station Unit No. 3, which is presently under construction in Wyoming. At the time Mr. Walker testified, that unit was 28% complete and it is scheduled to come into operation by May 1, 1982. However, if work stoppages or other factors cause a delay in the scheduled completion of the Laramie River Station Unit No. 3, Basin Electric Cooperative is not under any obligation to supply that power to Public Service.

In 1983 the peak demand is anticipated to be 3176 megawatts. The net effective capability of Public Service (without Pawnee) would be 2627 megawatts. Firm purchases, including a purchase of 149 megawatts from Colorado-Ute Electric Association from a unit which is just now in the initial construction stages, together with in-house generated power adds up to a total of 2930 megawatts as the net effective 1983 capability of the Company. This nevertheless would leave a negative reserve of 246 megawatts at peak.

Even if it were possible to obtain purchased power from other sources, without question a highly dubious assumption, the cost for obtaining that purchased power generally is three times the cost of in-house generated power. It is no bargain for the ratepayers. Additionally, a utility does not have as much operational flexibility regarding its use of purchased power as it has with power that is generated in house, and, as indicated above, if the seller of purchased power is unable to supply it (for example, if the supplier's unit is out of service) Public Service would not in fact obtain the power which the supplier has no obligation to provide.

There was discussion in the hearings about whether or not Public Service could defer other projects and thereby free-up construction funds for Pawnee, thereby obviating the requirement for a rate increase at this time. The Commission finds that there was no credible evidence presented by any of the parties of a specific nature which would justify such a result. Furthermore, it must be recognized that intervening

parties have no legal authority to rearrange the construction schedules of the utility. In other words, no legal authority exists for intervening parties to act in the role of "over-the-shoulder super managers." It is also well established in the law that the managerial role of a utility's operations belongs to the management of the utility, not this Commission. It is, of course, true that under our general supervisory powers in regulating utilities this Commission can do whatever is necessary to correct managerial abuses of discretion. Management prerogatives are not absolute and are subject to the supervision or scrutiny of this Commission. However, the legal predicate for the exercise of this significant power is the finding that there has been an abuse of management's discretion. Nothing in the record in this docket would sustain or justify such a finding with respect to Public Service's construction program.

On the contrary, this Commission believes that it would be seriously irresponsible for Public Service to engage in the type of "brinksmanship" suggested by certain intervening parties. Sometimes it is often lost sight of, but the fact remains that a utility's obligation is to provide service at the lowest possible rates. It is not merely to charge the lowest possible rates without consideration of adequacy of service. On the basis of the record which has been made in this case, the Commission finds that Public Service needs rate relief which is detailed above. To find otherwise would be to ignore the financial and operational realities that presently exist. Neither the ratepayers of the Company, nor the Company itself would be well served by avoiding the responsibilities which must be faced.

The Colorado Office of Consumer Services (OCS) stated that Public Service has not considered the implementation of time-of-day rates, interruptible rates, or other load management programs in advance of required implementation of this Commission's so-called "generic" decision. Moreover, OCS further contends that the Company has not seriously

pursued any joint efforts for power plant construction with the Company's own wholesale electric customers or any other strategies to reduce demand which would reduce the need for new power plant construction, and concomitant reliance on outside capital for the construction of new generating capacity. It should be pointed out that the so-called "generic" type issues enumerated above and referred to by OCS are not relevant in this docket for two reasons:

- (1) We have, as indicated above, limited the scope of I&S Docket No. 1420 hearings and did not include any generic issues;
- (2) Case 5693, the generic electric case, is still open, and although an initial decision has been entered by the Commission, no final decision in that case has been entered.

III.

COMPLIANCE WITH REGULATORY PRINCIPLES ESTABLISHED IN I&S DOCKET NO. 1330

The Commission finds that, except as hereinafter noted, Public Service has complied with the regulatory principles established in I&S Docket No. 1330 in the instant filing. There are two exceptions to Public Service's compliance.

Public Service's filing reflects an embedded cost of debt at 7.63%, which includes the higher costs of first mortgage bonds and long-term pollution control notes issued in February and March 1980, respectively. The revenue impact of an increase in the cost of embedded debt from 6.94% to 7.63% is approximately \$10,315,987. Public Service contends that the use of the present embedded cost of debt is totally appropriate inasmuch as the Colorado Supreme Court in the case of Colorado-Ute Electric Association, Inc. v. Public Utilities Commission 602 P.2d 861 (Colo. 1979) recognized the Commission's broad discretion in making adjustments for out-of-period events. We agree with Public Service that the Colorado-Ute case recognizes broad discretion in the Commission to determine whether or not to recognize adjustments which are out of period irrespective of whether or not they have been contracted for in period.

Public Service further contends that inasmuch as the Commission in I&S 1330 gave recognition to the use of a partial future test period it follows that the Commission is not precluded from recognizing the higher embedded cost of debt which, in Public Service's case, resulted because of the out-of-period 1980 debt issued totaling \$87 million.

It is true, of course, that the Commission in Decision No. C80-130 in I&S Docket No. 1330 commented that it might be appropriate for Public Service, in its next rate case, to present its case on a partial (6 months) future test year coupled with a partial (6 months) historical test year. It should be specifically noted, however, that the Commission specifically stated in Decision No. C80-130 that it was not necessarily endorsing the use of future test year or partial future test year. In any event, the regulatory principles of I&S 1330 did not utilize out-of-period adjustments which were also contracted for out of period. Accordingly, we find that the use of the embedded cost of debt inclusive of the 1980 debt issues is not in compliance with any regulatory principle utilized in I&S 1330.

Public Service in its current filing used a depreciation rate with respect to Fort St. Vrain nuclear facility of four percent (4%). The 4% rate is composed of 3.33% based on Fort St. Vrain's thirty-year expected life and .67% to take into account, via the negative salvage method, decommissioning costs in an anticipated amount of 20% of the plant's investment. Public Service witness Mr. Hock testified at length concerning the appropriateness of the 20% negative salvage method of providing for the decommissioning costs of nuclear facilities.

It became clear, during the hearing, that there are approximately six methods of dealing with decommissioning costs relative to nuclear facilities. Mr. Richards of the staff of the Commission indicated that the revenue impact of the .67% differential ($4.0\% - 3.33\% = .67\%$) was \$638,049. Public Service states that although this docket did not have

as one of its purposes the establishment of an appropriate procedure to insure the availability of decommissioning costs, that the issue received fully as much evidentiary consideration as might be expected in a general rate case and that, given the relatively minor amount involved, there was no reason to defer a decision on this matter and that the decommissioning method selected by Public Service should be found to be appropriate.

The Commission in its suspension order, Decision No. C80-675, limited the scope of this hearing to the two basic issues which are set forth on page 3 above. It may well be that the amount of \$638,049 is relatively minor considering the overall scope of the requested amount. However, the Commission believes that it would be unfair, as well as inappropriate, for this Commission to approve the establishment of a procedure which was not an issue within the contemplation of I&S 1330. Accordingly, the proposed 4% depreciation rate will be rejected for purposes of this proceeding and a 3.33% depreciation rate will be used.

The Commission finds that Public Service has justified the utilization of non-Company expert witnesses and has properly accounted for the reallocation of employees and space from merchandising activities (which were discontinued at the end of 1979) to utility functions principally related to conservation. It would be unreasonable to expect Public Service Company to employ, on a full time basis, experts who deal with such matters as normalization, cost of capital, and rate of return. Thus, the utilization of outside expert witnesses in this regard is substantially more economic than the placing of such experts on the Company's full-time payroll. In regard to the reallocation of employees and space from merchandising activities to utility functions, it is clear that the costs incurred in connection with these employees and related space were known and measurable during the 1979 test period. The decision to reallocate these employees and their related space obviously would have been made in 1979 inasmuch as the reallocation took effect on January 1, 1980. Thus, Public Service's treatment is consistent with

the out-of-period adjustment treatment that this Commission previously has given before to changes known and measurable during the test year.

The Commission also notes that Public Service abandoned during the hearing its inclusion of cash working capital in rate base for the electric department. Public Service also made a mathematical correction to deferred taxes in its capital structure which resulted in reducing the overall cost of capital from 9.91% to 9.90%.

Premises considered, the Commission finds that the respective rate bases for the electric, gas and steam departments and the combined rate base are as follows:

ELECTRIC DEPARTMENT

Line No.

1	<u>Rate Base - Net Original Cost</u>	
2	Utility Plant in Service	\$1,362,409,545
3	Utility Plant Held for Future Use	1,551,357
4	Construction Work in Progress	338,210,578
5	Common Utility Plant in Service Alloc.	41,098,351
6	Prepayments	3,976,655
7	Utility Materials and Supplies	78,084,441
8	Customer Advances for Construction	<u>(11,846,780)</u>
9	Gross Original Cost Rate Base	\$1,813,484,147
10	<u>Less:</u> Reserve for Depre. & Amort.	372,621,266
11	<u>Less:</u> Rate Base Allocated to FERC	
	Jurisdictional Sales	<u>105,903,422</u>
12	Net Original Cost Rate Base	<u>\$1,334,959,459</u>

GAS DEPARTMENT

<u>Line No.</u>	
1	<u>Rate Base - Net Original Cost</u>
2	Utility Plant in Service \$286,276,000
3	Utility Plant Held for Future Use 162,623
4	Construction Work in Progress 2,170,402
5	Common Utility Plant in Service Alloc. 28,559,871
6	Prepayments 719,940
7	Utility Materials and Supplies 3,842,464
8	Cash Working Capital Requirements 15,064,399
9	Customer Advances for Construction <u>(5,157,100)</u>
10	Gross Original Cost Rate Base \$331,638,599
11	<u>Less:</u> Reserve for Depre. & Amort. <u>104,054,232</u>
12	Net Original Cost Rate Base <u>\$227,584,367</u>

STEAM DEPARTMENT

<u>Line No.</u>	
1	<u>Rate Base - Net Original Cost</u>
2	Utility Plant in Service \$ 9,394,624
3	Construction Work in Progress 48,465
4	Common Utility Plant in Service Alloc. 15,137
5	Prepayments 21,230
6	Materials and Supplies 551,928
7	Cash Working Capital Requirements 243,734
8	Customer Advances for Construction <u>(22,931)</u>
9	Gross Original Cost Rate Base \$10,252,187
10	<u>Less:</u> Reserve for Depre. & Amor. <u>4,035,136</u>
11	Net Original Cost Rate Base <u>\$ 6,217,051</u>

COMBINED DEPARTMENTS

Line No.

1	<u>Rate Base - Net Original Cost</u>	
2	Utility Plant in Service	\$1,658,080,169
3	Utility Plant Held for Future Use	1,713,980
4	Construction Work in Progress	340,429,445
5	Common Utility Plant in Service Alloc.	69,673,359
6	Prepayments	4,717,825
7	Utility Materials and Supplies	82,478,833
8	Cash Working Capital Requirements	15,308,133
9	Customer Advances for Construction	<u>(17,026,811)</u>
10	Gross Original Cost Rate Base	\$2,155,374,933
11	<u>Less:</u> Reserve for Depre. & Amort.	480,710,634
12	<u>Less:</u> Rate Base Alloc. to FERC	
	Jurisdictional Sales	<u>105,903,422</u>
13	Net Original Cost Rate Base	<u>\$1,568,760,877</u>

Premises considered, the Commission finds that the earnings requirement of the electric, gas and steam departments respectively are as follows:

Line No.

1	Electric Department Net Original Cost Rate Base	\$1,334,959,459
2	Gas Department Net Original Cost Rate Base	227,584,367
3	Steam Department Net Original Cost Rate Base	<u>6,217,051</u>
4	Combined Net Original Cost Rate Base	\$1,568,760,877
5	Net Operating Earnings Requirement - Combined Departments (9.57% x Line 4)	150,130,416
6	Net Operating Earnings Requirement - Gas Department (9.77% x Line 2)	\$22,234,993
7	Net Operating Earnings Requirement - Steam Department (9.57% x Line 3)	<u>594,972</u>
8	Line 6 + Line 7	<u>\$ 22,829,965</u>
9	Net Operating Earnings Requirement - Electric Department (Line 5 less Line 8)(9.54% x Line 1)	\$ 127,300,451

Premises considered, the Commission finds, based upon the regulatory principles of I&S 1330, that the revenue requirement of the Company for the 12 months ended December 31, 1979 are as follows:

Electric Department

Line No.

1	Net Operating Earnings Requirement	\$127,300,451
2	Net Operating Earnings Pro Forma	<u>103,755,114</u>
3	Earnings Deficiency (Line 1 less Line 2)	\$ 23,545,337
4	Revenue Requirements Factor to Gross	1.949318
5	Operating Revenue Adjustment (Line 3 x Line 4)	<u>\$ 45,897,349</u>

Gas Department

6	Net Operating Earnings Requirement	\$ 22,234,993
7	Net Operating Earnings Pro Forma	<u>17,021,559</u>
8	Earnings Deficiency (Line 6 less Line 7)	\$ 5,213,434
9	Revenue Requirements Factor to Gross	1.897212
10	Operating Revenue Adjustment (Line 8 x Line 9)	<u>\$ 9,890,990</u>

Steam Department

11	Net Operating Earnings Requirement	\$ 594,972
12	Net Operating Earnings Pro Forma	<u>277,863</u>
13	Earnings Deficiency (Line 11 less Line 12)	\$ 317,109
14	Revenue Requirements Factor to Gross	1.949324
15	Operating Revenue Adjustment (Line 13 x Line 14)	<u>618,148</u>
16	Total Increase Required with 1979 Capital Costs (Line 5 + Line 10 + Line 15)	<u>\$ 56,406,487</u>

The foregoing revenue requirement is premised upon a capital structure, as of December 31, 1979, with attendant costs in connection therewith as follows:

	Adjusted Capitalization Per PSCo Ex. JNB-18	Ratio %	Cost %	Composite %
Long Term Debt	\$ 700,354,624	48.68	6.94	3.38
Preferred Stock	204,400,000	14.21	6.78	.96
Common Equity	515,091,391	35.80	14.60	5.23
Reserves and Deferred Taxes	<u>18,855,140</u>	<u>1.31</u>		
	\$1,438,701,155	100.00		9.57

CONCLUSION

Based upon the foregoing, the Commission concludes that Public Service, except as noted, has complied with the regulatory principles of I&S Docket No. 1330 and that current financial and operating conditions require the rate relief hereinafter ordered.

An appropriate order will be entered.

ORDER

THE COMMISSION ORDERS THAT:

1. The tariff sheets filed by Public Service Company of Colorado pursuant to Advice Letter No. 791-Electric dated March 26, 1980 and filed on March 26, 1980, be, and the same hereby are, permanently suspended.
2. The tariff sheets filed by Public Service Company of Colorado pursuant to Advice Letter No. 293-Gas dated March 26, 1980 and filed on March 26, 1980, be, and the same hereby are, permanently suspended.
3. The tariff sheets filed by Public Service Company of Colorado pursuant to Advice Letter No. 23-Steam dated March 26, 1980 and filed on March 26, 1980, be, and the same hereby are, permanently suspended.
4. Public Service Company of Colorado be, and hereby is, authorized to file appropriate tariff sheets to reflect a general rate schedule adjustment in the amount of 9.58 percent applicable to electric rate schedules. The general rate schedule adjustment shall not apply to charges determined by the fuel cost adjustment provision of tariff sheet No. 280, nor the firm purchased power provision of tariff sheet No. 283.
5. Public Service Company of Colorado be, and hereby is authorized to file appropriate tariff sheets to reflect a general rate schedule adjustment in the amount of 2.42 percent applicable to gas rate schedules. The general rate schedule adjustment shall not apply to charges determined by the gas cost adjustment provision of tariff sheet No. 133.

6. Public Service Company of Colorado be, and hereby is authorized to file appropriate tariff sheets to reflect a general rate schedule adjustment in the amount of 10.66 percent applicable to steam rate schedules. The general rate schedule adjustment shall not apply to charges determined by the fuel cost adjustment provision.

7. The tariffs filed by Public Service Company of Colorado pursuant to ordering paragraphs 4, 5 and 6 above shall set forth an effective date no earlier than May 27, 1980, and shall make reference to the decision number herein.

8. All pending motions be, and hereby are, denied.

This Order shall be effective forthwith.

DONE IN OPEN MEETING the 27th day of May, 1980.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

EDYTHE S. MILLER

L. DUANE WOODARD

Commissioners

COMMISSIONER DANIEL E. MUSE DISSENTS

COMMISSIONER DANIEL E. MUSE DISSENTING:

I must respectfully dissent from the majority opinion. This proceeding was filed on March 26, 1980, as a request for immediate emergency rate relief in the amount of nearly \$68.3 million. That amount is more than the requested relief filed in Public Service Company's last general rate case and the largest amount of relief asked of this Commission to that date. Because this matter was filed as an immediate, emergency rate request, it was expedited on the Commission's docket and set for hearing on April 30, 1980, and continued through May 2, 1980. As a consequence of this expedited hearing process, neither the Commission staff nor the various intervenors had adequate opportunity to engage in pre-hearing discovery procedures such as interrogatories, requests for

admissions, or depositions. This circumstance in turn created a substantial impediment to these parties' abilities to fully develop direct and cross-examination testimony during the hearings that were held on the above dates. It is my view that the above factors, in conjunction with the application of fundamental rules of evidence made it incumbent upon the Public Service Company to present a detailed explanation as to why the alleged emergency existed. In my judgment, Public Service Company failed to adequately demonstrate the existence of such an emergency, and I therefore cannot concur in the majority's result.

As the petitioning party in this proceeding, Public Service Company, had both the burden of going forward and the burden of proof in regard to all the essential elements of this application. The burden of proof can be defined as the responsibility of the moving party to demonstrate by sufficient competent evidence that an alleged element is in fact true as asserted. (See: Exchange National Bank of Colo. Springs vs. Sparkman, 554 P.2d. 1090, 191 Colo. 534; and Firkins vs. Affolter, Colo. App. 504 P.2d. 365 (not selected for official publication)) In the instant case, Public Service Company asserted that unless emergency rate relief was granted, the Pawnee Project would have to be shutdown. From my examination of the evidence in this proceeding, I have concluded that the truth of this allegation was not demonstrated and that as a consequence no rate relief is herein appropriate. In order to determine whether or not Pawnee would need to be shutdown, absent rate relief, it is essential to examine the operating conditions of the Company. One important aspect of that examination is analysis of the Construction Budget for 1980.

The total revised PSCo Construction Budget for 1980 is \$252 million. Of that amount \$108 million was earmarked for the Pawnee project. Most of the remaining \$144 million was distributed as follows: \$38.3 million to subsidiary companies; \$30 million allocated to other utility plant construction; and approximately \$70 million for miscellaneous construction projects. However, with the notable exception of

\$19.5 million designated for Construction of Air Quality Control Equipment at the Cherokee plant, Public Service Company failed to demonstrate how these other construction dollars were specifically allocated, or why they could not be reallocated to further the construction of the Pawnee project.

As was indicated through the testimony of witness Richard F. Walker, Public Service Company President, the Pawnee plant is a vital cog in the Company's efforts to provide adequate amounts of power at reasonable rates. The evidence herein revealed that Pawnee will generate approximately 470 Mw of electric power thereby providing the Company with more adequate reserve margins, reducing the need to buy unreliable and very expensive purchase power and also generating substantial revenues to Public Service Company. In light of this undeniable importance of Pawnee to system reliability and dependability, it is my opinion that it was incumbent on Public Service Company to clearly establish that construction monies for projects other than Pawnee could not have been diverted to this project through other construction cutbacks, delays or elimination. In view of Public Service Company's failure to demonstrate, in the most rudimentary manner, that cutbacks, delays, or eliminations could not be undertaken on these other construction projects, it failed to sustain its burden of proof on the claim that the operating conditions of the Company now require the granting of emergency rate relief in these proceedings.

One specific aspect of Public Service Company's presentation herein troubled me greatly: That aspect was PSCo's continued expressed resolve to shut Pawnee down unless this Commission granted "adequate" rate relief. Such expressed intention cast a cloud over this entire proceeding. It is my belief that such a cloud was not in the best interest of this Commission's regulatory process. Public Service Company argued that unless adequate rate relief was herein granted, Pawnee could not go on-line in October of 1981. Moreover, that failing completion of

Pawnee by said date, that the project would be entirely shutdown. The need to have Pawnee on-line by October 1, 1981 entirely escapes me, in that Public Service Company's system peak is between June and August of each year. Therefore, Pawnee could not contribute to Public Service Company's 1981 peak in any event. The testimony of Mr. Walker indicated that construction of Pawnee could be set back six months, with a consequent savings of \$1.2 to \$1.5 million per month in expenditures and still meet the 1982 system peak.

Although setting completion of Pawnee back six months would result in approximately \$25 million of additional interest costs, shutting Pawnee down, as suggested by Public Service Company would cost the ratepayer much more than that. Mr. Walker testified that in shutting Pawnee down, the monthly costs to maintain and keep Pawnee secure would approximate \$1 million, and that purchase power to replace the loss of Pawnee generated power is now about three times more expensive, and that such figure is ever increasing. In light of the above realities, I fail to understand Public Service Company's contention that shutting Pawnee down is somehow preferable to incurring the \$25 million additional interest cost which would be one of the consequences of a six-month on-line delay. Clearly, \$25 million additional interest cost is not palatable. However, comparing such sum to a \$1 million a month maintenance and security cost coupled with very expensive purchase power expenses for the 1982 system peak and beyond, demonstrates that this cost is not unreasonable. In addition to the above, the construction cost of Pawnee will be amortized over the 30-year life of the plant and once Pawnee is on-line it will undoubtedly generate substantial revenues for Public Service Company.

Absent specific evidence as to the necessity of PSCo's proceeding with construction projects, other than Pawnee, and further without evidence as to the impossibility of diverting such other funds to Pawnee, to prevent a shutdown of said project, I would find that Public Service

Company has failed to establish in this proceeding that an emergency situation exists. In view of such finding I respectfully decline to join with the majority.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

DANIEL E. MUSE

Commissioner

ATTEST: A TRUE COPY

Harry A. Galligan, Jr.
Harry A. Galligan, Jr.
Executive Secretary