

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE PROPOSED	)	INVESTIGATION AND SUSPENSION
INCREASED RATES AND CHARGES CON-	)	DOCKET NO. 1425
TAINED IN TARIFF REVISIONS FILED	)	
BY PUBLIC SERVICE COMPANY OF	)	DECISION AND ORDER
COLORADO, 550 15TH STREET, DENVER,	)	OF THE COMMISSION
COLORADO, UNDER ADVICE LETTER	)	PHASE I
NO. 795 - ELECTRIC, ADVICE LETTER	)	
NO. 296 - GAS, AND ADVICE LETTER	)	
NO. 24 - STEAM.	)	

- - - - -
December 12, 1980
- - - - -

P R E C I S

PUBLIC SERVICE COMPANY OF COLORADO AUTHORIZED TO INCREASE ITS ELECTRIC, GAS AND STEAM RATES TO PROVIDE, ON A TEST YEAR BASIS, ADDITIONAL REVENUE OF \$29,334,302 ABOVE REVENUES AUTHORIZED IN INVESTIGATION AND SUSPENSION DOCKET NO. 1420: RATE OF RETURN ON COMBINED RATE BASE OF 10.19% AND 15.45% RATE OF RETURN ON EQUITY AUTHORIZED.

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Organizations for Reform Now,
Colorado Energy Advocacy Office, and
The United Food and Commercial Workers,
Local 7;

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BY THE COMMISSION:

I

HISTORY OF THE PROCEEDINGS

On May 7, 1980, Public Service Company of Colorado (hereinafter "Public Service", or "Company", or "Respondent") filed with the Commission three advice letters, one pertaining to electric rates, one pertaining to gas rates, and one pertaining to steam rates. The three advice letters are as follows:

1. Advice Letter No. 795 - Electric, which is accompanied by 241 tariff sheets, Colorado P.U.C. No. 6 - Electric cancels Colorado P.U.C. No. 5 - Electric;
2. Advice Letter No. 296 - Gas, which is accompanied by 128 tariff sheets, Colorado P.U.C. No. 5 - Gas cancels Colorado P.U.C. No. 4 - Gas, and
3. Advice Letter No. 24 - Steam, which is accompanied by 4 tariff sheets, pertaining to Colorado P.U.C. No. 1 - Steam.

With respect to the filing made pursuant to Advice Letters No. 795-Electric, No. 296-Gas, and No. 24-Steam, Public Service requested the Commission immediately suspend the filing and establish procedural and hearing dates in order that rates resulting from the filing be effective at as early a date as possible.

The increases initially requested by Public Service in this docket for electric, gas and steam rates are as follows:

<u>Operations</u>	<u>(\$)</u> Increase	<u>(%)</u> Increase
1. Electric	\$161,286,000	31.7%
2. Gas	17,424,000	4.1%
3. Steam	<u>966,000</u>	<u>16.3%</u>
4. Total	<u>\$179,676,000</u>	<u>19.6%</u>

On May 27, 1980, in I & S Docket No. 1420, (the so called "emergency increase docket") the Commission authorized emergency rate increases for Public Service's electric, gas and steam operations, as follows:

<u>I & S 1420 Authorized</u>		
<u>Operations</u>	<u>(\$)</u> Increase	<u>(%)</u> Increase
1. Electric	\$45,897,349	9.58%
2. Gas	9,890,990	2.42%
3. Steam	<u>618,148</u>	<u>10.66%</u>
4. Total	<u>\$56,406,487</u>	<u>6.20%</u>

The Commission having granted the above emergency increases, under consideration in I & S Docket No. 1425 is Public Service's claim to the remaining amount requested, totaling \$121,110,340, calculated as follows:

Breakdown of Amount Requested by Public Service In Excess of
I&S 1420 Granted Increases

<u>Operations</u>	<u>Total (\$)</u> <u>Requested</u>	<u>Emergency (\$)</u> <u>Increase</u>	<u>Additional Amount</u> <u>Sought</u>
1. Electric	\$158,299,655	\$45,897,349	\$112,402,306
2. Gas	17,968,543	9,890,990	8,077,553
3. Steam	<u>1,248,629</u>	<u>618,148</u>	<u>630,481</u>
4. Total	<u>\$177,516,827</u>	<u>\$56,406,487</u>	<u>\$121,110,340</u>

* Decision No. C80-1039 (May 27, 1980), pp 19-21.

** Public Service's initial filing was based on 10 months actual and two months estimated (Exh. 22, p.1; Exh. D, p.6) for the test year ended June 30, 1980. Subsequently, Public Service witness Midwinter amended the Company's filing to represent 12 months actual for said test year (Exh. 33, p.1; Exh. H, p.6). The above calculation of excess request, totaling \$121,110,340, is based on the Company's 12 month actual presentation.

As indicated above with respect to the filings herein, Public Service requested that the said filings be suspended immediately by the Commission and that procedural and hearing dates be established in order that rates resulting from this filing could become effective on as early a date as possible. Public Service further requested that in order to expedite the procedure the Commission staff immediately begin the audit of the Company's books and records.

Public Service requested that the revenue requirements and rate design phases of hearings be separated into two phases and that the revenue increases resulting from an order in Phase I be allowed to become effective immediately upon the completion of Phase I and that such increase be in the form of a uniform percentage rider applicable to all classes of service pending resolution of any rate design issues.

Public Service also stated that the Company believed the revenue increases resulting from the filed tariff sheets would not cause it to exceed the gross margin standard applicable to utilities under the regulations adopted by the President's Council on Wage and Price Stability.

On May 20, 1980, the Commission entered Decision No. C80-992 wherein it set the tariff revisions filed by Public Service with respect to its Advice Letters No. 795-Electric, No. 296-Gas, and No. 24-Steam for hearing to commence on September 15, 1980.

Pursuant to the provisions of CRS 1973, 40-6-111(1), the effective date of the tariffs filed by the above mentioned advice letters was suspended until January 7, 1981, or until further order of the Commission.

Also by Decision No. C80-992, the Commission determined that the proceedings would be conducted in two phases: Phase I would consider the revenue requirement of the Company and Phase II would consider the appropriate spread of the rates. For purposes of Phase I of this proceeding,

the Commission determined it would use the twelve-month period ended June 30, 1980 as a test period. The Commission also provided in Decision No. C80-992, that Public Service would file on or before July 15, 1980, ten copies of all its prepared written direct testimony and supporting exhibits. Decision No. C80-992 further provided that said written direct testimony and supporting exhibits would include, but not be limited to, operating income, operating expenses, rate base, rate of return upon rate base, and rate of return to common equity, upon the basis of the 12-month test period ended June 30, 1980.*

Decision No. C80-992 further provided that any person, firm, or corporation desiring to intervene as a party in the within proceeding would be required to file an appropriate pleading therefor with the Commission on or before June 16, 1980, and serve a copy thereof on the Respondent Public Service or its attorney or attorneys of record.

The following parties moved to intervene, and by various interim decisions of the Commission were granted status to participate as intervenors.

Elbridge Burnham
CF&I Steel Corporation (CF&I)
Colorado Office of Consumer Services (OCS)
Peoples Utility Alliance (PUA)
General Services Administration (GSA)
AMAX, Inc. (AMAX)
Emma Green, Dorothy Starling and Concerned
Citizens of Northeast Denver (Concerned Citizens)
City of Lakewood
Colorado Common Cause (Common Cause)
Colorado Association of Community Organizations
For Reform Now (ACORN)
Colorado Energy Office (CEAO)
The United Food and Commercial Workers, Local 7 (UFCW Local 7)
Home Builders Association of Metropolitan Denver (HBA)
Ideal Basic Industries, Inc. (Ideal Basic)

* By Decision No. C80-1166, dated June 10, 1980, the Commission amended Decision No. C80-992 so as to provide that the test period would be the 12 months ended December 31, 1979, but that Public Service, at its option, may present its case on an alternative basis with a 12 month test period ending June 30, 1980.

On July 15, 1980, Public Service filed written direct testimony and supporting exhibits of seven witnesses, namely:

Richard F. Walker
J. H. Ranniger
D. D. Hock
R. R. Midwinter
Eugene W. Meyer
J. N. Bumpus
Irwin M. Stelzer

The summary of direct testimony and the cross-examination of Public Service witnesses commenced, as scheduled, on September 24, 1980 and was concluded on October 3, 1980.

On or before October 24, 1980, the Staff of the Commission and certain of the intervening parties filed written direct testimony of witnesses as follows:

On behalf of GSA:
Philip R. Winter
E. Jeffery Livingston
Jatinder Kumar

On behalf of AMAX:
Jamshed K. Madan

On behalf of the Staff of the Commission:
Eric L. Jorgensen
Garrett Y. Fleming
Richard D. Giardina
James A. Richards

On behalf of Common Cause:
Charlotte Ford

On behalf of PUA and OCS:
R. L. Bertschi

On behalf of Concerned Citizens and OCS:
Jean Bress

Late-filed was the written direct testimony of witness:

On behalf of Concerned Citizens and OCS:
David S. Schwartz

On October 29, 1980, October 30, 31, November 5, 6, and 7, 1980 the Commission heard cross-examination of all witnesses who had filed testimony on behalf of the Staff of the Commission and intervenors GSA, AMAX, Common Cause, OCS, PUA, Concerned Citizens, with the exception of Jean Bress whose written direct testimony was received into evidence without objection.

On November 5, 1980, AMAX called J. H. Ranniger as a witness and on November 12, 1980, Mr. Ranniger was made available for cross-examination by other parties.

On November 7, 1980, Public Service called as witnesses in its rebuttal case the following: Mel Andrew, R. R. Midwinter and J. N. Bumpus.

Statements of Position with respect to Phase I were filed by the following parties:

- Public Service
- AMAX
- CEAD, ACORN, and UFCW LOCAL 7
- CF&I
- Common Cause
- Concerned Citizens
- OCS and PUA
- The Staff of the Commission *

Certain parties also filed proposed findings of fact with their Statements of Position.

*The Statement of Position of the Staff was filed on November 26, 1980 pursuant to its oral motion to file on that date which motion was granted by the Commission. On December 4, 1980, Concerned Citizens filed a "Supplemental Statement of Position" wherein it alleged that it received the Staff's Statement of Position on November 26, 1980 - "two days after deadline established by the Commission . . ." On December 8, 1980, the Staff filed a "Motion to Strike Supplemental Statement of Emma Young Green & Concerned Citizens Congress of Northeast Denver." Inasmuch as no party present on November 5, 1980 in the hearing objected to the Staff filing on November 26, 1980, the Staff's Motion will be granted.

Phase I - Final Decision and Order

As indicated above, the Commission in its Decision No. C80-992, issued May 5, 1980, intended to hear Public Service's request in two phases, which is the practice used by the Commission in previous cases. In Investigation and Suspension Docket No. 1330 (hereinafter I&S 1330), at the conclusion of Phase I, the Commission issued Decision No. C79-1821 on November 21, 1979, to become effective November 23, 1979, wherein it established the Phase I revenue requirement and authorized Public Service to file interim rates, on a uniform percentage basis, to be effective no earlier than November 26, 1979, pending the Commission's decision on Phase II in that docket.

The suspension period in I&S Docket No. 1330 extended until February 15, 1980; the Commission issued its final order in I&S Docket No. 1330 on January 22, 1980. The Commission, in this Docket, recognizes that it is not possible to conclude the hearings in the Phase II spread of the rates aspects of this proceeding and enter a decision with respect thereto before the expiration of the suspension period on January 7, 1981. In fact, as presently projected, it is not anticipated that the Phase II spread of the rates issues can be decided prior to June of 1981. Accordingly, in the order hereinafter, we shall authorize Public Service to place into effect new rates based upon its current rate structure and the revenue requirement as found herein. However, unlike I&S Docket No. 1330, the rates which we shall hereinafter authorize Public Service to place into effect in order to meet its revenue requirement shall be final rates rather than interim rates. Thus, the revenue requirement aspects of the decision herein shall be considered final and so designated for purposes of the procedural provisions of CRS 1973, 40-6-114 and 40-6-115.

Submission

The herein instant matter has been submitted to the Commission for decision. Pursuant to the provisions of the Colorado Sunshine Act of 1972, CRS 1973, 24-6-401, et seq., and Rule 32 of the Commission's

Rules of Practice and Procedure, the subject matter of this proceeding has been placed on the agenda for the open meeting of the Commission. At an open meeting the herein Decision was entered by the Commission.

II

DESCRIPTION OF THE COMPANY

Public Service is the largest public utility operating within the State of Colorado which is engaged in the generation, transmission, distribution and sale of electricity and the purchase, distribution and sale of natural gas to various areas of the State of Colorado. Public Service is the result of the merger and acquisition of many gas and electric companies dating back to the organization of the Denver Gas Company in 1869. The present entity was incorporated under Colorado law on September 3, 1924. In addition to its gas and electric service, Public Service also renders steam heat service in the downtown business district of Denver.

Electric or natural gas service, or both, are rendered at retail in over 100 incorporated cities and towns and in various other communities and rural areas throughout Colorado. The Company also sells electric power and energy at wholesale for resale to six municipal electric utilities, one distribution Rural Electric Association (REA) Cooperative, Home Light and Power Company, Colorado-Ute Electric Association, Inc., and Southern Colorado Power Division of Central Telephone and Utilities Inc. Wholesale electric rates and service are under the jurisdiction of the Federal Energy Regulatory Commission (FERC), the successor to the Federal Power Commission.

The Company owns all of the common stock of two subsidiary operating utility companies, namely, Cheyenne Light, Fuel and Power Company, which supplies electric, natural gas, and steam services in Cheyenne, Wyoming, and its environs, and Western Slope Gas Company,

which is a natural gas transmission company transporting natural gas for service in several geographic areas in Colorado.

In addition, the Company owns approximately 99.5 percent of the common stock of Home Light and Power Company, which renders electric utility service in the City of Greeley and a large portion of Weld County, Colorado, serving appropriately 35,000 customers.

The Company also owns all of the common stock of 1480 Welton, Inc., basically a real estate company which owns Public Service's central office building, and of Fuel Resources Development Company (Fuelco), a subsidiary primarily engaged in exploration, development, and production of natural gas and oil. The Company also owns stock in various ditch and irrigation companies in connection with its use of water for generating plants.

Public Service as of June 30, 1980, had 744,794 electric customers and 643,872 gas customers. Generally, these customers are broadly classified as residential, commercial, and industrial. As of June 30, 1980, the Company had 68,045 shareholders holding common stock in the Company (29,207 of whom own 100 shares or less) and 6,512 shareholders owning preferred stock in the Company. Common shareholders who live in the State of Colorado comprise 26,755 of the total number thereof.*

* Information as to the number of electric and gas customers and shareholders was supplied informally to the Commission by counsel for Public Service.

III

GENERAL

There have been a number of rate proceedings involving Public Service in the past several years. During these years there has been an increased awareness and interest in the ratemaking functions of this Commission. Utility rates with respect to gas and electric service affect virtually all segments of the public. In view of inflationary and other economic pressures, general rates cases have become more frequent despite the fact that gas cost adjustment (GCA) or purchased gas adjustment (PGA) and fuel cost adjustment (FCA) clauses will, generally speaking, tend to mitigate the frequency of general rate case filings.* Public participation in rate making process before the Commission also has increased in the past several years.

* The Commission in 1977 investigated the GCA and the FCA in Cases No. 5721 and No. 5700, respectively. On April 5, 1978, the Commission in Decision No. C78-414 entered a decision which, in essence, continues the use of GCA and PGA Clauses (with a procedural modification for an annual hearing) so as to reflect the delivered price of pipeline and wellhead gas, including charges for gathering, compression and transportation. The Commission also required annual GCA or PGA reports to be filed by the utilities, followed by an investigative hearing to encompass present and projected market requirements for gas service, and projected supplies of gas available to meet those requirements, and current or projected curtailment of service as a result of inadequate supplies, the gas purchase practices of the utilities as they affect the success of the utilities in obtaining adequate supplies of gas at reasonable prices, and any other subject that the Commission may wish to investigate. Certain technical modifications to Decision No. C78-414 were made pursuant to an errata notice dated April 7, 1978, Decision No. C78-563, dated May 2, 1978, an errata notice dated May 4, 1978, and Decision No. C78-741, dated May 30, 1978. By Decision No. C79-941, dated June 19, 1979, in Application No. 31896, the Commission changed the annual review requirement for Public Service to a quarterly review requirement. A GCA hearing for the period April 5, 1978 - December 31, 1978 and calendar year 1979 was heard on March 6, 1980 and resulted in Decision No. R80-1062 dated May 30 1980. Said decision was remanded by the Commission to Examiner Trumbull by Decision No. C80-1593. Decision No. R80-1710 was subsequently entered September 2, 1980.

A more specific methodology hearing based on the third and fourth quarters of 1979 was held on February 14, 1980 in Application No. 31895 with Decision No. C80-1327 being entered therein on July 1, 1980. An errata notice was entered July 8, 1980. Application for rehearing was filed to said Decision No. C80-1327 and subsequently denied by Decision No. C80-1495 entered July 29, 1980. Thereafter

The regulatory jurisdiction of the Public Utilities Commission over non-municipal utilities in the State of Colorado is grounded in Article XXV of the Constitution of the State of Colorado which was adopted by the general electorate in 1954. The Public Utilities Law, which currently is contained in Article 40 of the Colorado Revised Statutes (1973, as amended), implements Article XXV of the Colorado Constitution. More specifically, CRS 1973, 40-3-102, vests in this Commission the power and authority to govern and regulate all rates, charges and tariffs of every public utility.

It first must be emphasized that rulemaking is a legislative function. The City and County of Denver vs. People ex rel Public Utilities Commission, 129 Colo. 41, 266 P.2d 1105 (1954); Public Utilities Commission vs. Northwest Water Corporation, 168 Colo. 154, 551 P.2d 266 (1963). It should also be emphasized that ratemaking is not an exact science, Northwest Water, supra, at 173. In the landmark

Footnote continued

quarterly reports were filed by Public Service and accepted by Decision No. R80-1542 entered on August 8, 1980 and Decision No. R80-2087 entered on November 5, 1980. On September 13, 1977, the Commission entered its Decision No. 91290 in Case 5700 dealing with the FCA tariff of Public Service. The Commission authorized the continued use of an FCA clause subject to certain modifications such as the excusion of transportation costs, and costs associated with unloading, handling of stockpiles, fuel treatment and ash disposal. The Commission also required quarterly audits and hearings with respect to the implementation of the FCA clause. The Commission also ordered Public Service to credit against the FCA certain amounts as a result of moneys paid by Public Service to Fuel Development Resources Company during the period October 1, 1973, to November 1, 1977. Certain modifications to Decision No. 91220 were made subsequently by Decision No. 91519, dated October 20, 1977, Decision No. 91577, dated October 31, 1977, Decision No. 91868, dated December 22, 1977, Decision No. 91904, dated January 4, 1978, Decision No. C78-158, dated February 7, 1978, Decision No. C78-280, dated March 7, 1978, and Decision No. C79-432, dated March 27, 1979. Decision No. R78-746, dated June 1, 1978 (which became the Decision of the Commission on June 21, 1978) approved the first quarterly report filed by Public Service with regard to its FCA tariff. Subsequent Public Service Quarterly reports have been approved by the Commission by Decisions Nos. R78-1033 (August 2, 1978), R78-1464 (November 9, 1978), R79-252 (February 26, 1979), R79-710 (May 14, 1979), R79-1150 (July 26, 1979), R79-1680 (October 26, 1979), R80-168 (January 28, 1980), R80-850 (May 2, 1980), R80-1541 (August 6, 1980) and R80-2088 (November 5, 1980) (May 2, 1980), R8001541 (August 6, 1980) and R80-2088 (November 5, 1980) On September 23, 1980, by Decision No. C80-1817, in Application No. 32603, the Commission authorized Public Service to combine its PPA and FCA into an electric cost adjustment (ECA). The ECA also is the most recent mechanism used by Public Service to recover, in addition, transportation costs related to fuel, and purchased power costs.

case of Federal Power Commission vs. Hope Natural Gas Company, 320 U.S. 591, 602-603 (1944), Justice Douglas, speaking for the United States Supreme Court, stated that the "ratemaking process under the (Natural Gas) Act, i.e. the fixing of 'just and reasonable' rates, involves a balancing of the investor and consumer interests." The Hope case further sets forth the proposition that under "the statutory standard of 'just and reasonable,' it is the result reached, not the method employed, which is controlling."

In the case of Public Utilities Commission vs. The District Court, 186 Colo. 278, 527 P.2d 233, the Colorado Supreme Court stated at pages 282 and 283:

[4.5] Under our statutory scheme, the PUC is charged with protecting the interest of the general public from excessive burdensome rates. The PUC must determine that every rate is "just and reasonable" and that services provided "promote the safety, health, comfort and convenience of its patrons, employees, and the public and shall in all respects be adequate, efficient, just and reasonable." C.R.S. 1963, 115-3-1. The PUC must also consider the reasonableness and fairness of rates so far as the public utility is concerned. It must have adequate revenues for operating expenses and to cover the capital costs of doing business. The revenues must be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital.

The process by which utility rates are established should be explained. Under current law, when a public utility desires to change its rate or rates, it files its new rates with the Commission, and they are open for public inspection. Unless the Commission otherwise orders, no increase in any rate or rates may go into effect except after thirty (30) days' notice to the Commission and to the customers of the utility involved.

If the thirty (30) day filing period goes by without the Commission having taken any action to set the proposed new rate or rates for hearing, the new rate or rates automatically become effective by operation of law.^{*} However, the Commission has the power and authority to set the proposed new rate or rates for hearing, which, if done, automatically suspends the effective date of the proposed new rate or rates for a period of 120 days,^{**} or until the Commission enters a decision on the filed rates within that time. The Commission has the further option of continuing the suspension of the proposed new rate or rates for an additional period of up to ninety (90) days for a total maximum of 210 days or approximately seven months. If the Commission has not, by order, permitted the proposed new rate or rates to become effective, or established new rates, after hearing, prior to the expiration of the maximum 210 day period, the proposed new rate or rates go into effect by operation of law and remain effective until such time thereafter as the Commission establishes the new rate or rates in the docket.

In the simplest terms, the Commission must determine and establish just and reasonable rates. In order to make this determination, the Commission generally answers two questions; first, what are the reasonable revenue requirements of the utility involved that will enable it to render its service, and, second, how are the reasonable revenues to be raised from its ratepayers. In other words, the Commission must determine the "revenue requirement" and the "spread

^{*} Under CRS 1973, 40-3-104, most fixed utilities file rates on thirty (30) day notice; however, thirty (30) days is a minimum notice period, unless otherwise ordered by the Commission. A utility may select a longer notice period. In any event, if the Commission elects to set the proposed rate or rates for hearing, it must do so before the proposed effective date.

^{**} CRS 1973, 40-6-111.

of the rates" to meet the revenue requirement. To accomplish its task, in these regards, it must exercise a considerable degree of judgement and, to the best of its ability, be as fair as possible to the different parties and positions that present themselves in any major rate case. The ratemaking function involves, in other words, the making of "pragmatic adjustments" (the Hope case, supra, at page 602). It is not an easy task, but, on the other hand, neither is it a task impossible of attainment.

As stated above the rates established by this decision are based upon the Company's current rate structure and its found revenue requirement. Adjustments, if any, to Public Service's current rate structure will be determined in Phase II in this docket.

Decision No. C80-992 entered on May 20, 1980, set for hearing the proposed electric, gas and steam tariffs filed by Public Service, and suspended their effective date until January 7, 1981, or until further order of the Commission. The Decision herein is the Order which effectively establishes electric, gas and steam rates for Public Service.

IV

TEST PERIOD

In each rate proceeding it is necessary to select a test period. The operating results of the test period then are adjusted for known changes in revenue and expense levels so that the adjusted operating results of the test period will be representative of the future, and thereby afford a reasonable basis upon which to predicate rates which will be effective during a future period.

In this case the Commission finds that the 12-month period commencing July 1, 1979, and ending June 30, 1980, is the appropriate 12-month period which constitutes a representative year and is the test period for purposes of setting rates herein. In-period and out-of-period revenue and expense adjustments are discussed hereinafter in Part VII.

In I&S 1330, the Commission indicated that it might be appropriate for Public Service to present its then next rate case on a partial (six month) future test year coupled with a partial historical (six month)

test year. The adoption of the year-ended June 30, 1980 test year in this docket (which became a full historical test year prior to the close of the hearings herein) should not be construed as a departure from the Commission's remarks in I&S 1330 regarding the filing of a rate case based upon a partial historical and partial future test year.

V.

RATE BASE

A. Year-End Rate Base

The Commission, in Investigation and Suspension Docket No. 935, authorized Public Service to utilize a year-end rate base for its Electric Department inasmuch as Public Service had been adding significant amounts of non-revenue producing pollution control equipment to its plant. In Decision No. 91581, dated November 1, 1977, in Investigation and Suspension Docket No. 1116 and Recommended Decision No. R78-675, affirmed by the Commission June 5, 1978, in Investigation and Suspension Dockets No. 1185 and 1186, the authorization for year-end base was extended to the Gas and Steam Departments, respectively. The Commission found that adoption of year-end rate base is a methodology that recognizes earnings attrition which is beyond the Company's control.

We stated in I&S Docket No. 1330, in Decision No. C80-130 dated January 22, 1980, that Public Service had continued to suffer attrition even though the use of the year-end rate base had been in effect for several years, and that a reversal of the year-end rate base approach would contribute to further deterioration of Public Service's financial condition.

AMAX witness Madan recommended the use of an average rate base because he believed that Public Service was in a position to earn its cost of capital with the use of an average rate base. Mr. Madan's conclusion was based, however, on bringing in a pro forma increase in revenues resulting from I&S Docket No. 1420 (which became effective only a month before the end of the test period) and calculating a rate of return on

the smaller test year average rate base. The I&S 1420 revenue increases were calculated on a year-end basis which had the effect of enlarging these amounts. Moreover, Mr. Madan made no assumptions as to increased expenses and investment beyond the test year. Thus, Mr. Madan did not take into consideration all factors in making the judgment that the revenue requirements of Public Service on average rate base should result in its earning its authorized rate of return. Mr. Madan's logic with regard to average rate base is not persuasive in light of the historical evidence of attrition.

Thus, we find that the evidence in this proceeding does not support departure from the use of year-end rate base as a partial offset to attrition. Accordingly, the Commission will continue its past practice with respect to year-end rate base.

B. Construction Work in Progress

Consistent with past decisions, we have included Construction Work in Progress (CWIP) in Public Service's rate base.

In determining how to treat CWIP, the Commission must balance the interests of the ratepayers with those of the investors who have supplied the funds for such construction. The investors are required to supply the funds for construction and to pay the associated costs necessary to finance that construction during the construction period. The investors are entitled to earn a return on the funds committed for those purposes. The ratepayers, however, do not receive the direct benefits of new construction until the property is placed in service. Therefore, the argument is made that the ratepayer should not be required to provide the investor a return on the construction dollars advanced by the investors to finance the construction until the construction is placed in service.

In order to allow the company an opportunity to earn a return on funds invested for construction work and at the same time defer payment

by the ratepayers of that return until such time as the plant is in service, an accounting entry is made on the books and records of the company.

The accounting entry, in effect takes into account the associated costs of financing the construction incurred during the construction period by including allowance for funds used during construction (AFUDC) in CWIP. This increases the size of the investment base upon which the Company can earn a return and recover depreciation costs in the future as the construction work is placed in service.

To prevent the investor from earning a current return on the construction costs supplied by them another accounting entry is made to credit AFUDC to the income statement. The net effect of the two reciprocal accounting entries is to a substantial degree to defer recovery of a return on the construction dollars provided by the investor until the plant is placed into service. It should be noted, however, that to the extent the rate of return authorized for the utility is in excess of the rate at which AFUDC is charged to construction; to the extent that capitalization of AFUDC is delayed on a booking basis; to the extent that AFUDC is not capitalized on small construction work; and to the extent that AFUDC is not capitalized on previously accrued AFUDC, there is an imbalance or "slippage" which in fact requires current ratepayers to pay some return on the investor provided construction dollar for future plant. The fact that a return on a portion of the needed construction expenditures advanced by the investor is being paid for by current customers (that portion being measured by "slippage") enhances the cash flow position and resulting financial strength of the utility, and may result in lower financing costs to all ratepayers, current and future.

The balance of the return on construction dollars advanced by the investor (except for "slippage") arising from the indicated accounting entries is borne by future ratepayers who will benefit from the plant being constructed.

In I&S Docket No. 1330 Public Service proposed that the Commission make a significant adjustment to its policy with respect to AFUDC. In that Docket Public Service requested that the 1978 year-end expenditures with regard to its Pawnee Generating Station (Pawnee) in the amount of \$121 million be included in the rate base without an offset of AFUDC credited to the income statement. The Pawnee plant represents a substantial addition to the generating capacity of Public Service, and when it is completed, its net generating capacity will be 470 megawatts (MW). In I&S Docket No. 1330, the adoption of a non-AFUDC offset principle with respect to Pawnee was opposed by the Staff of the Commission, AMAX, CEAO, and ACORN.

In I&S Docket No. 1330, the Commission adopted, for purposes of treatment of CWIP and AFUDC, a position whereby Public Service would be allowed to earn currently on forty percent of the CWIP related to Pawnee. The Commission in I&S 1330 justified its approach on the basis that there was a 40%-60% split between vertical and horizontal growth. On that basis, we found that it was reasonable to conclude that current customers were responsible for 40% of the need for additional plant, such as Pawnee.

In the current docket, the Staff has proposed that the Commission continue its 40% non AFUDC treatment pertaining to the CWIP related to Pawnee. AMAX witness Madan agrees that it would be appropriate for the Commission to allow Public Service to earn currently on 40% of the CWIP related to Pawnee provided the Commission returned to using average rate base. Both Staff witness Giardina and Mr. Madan stated that their recommendation that Public Service be allowed to earn on a portion of CWIP without an AFUDC offset was not an endorsement of a regulatory concept, but a frank recognition that the company might have cash flow requirements which mandated such extraordinary treatment. We agree.

GSA witness Kumar argued that in the event the Commission were to continue a partial non-AFUDC offset Pawnee CWIP methodology, it should restrict the cash flow generated thereby to the same dollar amount as resulted from that treatment in I&S No. 1330, rather than permitting Public Service to earn currently on forty percent of CWIP (less FERC portion) in this Docket which is substantially higher (by \$187,814,633) than it was in I&S No. 1330. We are not persuaded that any rationale was forthcoming for limiting the non-AFUDC offset related to Pawnee to the identical dollar amount that resulted in I&S No. 1330 rather than the current forty percent of Pawnee CWIP. Inasmuch as the purpose of this methodology is to help a utility's cash flow position, we see no reason to arbitrarily limit the current earnings treatment to the same dollar, as opposed to percentage, amount which we approved in I&S No. 1330.

In I&S Docket No. 1330, Pawnee CWIP amounted to \$121,184,606 resulting in \$48,473,842 of Pawnee CWIP being allowed in rate base with no AFUDC offset before the FERC jurisdictional allocation. In this docket, Staff witness Richards used a pro forma balance, consistent with the treatment accorded in I&S 1330, of \$325,374,000. We find that it is appropriate to use the Staff pro forma balance figure. Accordingly, 40% of that amount, net of FERC allocations, or \$120,036,868 will be included in rate base and will not accrue AFUDC commencing with the effective date of our Order in this proceeding. The impact of including this additional \$75,125,853 in rate base at the rate of return on rate base of 10.19%, hereinafter authorized is to provide additional revenues at approximately \$15,535,483, which will improve pre-tax coverage, protect financial integrity, and increase cash flow to assist financing for construction programs. Thus we reject the methodology advanced by GSA which would arbitrarily limit the CWIP-non AFUDC offset treatment on Pawnee to the same dollar amount which we approved in I&S 1330.

Because our treatment of Pawnee CWIP is premised on the cash flow problems of the Company, and not because of an endorsement of a regulatory treatment, we believe that Public Service is obligated to do everything in its power to make sure that Pawnee is completed and placed into service without delay. Pawnee, according to the Company, is scheduled to go into service during the fall of 1981. The Commission would state that in the event Pawnee is not on line by January 1, 1982, the 40% CWIP Pawnee treatment adopted herein will cease.

In I&S Docket No. 1330, the Commission cautioned that the CWIP treatment adopted therein was not to be considered as an established general policy of the Commission. We would restate that cautionary note in this decision, and also state that this Commission's treatment of CWIP will be examined on a case-by-case basis.

The 40% non-AFUDC offset credit to the income statement with regard to Pawnee, of course, includes, rather than is in addition to, the "slippage," which otherwise would have been attributable to Pawnee. With respect to CWIP other than Pawnee, the Commission will adhere to that treatment of "slippage" (which is actual dollars of current earnings a utility receives when, for any reason and for any period of time, it is allowed to earn a rate of return on a portion of CWIP in rate base without a total dollar-for-dollar offset to those earnings by means of a reciprocal AFUDC credit to income) which we previously have utilized in I&S Docket No. 1116, I&S Docket No. 1200 and I&S Docket No. 1330. As we previously noted, "slippage" is justified to the extent that increased usage of existing customers partially results in the need for new plant. It should also be noted that such treatment tends to minimize the magnitude of the increase in revenue requirements once the plant goes into service.

Once again Public Service has recommended that the Commission allow the Company to normalize tax-book timing differences of the debt

component of AFUDC. As in I&S No. 1330, the Staff did not favor normalizing the tax-book timing differences of the debt component of AFUDC. Essentially, no new justifications were advanced either by Public Service or by the Staff with regard to their previously established positions on this issue. We would comment again that it has not been the practice of the Commission to authorize the normalization of the tax reduction used for tax purposes due to the debt component interest deduction related to AFUDC. In view of the treatment which we are giving to AFUDC, as outlined above, wherein present customers are currently paying a portion of the interest costs of CWIP, the Commission finds and concludes that it should not alter its present methodology of flowing through the tax-book timing differences of the debt component of AFUDC.

C. Cash Working Capital

For a number of years, the Commission has used a so-called formula approach to the cash working capital component of the rate base. The formula approach generally allows the utility to include in rate base that part of working capital represented by 45/365ths of operating and maintenance expenses plus 15/365ths of the cost of purchased power less one-half of annual property taxes and one-third of accrued income taxes.

Neither Public Service nor the Staff of the Commission recommended any change in the formula approach. The Company's request for \$15,552,635 in working capital was criticized by witnesses for certain intervenors. The principal criticism was the lack of a lead-lag study. AMAX witness Madan recommended a balance sheet analysis in order to provide a limitation on working capital to be included in rate base. Mr. Madan, in referring to working capital, included not only cash working capital, but also the materials and supplies account. His analysis of these accounts was based on the rationale that the rate base on which Public Service earns should not exceed capital invested as disclosed by a review of the balance sheet. Theoretically,

of course, the amount of capital invested should equal the rate base. However, this theoretical concept is distorted due to the various tax treatments authorized by Congress for utility investment.

The Commission must exercise its judgment regarding the appropriate methodology to be used to measure cash working capital in the rate base. It is true, as Mr. Madan points out, that the formula approach which the Commission has approved in the past was based on a lead-lag study that was made a number of years ago. It may well be that a current lead-lag study would confirm the formula already in existence. On the other hand, an updated lead-lag study might indicate that changes in the formula are necessary. We prefer the formula approach to the balance sheet approach because it is administratively easier and less burdensome to apply. If we were to adopt a balance sheet approach, as recommended by Mr. Madan, the administrative burden on the Staff of the Commission in the development of the appropriate figures for the various utilities under the jurisdiction of this Commission would be substantial, and it is not clear what benefits, if any, would result. Thus, on balance, we agree that no adjustment need be made in this docket for the formula-ascertained working capital which Public Service has in its rate base. However, the Commission does wish to advise Public Service that it should conduct an updated lead-lag study prior to its next general rate case in order to test the validity of the current formula.

D. Contractor Retentions

Public Service has included Contractor Retentions in CWIP and in rate base in the amount of \$6,986,524. The Staff recommended that Contractor Retentions be removed from rate base in that amount, and we agree.

During the course of a construction project, Public Service withholds funds which are actually payable to the individual contractor. These funds, commonly referred to as Contractor Retentions, are retained

by the company until the completion of that contractor's obligations.

This arrangement is essentially a means of leverage by which Public Service insures that the contractor completes his portion of the construction project. Contractor retentions are a source of zero cost capital, similar to customer advances, which are provided for construction by someone other than the investors. Accordingly, they should be deducted from rate base. Thus we find that the amount of the deductions should be \$6,986,524 (before FERC allocations) or \$6,447,091 (after FERC allocations), as testified to by Staff witness Giardina and by AMAX witness Madan in these proceedings.

E. Customer Advances

Public Service proposes the continued use of a five-year simple average of the dollar amounts of customer advances for construction. In computing that average amount of \$17,026,811, Public Service has used the year-end balances for 1975, 1976, 1977 and 1979, but has not included the balance of customer advances as of June 30, 1980. The Staff contends that the Commission should use the year-end level of customer advances for construction in determining an appropriate year-end rate base for Public Service. The Staff recommends that customer advances for construction at the June 30, 1980 level of \$23,127,610 be removed from the combined department's rate base.

Customer advances for construction represent those funds provided by customers for the extension of services. These advances are essentially a source of cost-free capital for Public Service. The ratepayers should not be required to pay a return on customer advances, and in past cases this Commission has deducted the amounts in the customer advances account from rate base.

In I&S Docket No. 1200, the Commission adopted the present methodology of measuring the amount of customer advances by using the average of the balances of the five previous years. In I&S Docket No. 1330, the Staff recommended removal from rate base of the test year-end

balance in the customer advances account. In Decision No. C80-130, the Commission declined to alter its customer advances methodology so soon after its adoption in I&S Docket No. 1200.

From Exhibit No. 88, it is clear that the balance in the customer advances has increased ten-fold over the past ten years from \$2,235,225 in 1969 to \$23,127,610 as of June 30, 1980. The growth in customer advances for Public Service since 1969 has been steady and substantial and has shown no signs of volatility or extreme fluctuation. In I&S Docket No. 1200, the continuing upward trend in customer advances led the Commission to revise its customer advance methodology. Since the 1977 test year used in I&S Docket No. 1200, the total amount of customer advances has increased from \$16,832,545 to \$23,127,610. This continued upward trend in the amount of customer advances means that the methodology of using the average of the five years does not reflect present conditions. Hence, it is appropriate to change the methodology and now to measure customer advances for construction by using the year-end balance method.

F. Materials and Supplies Related to Construction

GSA witness Kumar proposed to eliminate from rate base and treat as CWIP 85% of Public Service's materials and supplies balance. Mr. Kumar took this position even though he recognized that the Company has an on-going investment in used and useful items needed in connection with various prospects of its construction program. Even though the Commission is not adopting in full the Public Service proposal relating to CWIP, Mr. Kumar's recommendation concerning materials and supplies related to construction is not appropriate. Unlike CWIP balances, which vary as projects are started and placed in service, the materials and supplies balance remains rather constant, is predominantly fuel and inventory items and is not related to any particular construction project. It should therefore be accorded full rate base treatment, rather than treated like CWIP.

G. Operating Reserves

GSA witness Kumar recommended that Public Service's rate base be reduced by \$1,507,000 to recognize funds in operating reserves provided by ratepayers. Mr. Kumar's position was that since these funds are provided by ratepayers, and not by Public Service or its investors, it is inequitable to allow Public Service to earn a return thereon. Although we agree that one possible methodology is to reduce rate base by operating reserves provided by the ratepayers, the Commission prefers to continue to deal with the matter of operating reserves by according them zero cost in the capital structure, rather than in the rate base.

H. Fort St. Vrain Nuclear Generating Station

On April 2, 1968, by Decision No. 71104, in Application No. 22803, the Commission granted Public Service a certificate of public convenience and necessity "to construct, operate and maintain a nuclear-fueled electric generating plant of approximately 330 megawatt (MW) capacity, to be known as the Fort St. Vrain Nuclear Generating Station (hereinafter "Fort St. Vrain") together with the pertinent facilities and to construct, operate and maintain a 230 kilovolt (KV) transmission line from the Fort St. Vrain site near Platteville, Colorado to points near Boulder, Colorado and Fort Lupton, Colorado, and interconnect the proposed plant with its existing transmission system, subject to the condition, however, that such certificate shall be void in the event the United States Atomic Energy Commission (predecessor to the Nuclear Regulatory Commission (NRC)) should deny Public Service a permit to construct, or a license to operate, the proposed nuclear energy generating facility. Decision No. 71104 also provided that the certificate granted for Fort St. Vrain was subject to the condition that in any future proceedings involving rate or valuation of Public Service the Commission may disallow portions of investment and operating expenses which are excessive due to the fact that the plant is a nuclear powered plant rather than a fossil fueled power plant if the allowance of such portions for investment and

operating expenses would adversely affect the rate payer.

Fort St. Vrain was constructed for Public Service by General Dynamics Corporation, through its General Atomic Division, which, through subsequent reorganizations, came to be known as General Atomic Company (General Atomic). Pursuant to the contract, General Atomic was to construct the 330 MW high temperature gas cooled reactor (HTGR) facility, which was guaranteed to be in operation by March 31, 1972 and to operate at 80% capacity factor. Fort St. Vrain did not achieve commercial operation on March 31, 1972 due to a variety of unanticipated occurrences.

On June 27, 1979, Public Service and General Atomic entered into a settlement agreement whereby Public Service accepted the Fort St. Vrain Plant as a 200 MW plant capable of operating at 60% capacity factor. In return for the derating of the plant, General Atomic agreed to pay Public Service approximately \$180 million, consisting of a \$60 million initial payment; five annual payments beginning December 31, 1980 and continuing through December 31, 1984 totaling \$97 million to permit Public Service to replace the lost 130 megawatt capacity; \$23 million for spare parts, services, etc.; and free fuel for the operation of the plant through 1984. The total of \$157 million is designed to compensate Public Service for the need to replace in the mid-1980s the 130 MW of capacity and the free fuel is designed to compensate it for the additional expense incurred in generating and purchasing power in the interim. In addition, Public Service's ratepayers received the benefits of other payments to Public Service by General Atomic for the 1972-1979 delay, and accordingly were protected during this period.

Although for book purposes Fort St. Vrain was deemed to be in commercial operation as of January 1, 1979, Public Service did not actually take responsibility for the plant until the signing of the settlement agreement and the NRC did not consider it to be in commercial operation for its purposes until July 1, 1979. Public Service in I & S

1330, involving a 1978 test year, did not consider Fort St. Vrain to be in rate base but did credit the CWIP balance with the \$60 million payment, thus reducing the earnings which would have otherwise been produced by "slippage."

For the test period ended June 30, 1980, the capacity factor of Fort St. Vrain Plant was 23.5%. For the first nine months of 1980, the capacity factor has increased to 29.5% and the Company anticipates generating 600,000,000 kilowatt hours at Fort St. Vrain during 1980 (a capacity factor of 34.1%). While the test period production expense incurred in connection with Fort St. Vrain was 53 mills per kilowatt hour, that figure had decreased to 31 mills for the first 8 months of 1980. If 600,000,000 Kwh are generated during 1980, the production cost should be about 18.3 mills. Fort St. Vrain was available and generated at Public Service's system peak during both 1979 and 1980, although its contribution to the system peak, approximately 40 MW (at a capacity factor of 20%), was considerably less than that which would be expected from a fossil fuel base load generating plant.

Substantial controversy has arisen in this docket over whether Public Service should be allowed to earn a return on its investment in Fort St. Vrain and to recover the operating and maintenance expenses associated with that facility. Intervenors Concerned Citizens and OCS contended through their witness, David S. Schwartz, that Fort St. Vrain should be excluded from the rate base and the recovery of associated operating expenses be disallowed. Public Service and the Staff of the Commission take the contrary position that Fort St. Vrain should be continued as a part of Public Services rate base.*

* Fort St. Vrain began to be earned on commencing with I & S Docket No. 1420 (May 27, 1980).

Basically, the argument of Concerned Citizens and OCS is that Fort St. Vrain is not used and useful, and that Public Service management has not acted in a prudent manner. Consequently, Concerned Citizens and OCS argue, the risk of failure should be borne by Public Service itself, and not the rate payers.

Dr. Schwartz compared the average capacity factors for all nuclear power plants in the country, the average capacity factors for nuclear power plants operating between zero and 1.9 years, and the operating capacity factors for Fort St. Vrain based upon a maximum capacity of 200 MW. He compared Fort St. Vrain's capacity factors of 23.5-29.5% to the 59.1-63.5 average capacity factor for a nuclear plant of similar age and the 74-83% capacity factor of Public Service's first year coal fired plants. In Dr. Schwartz's view, Fort St. Vrain's comparative low capacity factors indicated that, in fact, it was not used and useful.

As a general regulatory principal, it is, of course, quite true that plant must be "used and useful" in order to be included in the rate base. As the Colorado Supreme Court said several years ago:

"The test of whether the value of any given property shall be included in the rate base of a public utility is whether it is used and useful in supplying the commodity or service of the utility has undertaken to furnish."
Glenwood Light & Power Co. v. City of Glenwood Springs, 98 Colo. 340, 343, 55 P.2d 1339 (1936).

As is often the case, however, the "used and useful" standard is easier to articulate in general terms than to apply in specific circumstances. As this Commission has noted in permitting current earnings on 40% of the CWIP balance of Public Service's Pawnee Plant, the "used and useful" concept has not always been applied strictly. See Decision No. C80-130 at page 23. In his testimony in this case, Dr. Schwartz recommended the adoption of a specific capacity factor range to determine the eligibility of a nuclear power plant for rate base treatment. In Dr. Schwartz's view, this Commission should adopt as a standard a 65%-70% capacity factor to

measure whether an electric generating facility is "used and useful". Inasmuch as Fort St. Vrain did not achieve a 65%-70% capacity factor, Dr. Schwartz concluded that Fort St. Vrain was not used and useful, and hence, that the allowance of earnings on the plant and the recovery of expenses associated with the plant would be adverse to the ratepayers. The questions presented by Dr. Schwartz's recommendation are: (1) whether it would be appropriate for this Commission to employ any specific standard (a) with respect to a plant's operations before its maturity or (b) at any time, and (2) if such standard is appropriate, whether the specific standard recommended by Dr. Schwartz is the appropriate one.

A review of exhibits 118 and 119 reveals the extent to which nuclear facilities failed to meet the proposed standard. Exhibit 118 indicates that in 1977 the average capacity factor achieved by plants with boiling water reactors was 55.6% (using "Maximum Dependable Capacity" or "MDC" as a measure) and 54.1% (using "Design Megawatts Electrical Net" or "NWC" as a measure). Eighteen of twenty-five plants with boiling water reactors failed to achieve the 65% capacity factor "MDC or MWe) at the lower end of the range and twenty of twenty-five plants failed to achieve the 70% capacity factor (MDC or MWe) at the upper end of the range.

Page 19 of exhibit 118 shows that in 1977 the average capacity factor achieved by plants with pressurized water reactors was 70.6% (MDC) and 67.8% (MWe). Ten of thirty-six plants with pressurized water reactors failed to achieve the 65% capacity factor (MDC or MWe) at the lower end of the range, sixteen of thirty-six plants failed to achieve the 70% capacity factor (MDC) and twenty of thirty-six plants failed to reach 70% (MWe) at the upper end of the range.

The data contained on pages 17 and 18 of exhibit 119 reveals less of a dramatic shortfall for 1978. Nevertheless, it clearly illustrates that a substantial number of nuclear facilities fell short of the recommended capacity factor range.

Boiled down to its essential argument, Dr. Schwartz contends Fort St. Vrain should be removed from rate base because it has not attained what, in his view, are acceptable capacity factor levels. Public Service and the Staff, on the other hand, essentially argue that it would be wrong to remove Ft. St. Vrain since it is still in its maturation period, and the capacity factor levels advocated by Dr. Schwartz are totally unrealistic during such a period.

We do not consider the "used and useful" concept an inflexible rule. We agree with the Pennsylvania Public Utility Commission that the "used and useful" concept is a "flexible rate-making tool whose definition to some extent is shaped by the individual circumstances of each case." See Pennsylvania Public Utility Commission vs. Metropolitan Edison Company, p. 23,117 Utility Law Reporter (May 23, 1980).

In light of the foregoing analysis, we are not persuaded, at this time, that the capacity factor level recommended by Dr. Schwartz is appropriate for nuclear plants during a maturation period. We also recognize that the cases which he cited for rate-base removal do not fit the Fort St. Vrain situation since the plants which Dr. Schwartz cited as being removed from rate base, either were not generating net electricity or had been out of service for extended periods of time. Additionally, we find that removal of Fort St. Vrain, at this time, would be premature inasmuch as its maturation period has not run its course.

Finally, we further recognize that removal of Fort St. Vrain could result in severe and adverse financial impacts on the Company and its ratepayers by increased capital costs flowing from lower coverages and increased risks.

During the time when Fort St. Vrain is in its maturation period, it would be inappropriate for this Commission to deny Public Service its recovery of the operating expenses associated therewith. A different treatment, however, is appropriate with respect to the investment return

associated with Fort St. Vrain during its maturation period. As already indicated, inasmuch as the Commission is not going to remove Fort St. Vrain from rate base, at this time, during its maturation period, Public Service will have the opportunity to earn, at its rate base rate of return hereinafter authorized, on its net jurisdictional investment in Fort St. Vrain. In order to protect the ratepayers of Public Service

from the investment risk that Fort St. Vrain may not turn out to be a used and useful plant following a maturation period, we hereinafter shall order that Public Service escrow the revenues derived by it which are related to the net jurisdictional investment return on Fort St. Vrain. Public Service's investment in Fort St. Vrain is \$107,000,000. After depreciation of \$3,953,483 and the portion related to FERC in the amount of \$8,006,714 is removed, Public Service's net jurisdictional investment in Fort St. Vrain is \$95,039,803. The annual rate base rate of return at 10.19%, hereinafter found to be reasonable, would be \$9,684,556 per year or \$807,046 per month. Public Service shall escrow the latter amount on a monthly basis separately from the general funds of the Company for ultimate disposition.

As to the ultimate disposition of the escrowed funds derived from return on Fort St. Vrain rate base, it is our judgment, we find that Fort St. Vrain should attain an annual capacity factor of no less than 50%, based upon 200 MW net capacity, exclusive of scheduled downtime for maintenance and refueling, and shutdowns ordered by the NRC if Fort St. Vrain matures as Public Service claims it will. This 50% capacity factor, as above defined, should be attained by Fort St. Vrain on or before December 31, 1981. If Public Service, with respect to Fort

* It should be made clear that the 50% capacity factor should not be considered as an ultimate goal. Its use herein is for the purpose of determining whether the escrowed funds relating to Fort St. Vrain will be released to the Company or refunded to the ratepayers. Furthermore, we would anticipate that Fort St. Vrain, over time, should reach capacity factors above 50%.

St. Vrain, has obtained an annual capacity factor of 50%, as above defined, then the escrowed funds relating to its return on net jurisdictional investment in Fort St. Vrain will be released to the Company subsequent to January 1, 1982.* If Fort St. Vrain fails to reach the 50% capacity, as above defined, then the escrowed funds shall be refunded with interest at the rate of 10.19% to the ratepayers of Public Service. The Commission, of course, strongly believes that the benefits to Public Service itself and to its ratepayers will be greatly enhanced by the successful operation of Fort St. Vrain and its permanent incorporation into rate base. The Commission also recognizes that the escrowing, initially, of the funds related to return on net jurisdictional investment in Fort St. Vrain will reduce the cash flow of the Company. On the other hand, if Fort St. Vrain is successful in obtaining the capacity requirements which we find to be evidence of improvement due to maturation by the end of 1981, the escrowed funds will be released to Public Service and further improve its cash flow.

In addition, it is the Commission's intention from the date of January 1, 1982, to compare the costs of producing power at Fort St. Vrain to the costs of fossil generated power in the Public Service system and/or the costs of purchased power. If the costs of producing power at Fort St. Vrain exceed these costs, some or all of the differential may be disallowed as a ratepayer expense in future proceedings.

We hereinafter shall order Public Service, on or before the end of each calendar month, to escrow \$807,046 in a separate memorandum account and to invest the funds in said memorandum account in government securities or certificates of deposits of financial institutions whose deposits are guaranteed by the instrumentalities of the United States government, or in such other investment mediums as may be approved by Commission order. Public Service shall report quarterly, in writing, to the Commission on the status of said memorandum account by stating the amount therein, and how said amount is invested.

With regard to Fort St. Vrain rate base, the Staff has recommended, and we agree, that the General Atomic penalty payment (net of FERC allocation) to Public Service, in the amount of \$2,174,299 and associated AFUDC of \$208,080, due on or before December 31, 1980, should be removed from rate base, inasmuch as the amount was known and measurable in the test period.

Summary of Year-End Rate Base

Premises considered, we find that year-end rate base for Public Service's Electric Department totals \$1,399,239,160 and is comprised of the following items and amounts:

June 30, 1980 Electric Year-End Rate Base

Utility Plant in Service	\$1,426,235,769
Utility Plant Held For Future Use	1,485,281
Construction Work in Progress	369,205,298
Common Utility Plant in Service Allocated	42,109,364
Prepayments	2,069,614
Utility Materials and Supplies	89,529,114
Customer Advances for Construction	<u>(17,304,035)</u>
Year-End Gross Original Cost Rate Base	\$1,913,330,405
Reserve for Depreciation and Amortization	(396,211,073)
Rate Base Allocated to FERC Jurisdictional Sales	<u>(117,880,172)</u>
Year-End Net Original Cost Rate Base	<u>\$1,399,239,160</u>

Premises considered, we find that year-end rate base for Public Service's Gas Department totals \$231,519,355 and is comprised of the following items and amounts:

June 30, 1980 Gas Year-End Rate Base

Utility Plant in Service	\$ 294,425,179
Utility Plant Held for Future Use	166,054
Construction Work in Progress	2,313,733
Common Utility Plant in Service Allocated	30,618,381
Prepayments	364,205
Utility Materials and Supplies	4,058,966
Cash Working Capital Requirements	15,198,932
Customer Advances for Construction	<u>(5,805,487)</u>
Year-End Gross Original Coat Rate Base	\$ 341,339,963
Reserve for Depreciation and Amorization	(109,820,608)
Year-End Net Original Cost Rate Base	<u>\$231,519,355</u>

Premises considered, we find that the year-end rate base for Public Service's Steam Department totals \$6,218,355 and is comprised of the following items and amounts:

June 10, 1980 Steam Year-End Rate Base

Utility Plant in Service	\$ 9,375,145
Utility Plant Held for Future Use	16,573
Construction Work in Progress	15,324
Common Utility Plant in Service Allocated	10,511
Prepayments	670,574
Cash Work Capital Requirements	312,359
Customer Advances for Construction	<u>(18,088)</u>
Year-End Gross Original Cost Rate Base	\$10,382,398
Reserve for Depreciation and Amortization	<u>(4,164,043)</u>
Year-End Net Original Cost Rate Base	<u>\$6,218,355</u>

We find that the combined year-end rate base of the Electric, Gas, and Steam departments totals \$1,636,976,870 and is comprised of the following items and amounts:

June 30, 1980 Combined Year-End Rate Base

Utility Plant in Service	\$ 1,730,036,093
Utility Plant Held for Future Use	1,651,335
Construction Work in Progress	371,535,604
Common Utility Plant in Service Allocated	72,743,069
Prepayments	2,444,330
Utility Material and Supplies	94,258,654
Cash Working Capital Requirements	15,511,291
Customer Advances for Construction	<u>(23,127,610)</u>
Year-End Gross Original Cost Rate Base	\$ 2,265,052,766
Reserve for Depreciation and Amortization	<u>(510,195,724)</u>
Rate Base Allocated to FERC Jurisdictional Sales	<u>(117,880,172)</u>
Year-End Net Original Cost Rate Base	<u>\$1,636,976,870</u>

VI.

RATE OF RETURN

A. Capital Structure

This Commission has in the past utilized for ratemaking purposes the capital structure of Public Service existing at the end of the test period. In this Docket Public Service proposes the use of a capital structure as of December 31, 1979. According to Public Service such a capital structure is more in line with the future capitalization objectives of Company management. The Staff and GSA recommend that the Commission use the capital structure of this Company as of June 30, 1980 -- the end of the test period. We agree that this capital structure reflects the actual company experience, is consistent with past Commission decisions and minimizes possible manipulation by the utility of its capital ratio.

In addition to using the June 30, 1980 capitalization for computing its recommended capital structure in this docket, the Staff has proposed two adjustments. The Staff proposed that a \$25 million out-of-period sale of preferred stock be included in the capital structure and that short term debt be eliminated from the capital structure.

The out-of-period sale of preferred stock took place on July 11, 1980, eleven days after the end of the test period. Both the amount of the stock issue and the dividend rate were known and certain within the test period because the terms of the sale were negotiated before the end of the test period. See; In re Mountain States Telephone & Telegraph Co., I&S Docket 1400, Decision No. C80-1784, page 31-32 (Sept. 16, 1980).

We agree that it is appropriate to eliminate short term debt from the capital structure for several reasons. First, the level of short term debt fluctuates greatly during any particular period. For example, the level of short term debt for this company varied from \$1 million in July 1979 to \$111 million in February, 1980. Second, short term

debt is nearly always replaced by the issuance of long term debt and common and preferred stock. Finally, the cost of short term financing is extremely volatile. The cost of short term debt for this company was 14.72% as of May 31, 1980, but dropped to 10.37% by June 30, 1980 -- a fluctuation of 4% in a little over three months.

We find that the following is the appropriate capital structure for Public Service:

	<u>Capitalization</u>	<u>Ratio</u>
Long Term Debt	\$ 787,802,873	49.44%
Preferred Stock	\$ 229,400,000	14.40%
Common Equity	\$ 551,596,133	34.62%
Reserves & Deferred Taxes	\$ 24,567,709	<u>1.54%</u>
Total	\$1,593,366,715	100.00%

B. Cost of Long Term Debt and Preferred Stock

The cost of long term debt is a historic cost that is readily obtained from the Company's books and records. We find that the cost of long term debt is 7.63%.

The cost of preferred stock is likewise a historic cost readily obtainable from the Company's books and records. However, in this proceeding the Staff disagrees with the Company's computation of the cost of preferred stock. It is the Staff's position that the Commission should recognize the effect on the cost of preferred stock of the \$25

million preferred stock issue that took place on July 11, 1980. The dividend rate on the July 11th issue was 12.5%

Both the amount of the stock to be issued and the dividend rate on the issued stock were known and measurable within the test period since the terms of the sale were negotiated prior to the end of the test period. Accordingly, failure to recognize the effect of this issuance contradicts the regulatory policy of recognizing known and measurable changes in expense levels when setting rates based on a historic test year.

We find that weighted average cost of preferred stock is 7.42%, although Public Service recommended that the Commission adopt 6.78% as the weighted average cost of preferred stock. This latter figure excluded the \$25 million July, 1980 stock issue and fails to reflect known conditions that will exist during the period when the rates set in this proceeding will be in effect.

C. Rate of Return on Equity

As in the past, the parties were not in agreement with respect to the proper cost to be assigned to equity. The range of recommended returns on equity ranged from 14.80% on the low side to 17.0% on the high side.

The determination of the cost of the common stock portion of a utility's capital is a difficult and complex task, since the utility has no fixed contractual obligation to pay dividends to its common shareholders. To be sure, equity capital has a market cost in the sense that there is always a going rate of compensation which investors expect to receive for providing equity capital, but it is not a cost that is directly observable from the market or accounting data. Whereas a purchaser of senior securities acquires a right to a contractual return, a purchaser of common stock in a utility simply acquires a claim on the utility's future residual revenue after over-all costs, including the carrying cost of debt and preferred stock, have been met. This

essentially venturesome claim is capitalized in the market price of the stock. Conceptually, then, the true cost of common stock is the discount rate equating the market price of the stock with a typical investor's

estimate of the income stream, including a possible capital gain or loss, which he or she might reasonably expect to receive as a shareholder.

A determination of a reasonable discount rate, adjusted as necessary for market pressure on new stock issues and underwriting costs, is implicit in every regulatory decision in which an allowance for a cost of equity capital is included as a component of the approved rate of return on a utility's rate base. Although theoretically it might be said that there is no cost for utility capital raised by common stock since there is no contractual right of a common shareholder to receive any dividend return, it is obvious that no reasonable investor will entrust his capital funds to a utility, by purchasing common stock unless he can expect to obtain a reasonable return on his investment.

On the basis of the record made in this proceeding we find that a rate of return on Public Service's rate base of 10.19% and a rate of return of 15.45% on equity is fair and reasonable, sufficient to maintain financial integrity, to attract equity capital in today's market, and commensurate with rates of return on investments in other enterprises having corresponding risks.

As in the past, the Commission concludes that the "discounted cash flow" (DCF) methodology is an acceptable one for deriving fair rate of return on common equity. The Commission recognizes that other methodologies for arriving at returns on equity have been developed; however, such other methodologies have not been formally advanced by any of the parties herein. All rate of return witnesses in this docket used the DCF methodology to measure stockholder expectations. The DCF methodology basically states that the capitalization rate for a particular stock is equal to the dividend yield thereon plus the expected growth in the price

of the stock.

Even though each of the rate of return witnesses used a DCF methodology, their respective conclusions were not in agreement. This is not surprising given the existence of variations in the application of the DCF methodology, and the corresponding variations and results due to differences: (1) the time frame during which the dividend yield is to be calculated, and (2) the ability to use any of the following as a proxy for growth: (a) dividend yield, (b) book value of the stock, or (c) earnings.

It should be noted that the DCF basically deals with the so-called "bare cost" of equity. The bare cost of equity then is usually adjusted to take into consideration such factors as market pressure, selling cost, attrition, and the ability to sell the issues of common stock without dilution of existing shares of stock.

With respect to the issue of the bare cost of equity the following table summarizes the end result found by the various witnesses:

<u>WITNESS</u>	<u>BARE COST OF EQUITY</u>
Bumpus (Public Service)	15.99% to 16.99%
Livingston (GSA)	14.80% to 15.80%
Fleming (Staff)	14.35% to 15.35%

With respect to the range of return on equity, a summary of the result of the various witnesses was as follows:

<u>WITNESS</u>	<u>RETURN ON EQUITY</u>	<u>OVERALL RETURN ON RATE BASE</u>
Bumpus (Public Service)	17.0%	10.75%
Livingston (GSA)	14.8% (old equity) 15.3% (new equity)	10.22%
Fleming (Staff)	14.95 - 15.95%	10.02 - 10.36%

For purposes of this docket, we find that the testimony of Staff witness Fleming most nearly approximates a realistic range with respect to cost of equity. The Staff's derivation of a return on common equity for Public Service was based primarily on a DCF analysis for selected comparable companies and Moody's 24 Utilities. The primary factor upon which Mr. Fleming

relied in the selection of comparable companies was each company's bond rating. It is, of course, true that it is almost impossible to find companies with absolutely identical risks. However, ratings by rating agencies offer a visible measurement of relative risks. Since the bond rating is the most widely recognized of agency ratings in the company's securities, it was appropriate for Mr. Fleming to use it as a primary determinant in making a selection of comparable companies. The second criterion relied upon by Mr. Fleming was the source of revenues, that is, gas sales and electric sales. The companies selected by Mr. Fleming received over 15% of their revenues from the sale of gas to the ultimate consumer. Since bond ratings are relative measurements of the risk between entities in the same business, the source of revenues is a valid second criterion of comparability.

Staff witness Fleming, in measuring current dividend yield, used periods subsequent to February and March, 1980. This latter period, we all recognize, was one in which interest rates and inflation reached unparalleled levels in the recent economic history of this country. The periods selected by Mr. Fleming for determining current dividend yield were a sixteen (16) week period ended September 5, 1980 and two annual periods ending August, 1980 and June, 1980 for each of the comparable companies. Additionally, Mr. Fleming used a three (3) month period for Moody's 24 Utilities for the period ending August, 1980 and two annual period for the years identical to the ones used for the comparable companies.

In I&S Docket No. 1330, the Commission adopted a sixteen (16) week time period in establishing a bare cost rate of equity for Public Service. Review of the volatile nature of today's market, leads to conclude that a recent time period should continue to weigh heavily in our analysis of dividend yield. Mr. Fleming's analysis indicated that the average sixteen (16) week yield for the ten comparable companies was 11.39%, while the three (3) month yield for Moody's 24 Utility group was 11.35%. Based

upon that information, it was Mr. Fleming's determination that a yield of 11.35% was representative of current investor expectations and he used that yield in calculating the bare cost rate of equity for Public Service.

In determining the growth component used in his DCF analysis, Mr. Fleming did not rely strictly upon growth in book value per share as the Staff has done in past cases. At this time and for this Company, we agree with Mr. Fleming that during the past five years utility stocks have sold substantially below book value, and that this repeated sale of additional common stock below the book value of existing common stock has diluted the investment of existing shareholders. Although the investor realizes that he is buying stock at a price below the book value, it can be reasonably assumed that he does not expect the market price of stock to continue to decline in the future. Thus expectations of continued decline of the market price would cause yields to be substantially above what they are currently. Mr. Fleming's Schedule No. 4 indicated that the current yield on utility stocks is below the current yield on AAA utility bonds. To recommend no growth or negative growth in a DCF analysis would imply that the investor in utility stocks is totally satisfied with his common stock earning a current yield below the yield available through investment in AAA bonds. The implication is that the investor requires no compensation for the additional risk to which he subjects his funds when investing in common stock. It is clear that such an implication is illogical. We agree with Mr. Fleming that an investor does not expect continued erosion in the amount he can receive upon selling his stock and in fact he expects some appreciation.

Mr. Fleming examined historic growth in book value per share, earnings per share, and dividends per share. He calculated the historic growth in these three variables for a ten year period and for a five year period ending December 31, 1979, using both a least squares methodology and a compound growth methodology. The mean of the growth rates for the

ten comparable companies was 3.30%. The mean of the growth rates for Moody's 24 Utilities was 3.31%. The means of the least square's growth rates were 3.17% for the ten comparable companies and 3.32% from Moody's 24 Utilities. Based upon his analysis in the application of his independent judgment, Mr. Fleming determined that the investor expects a growth rate in the range of 3% to 4%. In this docket the Staff did rely more heavily upon growth in dividends because growth in dividends has shown more consistency than growth in earnings per share or growth in book value per share. Moreover growth in dividends is immediately apparent to and measurable by the investor. It is also true that payout ratios for utilities have not shown any great dramatic change over recent periods which would be some indication that management has not manipulated its dividend policy in order to affect the authorized rate of return.

The Staff also recommended, and we concur, that a five percent (5%) markup to the dividend yield is appropriate. On average, the issuance costs of common stock for Public Service have been approximately four percent (4%) of the total receipts of the sale for the last five issues. Taking that figure into consideration, Staff witness Fleming recommended a markup of five percent (5%) on the dividend yield in order to cover reasonable expectations of both selling expense and market pressure. This markup would result in a .6% increase in the return on equity. ($11.35 \text{ divided by } .95 = 11.95$, $11.95 \text{ minus } 11.35 = .6$)

Public Service witness Bumpus advocated an adjustment of ten percent (10%) to his recommended dividend yield in order to cover for market pressure, flotation costs and selling costs. GSA witness Livingston utilized an adjustment of four (4%) and limited the adjustment to shares of common equity to be issued in the near future. Dr. Livingston relied on the testimony and recommendation of GSA witness Winter who testified that an adjustment of four percent (4%) to reflect flotation costs and selling costs only was sufficient and then only should be applicable to future sales of common stock. Dr. Winter's rationale for excluding

a market pressure factor was based upon an analysis of fifty-five equity offerings by public utility companies for the twenty-five week day period prior to the offering date. It was Dr. Winter's opinion that the announcement to the public usually was made within that twenty-five week day period and this in turn was based upon a Securities and Exchange Commission (SEC) requirement that the announcement to the public precede the offering by twenty days or more. However, Dr. Winter was unable to present any concrete evidence to show that the analysis he made in fact was limited to offerings made no more than twenty-five week days prior to the offering date.

With a range of recommended adjustments from four to ten percent (4% to 10%) to the dividend yield portion of the rate of return on equity, we find that a five percent (5%) adjustment to the dividend yield is reasonable. At a four percent (4%) growth rate the fair return on equity would be equal to 15.95% ($11.35\% + .60\% + 4\% = 15.95\%$). At a three percent (3%) growth rate the fair return on equity would be 14.95% ($11.35\% + .60\% + 3\% = 14.95\%$). We find that the midpoint of the range between 14.95% and 15.95%, namely, 15.45%, is a fair rate of return on Public Service equity.

VII

REVENUE REQUIREMENT

In order to determine the revenue requirement, it is necessary to determine the required net operating earnings based upon Public Service's rate base. We have found that the proper rate of return on rate base is 10.19%, and the proper return on equity is 15.45%. This means that the required total authorized net operating earnings for Public Service are: $\$166,807,942$ ($\$1,636,976,870 \times 10.19\% = \$166,807,942$).

It is necessary to subtract the pro forma net operating earnings of Public Service in the test year from the required net operating earnings in order to determine the indicated net earnings

deficiency. Certain adjustments to determine the pro forma net operating earnings of Public Service for the test year have been proposed, which proposed adjustments are discussed below.

A. Advertising

In recent years, Public Service's advertising expenditures have been one of the major operating expense issues in rate cases before this Commission. In I&S Docket 1330, this Commission restated its past standards that Public Service, in order to have advertising expenses allowed for rate making purposes, was required to demonstrate that the advertising was informative, objective and beneficial to the ratepayers. However, the Commission also suggested that Public Service may be well advised to identify more specifically the cost of each of its advertisements so that the Commission would have the opportunity of rendering a more precise judgment in this area. In response to that suggestion, Public Service, in this docket, presented an exhibit which not only contained all the advertising for the twelve months ending June 30, 1980, but also a breakdown of the cost of each ad.

Staff witness Jorgensen and GSA witness Kumar suggested that all advertising be eliminated for rate making purposes. In their view, disallowance of all advertising expense would be justified on the basis of an absence of a cost benefit analysis thereof, and also on the basis that the company's poor financial condition did not justify making these advertising expenditures.

We are not convinced that a cost benefit analysis necessarily would be beneficial to the ratepayers, and might even be harmful inasmuch as the cost of such an analysis ultimately would have to be borne by the ratepayers. There was no hard evidence presented in this hearing which would form a basis upon which the Commission could make a positive finding that a cost benefit analysis with respect to Public Service's advertising would be beneficial to the ratepayers. Furthermore, a wholesale disallowance of Public Service's advertising expenses would, in effect,

effectively cut off the Company from communicating with its customers on matters concerning conservation, safety, the existence of various governmental assistance programs, budget billing, third party notification, ratepayer assistance and others.

The Commission itself reviewed each of the ads used by Public Service during the test year and we find that advertising expenditures in the amount of \$846,777 with regard to the electric department and \$732,148 with regard to the gas department are proper advertising expenditures and of benefit to the ratepayers. We further find that none of the advertising approval for the above-the-line treatment herein is promotional or political advertising prohibited by Section 113(6)(5) of the Public Utility Regulatory Policies Act of 1978 ("PURPA") from non-shareholder or non-owner recovery.

Advertising with respect to safety, and public information on various governmental or Company sponsored programs which will benefit the ratepayers are proper. Information on conservation as it relates to specific appliances or appliance devices certainly is proper. However, we do not find that conservation ads which are of a generalized nature are of any further value to the ratepayer, and accordingly general conservation type ads will not be allowed as an above-the-line operating expense.

B. Annualization of Year End Revenues and Expenses

Once again, in this Docket, the argument has been raised that year-end revenues and expenses should be annualized to "Match" year-end rate base. As we said before, such a procedure (although conceptually appealing) is impractical since year-end expenses and revenues are not representative of the actual revenues and expenses experienced over a twelve-month period. Investment is a stock, whereas revenues and expenses are a flow, and to measure the latter in a single period in time and increase by a factor of twelve simply magnifies what may be an unrepresentative figure.

In any event GSA witness Kumar's annualization adjustment is overstated because he used as the variable cost for the extra KWH only the fuel cost and also because, contrary to his belief, depreciation and other operating expenses such as deferred taxes and property taxes were not brought to year-end levels in the Company's filing. Bringing depreciation expenses alone to year-end would increase revenue requirements by over \$2.4 million dollars.

C. Property Casualty Losses

Rather than permitting Public Service to expense for rate case purposes during any particular test period whatever property casualty losses may have resulted from storms and other accidents during that test period, the Commission historically has required Public Service to use the most recent four year average. Both Public Service and the Staff of the Commission advocate continuation of that policy. GSA witness Kumar looked at the four year end balances and determined that the two earliest ones were abnormal and he thereby proposed an adjustment utilizing the average of the last two years. However, the Public Service witness Midwinter in rebuttal sponsored an exhibit which set forth the property casualty losses incurred over the past ten years together with four and five year averages. This exhibit clearly indicated that it is the last two years data, not the previous eight year data, which are abnormal. We find that the continuation of the four year average method with regard to property casualty losses is appropriate.

D. Freight Expense Annualization

Public Service has proposed an adjustment of \$3,935,053 to other production expenses for the electric department to annualize the freight costs on coal burned during the test year. The Staff has proposed that this adjustment be removed from other production expense.

The Commission Decision No. C80-1592, dated August 12, 1980, established an electric cost adjustment (ECA) for Public Service. Through the ECA Public Service will recover increases in its freight expense for generating fuel on a monthly basis. Because increased freight expenses are now a component of the monthly ECA pass-on, it should not be an item to be recovered through base rates. The recovery of increased freight expense through the ECA is much less cumbersome than their collection through base rates, because collection through base rates would require a corresponding corrective adjustment each month to the ECA. We also agree that the weighted average method of computing freight cost for coal burned each month is a more appropriate methodology than use of an annualized year end method of computing freight cost. The year end computation annualizes freight expenses at the highest level during the test year and can overstate the amount of the annualization adjustment for freight expense.

GSA witness Kumar also recommended that some additional \$6,000,000 of other fuel related costs be removed inasmuch as, in his view, the same will now be collected through the ECA. Inasmuch as Mr. Kumar did not delineate what these additional six (6) million dollars worth of fuel related costs were, the Commission has no basis by which to make this proposed adjustment.

E. Public Affairs Department

OCS and PUA advocated the elimination of \$731,000 as a rate making expense related to the Public Affairs Department. GSA witness Kumar proposed that approximately 54% of the \$731,000 expense, which is related to electric department operations, be disallowed. Here again, as in advertising, the parties disagreed as to whether the ratepayers benefit by these expenditures. The mere allegation that these expenses are not beneficial to the ratepayers is not persuasive. However, when specific expenditures are identified concerning which there is disagreement among the parties as to ratepayer benefit, the Commission is

in a position to render its judgment on the matter. For example, the evidence showed that H. Peter Metzger, who is the head of Public Service's Public Affairs Department, expended considerable time writing two pamphlets which strongly express a particular social and economic point of view. It is quite clear that the in kind salary and office expenses related to the project of writing these two pamphlets are not such that should be supported by the ratepayers, and accordingly, the expenditures in the amount of \$3,200 with regard to these two pamphlets (which are identified in exhibits 58 and 65) properly should be disallowed.

If utility expenditures are to be attacked, a solid factual foundation should be laid. It may well be, in certain instances, that general conclusions can be drawn from specific evidentiary examples. However, we would warn that a proper nexus must be shown which would justify this approval. In the absence of a clear showing of a proper factual and legal nexus, this Commission will have no alternative but to deal only with the specific examples.

F. Edison Electric Institute Dues

GSA Witness Kumar proposed that Edison Electric Institute (EEI) dues paid by Public Service be eliminated as an operating expense. However, the source of Mr. Kumar's concern about EEI dues is that association's lobbying and advertising programs which Public Service already has eliminated for rate making purposes by recording the percentage of its dues determined to be related to "grass roots", lobbying below the line initially and also by eliminating the contribution to EEI's advertising program. Inasmuch as Mr. Kumar did not advance any further grounds for the elimination of the balance of the Company's dues payments to EEI, the Commission has no factual basis upon which we could accept his proposed adjustments, and accordingly the same is rejected.

G. Bank Line Commitment Fees

Staff witness Jorgensen and GSA witness Kumar proposed that bank line commitment fees in the amount of \$730,552 be eliminated from administrative and general expense. The argument is that bank line commitment fees are part of the cost of short term debt. They point out that this Commission, in the past, has not allowed Public Service to recover interest lost on compensating bank balances which is also a cost of short term debt, because interest on short term debt is not recovered through the revenue requirement. They further argue that short term debt and its related interest rates and other costs fluctuate throughout a given period. Short term debt is rolled over with permanent long term financing on an annual basis. The cost associated with this permanent associated with this financing are recoverable through the revenue requirement because by their very nature the cost of a long term debt issue is fixed, and, therefore, is no longer subject to volatility. Basically, then, the Staff and GSA equate compensating bank balances with bank line commitment fees. In a conceptual sense, their argument has some validity. However, we are not persuaded that bank line commitment fees should be eliminated as an operating expense inasmuch as they are, unlike compensating bank balances, an out-of-pocket expense actually incurred by the Company. The mere fact that they are related to short term interest does not obviate the fact that these are funds which Public Service was compelled to, and in fact, did expend. Accordingly, we find that these expenditures were proper, and should be allowed.

H. Colorado Safety Association Dues

Staff witness Jorgenson recommended that administrative and general expense be reduced by \$6,000 which represents Public Service's dues to the Colorado Safety Association for the past year. We agree, and so find, that the dues paid to this association do not directly benefit the ratepayers and should be placed below the line.

I. Adjustment to Deferred Taxes

GSA witness Kumar advocated an adjustment to taxes deferred at the 48% Federal Income Tax rate to treat them as if they had been deferred at a Federal Income Tax rate of 46%. However, Mr. Kumar acknowledged that the taxes deferred by Public Service at the 48% rate will be fed back at the appropriate time of service at that same rate. In view of Public Service's practice of deferring and feeding back taxes on a vintage basis, we agree that there is no need for Mr. Kumar's proposed adjustment, and accordingly it is not adopted.

J. Unused Investment Tax Credit

Public Service has for the past few years been able to use all of the Federal investment tax credits generated because of the carryback provisions of the Internal Revenue Code. In 1979, however, Public Service, having exhausted its carryback ability, was unable to use all of the investment tax credit generated. Although Public Service has not yet received the tax benefit of the investment tax credit, AMAX witness Maden proposed that the rates be set as though it had apparently on a theory that 1979 was an aberration. However, we find that Public Service's inability to use the income tax credit currently in 1979 was not in fact an aberration and we further find that the Company conceivably may face a situation where it will never be able to use a portion of the income tax credit available to it. Accordingly we find that Mr. Maden's proposed adjustment which treats all generated investment tax credits as having been available to and used by the Company as inappropriate and inequitable.

K. Interest Expense Annualization and Increased Interest on Income Taxes

When pro forma adjustments have an effect on taxable income, it is appropriate to reflect these tax effects by adjustments to Federal and State Income Tax expenses. Interest expense on long-term debt is deductible from Federal and State income taxes. Public Service in this Docket failed to adjust Federal and State income tax expenses for changes resulting in

the annualization of the interest expense on long-term debt. Staff witness Jorgensen calculated an annualized interest expense for long-term debt of \$8,833,782 and proposed an adjustment to Federal and State income tax expenses to account for the impact of annualizing that interest expense. Mr. Jorgensen's total proposed income tax adjustment for Federal taxes was \$3,860,363 and for State income taxes was \$441,690.

During rebuttal testimony Public Service witness Midwinter agreed that an adjustment to Federal and State income tax expense was necessary to reflect the annualization of the interest expense. Mr. Midwinter, however, disagreed with the method used by Mr. Jorgensen to calculate the adjustment. Mr. Midwinter agreed with Mr. Jorgensen that use of an average rate base ordinarily represented the interest on long-term debt that would be accrued during the test year. Mr. Midwinter believed that Mr. Jorgensen should not have used only the composite cost of long-term debt, but also should have included the cost of short-term debt. Public Service witness Midwinter sponsored Exhibit No. 128 which sets forth what he considered to be the appropriate adjustment to recognize the reduced taxes resulting from the additional long-term debt, while at the same time taking into account the fact that short-term outstanding at various times during the test period produced interest expense which, while not considered for ratemaking purposes, was tax deductible and therefore reduced book income taxes. By basing the adjustment on the difference between the annualized interest expense of both the total short and long-term interest paid during the test year, Mr. Midwinter properly accounted for the retirement during the test period of short-term debt. We find that the methodology presented by Mr. Midwinter is the appropriate one to annualize additional interest expense and the tax effects related thereto.

L. Decommissioning Costs

Public Service Witness Hock proposed a depreciation rate for Fort St. Vrain of 4%. There was no disagreement among the parties

that based upon a 30-year expected life, 3.3% was appropriate with respect to the depreciation rate itself. However, Public Service also proposed an additional .67% depreciation which figure represents a 20% negative salvage value component to provide funds for the decommissioning of the Fort St. Vrain plant. Mr. Hock proposed that the .67% incremental amount for Fort St. Vrain decommissioning, like all funds derived from the non-cash expense of depreciation, be invested in revenue producing facilities of Public Service which, in Public Service's view, will insure the availability of funds to pay for decommissioning costs.

Staff witness Giardina testified that the impact on the depreciation reserves resulting from increasing the depreciation rate from 3.33% to 4% amounts to \$662,208 in the test year and Staff witness Jorgensen testified that the corresponding effect on depreciation expense was \$500,400. Staff witness Richards described the six basic alternative methods which may be used to fund decommissioning of nuclear power plants. He further testified that the NRC had not yet selected the method which should be used by utility companies to provide decommissioning funds for nuclear power plants. Accordingly, the Staff recommended that this Commission reject the increase in the composite depreciation rate for Fort St. Vrain in the amount of .67% because the Company's choice of an unfunded reserve decommissioning method is premature. Mr. Richards pointed out that under present Internal Revenue Service interpretations, decommissioning expense may be deducted only in the year such expenses are actually incurred. Accordingly, with the unfunded reserve method selected by Public Service, current ratepayers would not only provide the decommissioning funds but would also pay the income taxes on earnings on those funds.

Second, Mr. Richards pointed out that the NRC has questioned whether the unfunded reserve method actually will assure that a utility will be financially able to shut down the plant safely at the end of its useful

life. The risk factor of having the funds available for decommissioning is greatest with the unfunded reserve method. If sufficient funds for decommissioning are not available at the time for removal of the nuclear plant from service, the cost of decommissioning would have to be borne by future ratepayers who receive no benefit from the plant. Mr. Hock conceded that Public Service and the ratepayers would be in trouble with the unfunded reserve failed to insure the availability of the funds for decommissioning Fort St. Vrain at the end of its useful life.

Third, Mr. Richards pointed out that if the NRC does not permit the use of an unfunded reserve method, Public Service will use the cash flow to be generated by the 20% negative salvage method, will have to pay the funds already collected into the other alternative required by the NRC as soon as it makes its decision. In view of the several uncertainties surrounding the appropriate methodology for decommissioning expense, the Staff recommended that the Commission not allow the increase, at this time, of the composite depreciation rate for Fort St. Vrain, but defer making a decision on this matter until the NRC has made its determination of the appropriate method which should be used by utility companies to provide decommissioning funds for nuclear power plants.

We do not agree with the Staff that the recovery of decommissioning costs should be deferred. Whatever decommissioning method ultimately is decided upon by the NRC, the cost of recovery should be spread over the life of the plant and should begin now. However, the Commission does not approve of Public Service's "unfunded" methodology. It is true that the unfunded reserve method, as proposed by Public Service, would enhance its present cash flow. However, it is also true, in our judgment, that the unfunded reserve method presents a far greater risk to the ratepayer than the funded reserve method. It is also a possibility that under the funded reserve method, tax deductability may be allowed if the funds are paid over to an independent trustee and segregated from the general funds of the company. We were not made aware of any prospect that the unfunded

reserve method would result in tax deductability by the IRS. Accordingly, we shall not adopt the proposed adjustment by Staff that .67% of the Fort St. Vrain depreciation rate be disallowed. We approve of a 4% depreciation rate. We shall hereinafter order that .67% of that depreciation rate recovered by Public Service through rates be segregated in a funded reserve under the control of an independent trustee. The particularized methodology of how Public Service shall do this shall be up to the company, subject to the approval of the Commission.

M. Summary of Operating Expense Adjustments.

In summary, the Commission makes operating expense deductions in the following amounts:

Freight cost removal	\$3,935,053
Advertising	73,924
Public affairs department	3,200
Interest adjustment on taxes	2,296,707
Colorado Safety Association dues	6,000
Federal and State income taxes (other than interest adjustment)	<u>(1,956,853)</u>
Total expenses and tax adjustments	4,358,031
Additional AFUDC to income to disallow 60% current earnings on Pawnee CWIP	19,103,514
Additional charge to FERC jurisdictional expense due to the above expense changes.	(1,372,997)
Total additional pro forma additions to net operating earnings	<u>\$22,088,548</u>

N. Summary of Earnings Deficiencies and Revenue Requirement.

In view of the foregoing discussion with respect to certain proposed operating adjustments, we state and find that the earnings deficiencies, based upon the test year, are as follows:

	Electric	Gas	Steam	Total
	\$	\$	\$	\$
Authorized Net Operating Earnings	142,582,470	23,591,822	633,650	166,807,942
Actual Net Operating Earnings for the Test Period	<u>104,712,455</u>	<u>17,876,728</u>	<u>83,961</u>	<u>122,673,144</u>
Net Operating Earnings Deficiencies	<u>\$37,870,015</u>	<u>\$5,715,094</u>	<u>\$549,689</u>	<u>\$44,134,798</u>

Income tax requirements make it necessary to increase each dollar of net operating earnings for the Electric Department by \$1.949318 to produce an additional \$1.00 in net operating earnings to increase each dollar of net operating earnings for the Gas Department by \$1.895035 to produce an additional \$1.00 in net operating earnings, and to increase each dollar of net operating earnings of the Steam Department by \$1.945621 to produce an additional \$1.00 in net operating earnings. Accordingly, a total increase of \$73,820,702 in retail electric revenues (13.97%), a total increase of \$10,830,303 in retail gas revenues (2.60%), and a total increase of \$1,069,486 in steam revenues (19.42%) are required with regard to the above earnings deficiencies. Therefore, the total revenue requirement increase for electric, gas and steam departments is \$85,720,491 (9.02%).

The Commission by Decision No. C80-1039 dated May 27, 1980 in I & S Docket No. 1420, authorized additional revenues of \$57,386,189 to be collected by across the board percentages increase riders. Said riders, when annualized, reduce the foregoing \$85,720,491 overall revenue requirement increase by \$46,724,991 for the electric department, \$10,074,764 for the gas department, and \$586,434 for the steam department. In other words, the total emergency rider increase in I & S Docket No. 1420 was

\$57,386,189. Thus, taking into account the I & S Docket No. 1420 increase of \$57,386,189, the additional revenues allowed in this docket are \$27,095,711 (5.13%), for electric department, \$755,539 (.18%) for the gas department, and \$483,052 (8.77%) for the steam department. Thus the total increase in this Docket is \$28,334,302 (2.98%).

The rates and charges proposed by Public Service in the tariff accompanying Advice Letter No. 795-Electric and Advice Letter No. 296-Gas, and Advice Letter No. 24-Steam, under investigation herein would under test year conditions, produce additional electric revenues of \$161,286,000 (32.7%) annually, additional gas revenues of approximately \$17,424,000 (4.19%) annually and additional steam revenues of \$966,000 (16.3%) annually. To the extent the revenue produced by such rates and charges would exceed the revenue requirements as found above, such rates and charges are not just and reasonable.

VIII

SPECIAL COMMENTS

A. Attrition

In this Docket, Public Service proposed that a 1.00% "attrition allowance" be added to the composite cost of capital of 10.75%, resulting in a requested overall rate of return of 11.75%. Public Service witness Bumpus testified that the annual revenue requirement associated with the 1.00% attrition allowance is some \$31 million. Based upon an adjusted rate base recommended by the Staff, the revenue impact of the 1.00% attrition allowance would be \$32 million.

Staff witness Richards testified that a number of regulatory treatments already used by this Commission will substantially reduce attrition:

1. The use of a year-end rate base in this docket, rather than average rate base, will produce approximately \$20 million additional annual revenues to Public Service.

2. "Slippage" will produce \$14.1 million additional revenues.
3. Forty percent (40%) current earnings on Pawnee CWIP will prospectively allow approximately \$11 million in additional revenues.
4. The allowance of interim rate relief in I&S Docket No. 1330 produced approximately \$8 million additional revenues.
5. The "emergency" rate relief granted in I&S Docket No. 1420 saved PSCo five months of regulatory lag and will allow the company to earn \$23.5 million in additional revenues.
6. The move from a December 31, 1979 to a June 30, 1980 test year will produce \$21.3 million additional revenues.
7. The implementation of the ECA could allow recovery of approximately \$10.6 million previously unrecovered costs.

We agree with Mr. Richards that it is impossible merely to look at the historic difference between the Company's authorized and actual rates of return, to surmise that attrition has continued, and to conclude that the foregoing regulatory devices have been unsuccessful in combat attrition. More important, the full effects of certain regulatory treatments have not been fully realized, and it is unknown that the level of past attrition will continue into the future. Public Service has "pancaked" rate cases, including this case, before the effect of previous Commission methodologies to offset attrition can be measured and before additional revenues granted to Public Service in previous rate cases can be collected fully.

Until the effects of this Commission's recent regulatory treatments can be evaluated over time, any quantification of attrition is sheer speculation. Moreover, today's investors realistically can expect a certain amount of attrition. To attempt to eradicate all attrition, through regulatory devices such as the proposed attrition allowance, is tantamount to guaranteeing a rate of return to investors.

Finally, the amount of attrition experienced by a utility company is, to some extent, within the control of management. Management must continually attempt to alleviate attrition through improved efficiency and productivity. Accordingly, we do not adopt Public Service's proposed 1% attrition allowance.

B. Conservation

Common Cause witness Charlotte Ford advocated that the Commission institute a generic proceeding in order to assess the cost effectiveness, applicability and energy savings potentials of a complete range of conservation programs by the Company. Additionally, Common Cause urges that the Commission order Public Service to do at least the following:

- a. Maintain a complete budget for each conservation program including projected and actual costs by cost category.
- b. Make and maintain ongoing assessments of the actual and potential energy savings for each conservation program.
- c. Expand the Home Energy Audit to cover the following:
 - (1) availability of audits on Saturdays
 - (2) a higher goal (above the present 3.5% Company goal) for the number of audits per year.
- d. Undertake a more vigorous and expanded commercial and industrial audit program to encourage greater participation
- e. Provide a supplement to the co-generation inventory to comply with the Order in Paragraph 2 of Decision No. C79-1111.
- f. Prove, for above-the-line rate making treatment, the direct effect of advertising on conservation and the energy savings attributable to it.

The Commission states and finds that of the foregoing suggestions made by Common Cause, one suggestion is worthy of immediate

implementation. We agree that the residential home energy audit should be made available on Saturdays to those who genuinely are unable to arrange for a home energy audit during normal working hours Mondays through Fridays. Public Service should be able to arrange for the availability of a home audit on Saturdays and take such measures as will prevent abuse inasmuch as Saturday audits presumably will cost more.

With regard to other suggestions made by Common Cause relating to conservation, we find that the management audit which we have instituted in Case No. 5978 is, initially a more appropriate vehicle for examining the conservation aspects of Public Service's business rather than instituting another generic hearing which, in our judgment, would be a more costly and a less efficient mechanism for this purpose.

C. Surveillance

AMAX witness Madan recommended that this Commission adopt a surveillance program with regard to Public Service by which, on a continual and consistent basis, actual achieved rates of return of the Company be reported to the Commission. Witness Madan recommended that Public Service should provide that results of its operations regularly on a "Commission" basis. The "Commission" basis simply means that Public Service is to report its actual achieved rate of return on an average rate base and average common equity for that portion of the operations that is under the jurisdiction of this Commission. Witness Madan was critical of the fact that Public Service witness Bumpus did show some historical achieved rates of return on company equity and company rate base, but had presented these results on an end of period basis rather than on an average basis. In Mr. Madan's view this fact alone distorts the results substantially and would not render them particularly useful to the Commission.

We agree that a more formal approach to surveillance of the achieved rates of return of Public Service is necessary for this

Commission's ongoing and effective regulation of the Company.

Accordingly, we shall direct the Staff to develop the design of a report which will contain the following information to be supplied by Public Service:

- a. Rate of return on average rate base for the company (jurisdictional).
- b. Rate of return on average rate base for the electric, gas, and steam departments (jurisdictional).
- c. Rate of return on common equity (adjusted for exclusion of non-utility and non-jurisdictional operations).
- d. Cost of preferred stock.
- e. Cost of long-term debt.
- f. Cost of short-term debt.

We also hereinafter shall order Public Service to file with the Commission a monthly written report concerning Fort St. Vrain Containing the following information:

- a. Gross capacity factor for the preceding month.
- b. Net capacity factor (gross capacity factor less scheduled down time for maintenance or refueling, and less NRC-ordered downtime) for the preceding month.
- c. The dates and hours of scheduled downtime for maintenance and refueling during the preceding month.
- d. The dates and hours of NRC-ordered downtime for the preceding month and reasons therefor.
- e. The anticipated downtime for the three months subsequent to the preceding month, and the reasons therefor.

D. Rate Design and Spread of the Rates

As indicated above, as a result of the emergency increase of \$57,386,189 in I & S Docket No. 1420, and the \$28,334,302 in this docket, we have determined that Public Service requires a total gross increase in revenues of \$85,720,491

(\$73,820,702 for electric, \$10,830,303 for gas, \$1,069,486 for steam) over levels found necessary in I&S 1330.

In I&S Docket 1330, on November 21, 1979, the Commission entered Decision No. C79-1821 to become effective November 23, 1979, wherein it established the Phase I revenue requirements and authorized Public Service to file interim rates, to be effective no earlier than November 26, 1979, pending the Commission's decision on the Phase II spread of the rates. The increase in electric rates authorized was 7.65%; the increase in gas rates authorized was 5.28%; and the increase in steam rates authorized was 11.26%. The foregoing increased rates were to utilize Public Service's then current rate structures and were to be effective until February 15, 1980, or until further order of the Commission. On December 18, 1979, the Commission entered Decision No. C79-1982, wherein it stated that it intended to modify ordering paragraph 9 in Decision No. C79-1821 so as to make explicit the Commission's intention that the interim rates authorized therein would be subject to appropriate refund in the event the final Commission decision in Docket 1330 were to find the revenue requirement to be lower than that found in Decision No. C79-1821 on November 21, 1979.

Public Service has recommended that the Commission, in this docket, utilize the same procedure as was used in I&S 1330, in other words, establishing across-the-board increases by means of interim rates which would be in effect from the end of Phase I and during the time that the Commission is considering the Phase II spread of the rates aspects in this docket. AMAX has suggested that the Commission establish final rates in Phase I consistent with the revenue requirements of Public Service, and close out I&S Docket 1425. AMAX further suggested that the Commission establish a separate docket for the consideration of the so-called Phase II spread of the rates issues which remain to be decided by the Commission.

From an administrative point of view, the Commission has decided

to hear the Phase II spread of the rates issues in I&S Docket 1425. However, in this decision, we are establishing final, rather than interim, rates consistent with the Phase I revenue requirement herein found. The final Phase I "revenue requirement" rates which we establish herein are based upon across-the-board increases for Public Service's electric, gas and steam departments, respectively, and are based upon the current rate structure which has been in effect since February 12, 1980. The Commission, of course, is aware of the fact that certain intervenors in this docket contend that the Commission legally is obliged to consider the spread of the rates aspects of Public Service's filing before it may enter a final order in this docket. We do not agree. In our view, the Commission has legal authority to establish either interim rates or final rates at the conclusion of Phase I in this docket, the effect of which is to bring into operation the provisions of CRS 40-6-111, regarding the establishment of rates, which the Commission finds to be just and reasonable. It should also be noted that CRS 40-6-111(2) provides that the rates established by the Commission shall be subject to the power of the Commission, after a hearing on its own motion or upon complaint, as provided in Article 6, to alter or modify the same. We hereinafter shall set the Phase II hearing dates in this docket. In view of the fact that the Phase II issues cannot reasonably be expected to be decided before sometime in June of 1981, we have determined that it would be inappropriate, in this Docket, to establish interim rates which would extend for almost five or six months beyond the expiration of the 210 day suspension period on January 7, 1981. Accordingly, hereinafter we shall designate that the rate portion of decision and order herein is a final decision, subject to the provisions of CRS 1973, 40-6-114 and 40-6-115.

We find that the increases in rates, hereinafter ordered, based upon Public Service's current rate structure, are just and reasonable.

E. Unilateral Non-Tariff Proposals of Public Service

During the course of the hearings herein, Public Service witness Walker, who is President of the Company, indicated that Public Service had imposed, and might in the future create, new charges to customers of the company without tariff filings. We find that the financial impact of one of Public Service's changes, namely, now making a charge for customer service calls to light pilot lights, etc., was a present charge for what formerly had been considered to be "gratuitous services." Nevertheless, it is clear that the expense of those services which were previously provided on a "gratuitous" basis had been included as part of the operating costs in establishing higher rates. Public Service witness Midwinter identified the magnitude of this change as amounting to \$1,123,802 which he described as being one of the pro forma adjustments that he made at the time of submitting his revised supplemental testimony and exhibits.

In addition, Mr. Walker eluded to a proposal for a one-time service reconnection charge which the company was considering for implementation in 1981, although whether it would be recommended in the magnitude of its financial impact was unknown to the company at the time of its presentation of the case in this docket.

The Commission finds that the expenses and costs relating to these types of services which were previously provided on a gratuitous basis had been included as a part of the operating costs in establishing prior rates. That being the case, it will not do for Public Service to argue that these are "non-utility" services which are not properly subject to being tarified. We further find that the service connection concept involves capitalization issues, contribution to rate base, and advances by customers, and other regulatory issues that are properly under the jurisdiction of this Commission. Accordingly, we shall hereinafter order that the Company neither institute nor continue any such charges until and unless it files appropriate tariffs therefor pursuant to the Public Utility Law and the rules and regulations of this Commission.

F. Wage and Price Guidelines

In a statement of policy issued March 1979, the Commission indicated that utilities subject to its jurisdiction would be expected to demonstrate compliance with the price guidelines established by the President's Council on Wage and Price Stability or show why they were entitled to an exception from those guidelines. The gross margin standard applicable to the Company is found at 6 Code of Federal Regulations 705.45. This standard provides that:

"A compliance unit complies with the gross margin standard if its gross margin in the second program year does not exceed its gross margin in the base year by more than 13.5% plus any positive percentage growth in physical volume over the same period."

We find that the revenue increase granted herein is in compliance with the gross margin standard set forth above. We also find that the wage increases granted to Public Service Company employees is also in compliance with the wage guidelines established by the President's Council on Wage and Price Stability.

IX

CONCLUSION

This docket has been one of the most complex proceedings before this Commission, in which a wide variety of issues have been raised by various parties. To the extent that specific issues have been raised by parties which are not addressed specifically in this decision, the Commission states and finds that the particular treatment advanced with respect thereto by one or more of the parties does not merit adoption by this Commission in this docket. Having found that Public Service is entitled to an overall revenue increase in the amount of \$28,334,302, we conclude that the tariffs filed by Public Service on May 7, 1980, pursuant to its Advice Letter No. 795-Electric, Advice Letter No. 296-Gas, and Advice Letter No. 24-Steam, which would produce revenues in excess of the revenue

increase found herein necessary, should be suspended permanently. We further conclude that the revenue increase found herein should be implemented by tariffs which increase present rates by across-the-board percentage increases. We further conclude that the rates portion of the decision herein should be a final decision and subject to the provisions of CRS 1973, 40-6-114 and 40-6-115. We further conclude that the docket herein should be continued for the purpose of entering into hearings on Phase II, or spread of the rates, issues.

An appropriate Order will be entered.

O R D E R

THE COMMISSION ORDERS THAT

1. The tariff sheets filed by Public Service Company of Colorado, pursuant to Advice Letter No. 795-Electric, dated May 7, 1980, and filed on May 7, 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. 296-Gas, dated May 7, 1980, and filed on May 7, 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. 24-Steam, dated May 7, 1980, and filed on May 7, 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 5.13% and applicable to electric rate schedules. The general rate schedule adjustment shall not apply to charges determined by the electric cost adjustment provision of Colorado P.U.C. No. 5-Electric tariff sheet No. 280.

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 .18% applicable to gas rate schedules. The general rate schedule adjustment shall not apply to charges determined by the gas cost adjustment provision of Colorado P.U.C. No. 4-Gas 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 8.77% 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 one day subsequent to the effective date of the decision herein, and shall make reference to the decision number herein.
8. The tariff riders filed by Public Service Company of Colorado pursuant to Ordering Paragraphs 4, 5, and 6 in Decision No. C80-1039, dated May 27, 1980, shall be continued in effect until further order of the Commission.
9. Public Service Company of Colorado, commencing with the first calendar month subsequent to the effective date of the decision and order herein, shall escrow, on or before the end of each calendar month, the sum of \$807,046 in a separate memorandum account and invest the funds therein in government securities, certificates of deposit of financial institutions whose deposits are guaranteed by the instrumentalities of the United States government, or in such other investments as may be specifically approved by the Commission by order. Public Service Company of Colorado, on or before the 15th day following the close of each

calendar quarter, commencing with the first calendar quarter subsequent to the effective date of the decision and order herein, shall submit, in writing, a report to the Commission on the status of said memorandum account by instrumentalities of the United States government, or Public Service Company of Colorado shall report quarterly, in writing, to the Commission on the status of said memorandum account by stating the amount therein, and how said amount is invested. Funds escrowed in said memorandum account shall not be released by Public Service Company of Colorado or otherwise disposed of by it except upon order of this Commission.

10. Public Service Company of Colorado, commencing with the first calendar quarter in 1981 subsequent to the effective date of the decision and order herein, shall deposit, with an independent trustee on or before the end of the month subsequent to the end of each calendar quarter, an amount equal to .67% of the depreciation in connection with its Fort St. Vrain Nuclear Generating Station. Said independent trustee shall be selected by Public Service Company of Colorado, subject to the approval of this Commission. Said independent trustee shall be custodian of, and responsible for the investment of, the amounts so deposited with it by Public Service Company of Colorado. Said independent trustee, no less frequently than annually, shall render a report to Public Service Company of Colorado on the status of the amounts so deposited. Public Service Company of Colorado, in turn, shall transmit a copy of said report to the Commission within 10 days after receipt thereof. The release and disposition of the amounts so deposited with the independent trustee by Public Service Company of Colorado shall be subject to further order by this Commission.

11. Public Service Company of Colorado shall file with the Commission, in writing, on or before the fifteenth day of each month, commencing with the second calendar month subsequent to the effective date of the decision herein, a report concerning Fort St. Vrain Nuclear Generating Station in accordance with the discussion contained in "Surveillance" hereinabove in this decision.
12. Public Service Company of Colorado, commencing with the second calendar month subsequent to the effective date of the decision and order herein, shall commence making its residential home energy audit program available on Saturdays in accordance with the guidelines hereinabove set forth in this decision.
13. Public Service Company of Colorado shall neither institute nor continue any charges for customer service calls, which previously had been considered to be "gratuitous services" until or unless it files appropriate tariffs therefor pursuant to the Public Utility Law and the rules and regulations of this Commission.
14. The "Motion to Strike Supplemental Statement of Emma Young Green and Concerned Citizens Congress of Northeast Denver" filed by the Staff of the Commission on December 8, 1980 be, and hereby is, granted, and said Supplemental Statement be, and hereby is, stricken. All other pending motions be, and hereby are, denied.
15. Public Service Company of Colorado shall file with the Commission, on or before February 6, 1981, ten (10) copies of all its prepared written direct testimony and supporting exhibits with respect to Phase II (spread of the rates) in this Docket.

16. All parties in this proceeding, except Public Service Company of Colorado, shall complete all requests for discovery, with respect to Phase II, on or before February 17, 1981, and discovery with respect to Phase II is to be completed on or before February 27, 1981. Public Service Company of Colorado shall complete all its requests for discovery on or before five (5) business days (Monday-Friday) following the submission to the Commission of Staff and any intervenor written or prepared testimony, respectively. All responses to discovery request by Public Service Company of Colorado shall be satisfied in accordance with the time limit set forth in the Colorado Rules of Civil Procedure, but in no event later than five (5) business days prior to the commencement of testimony by any witness on behalf of a party to whom the discovery request is directed.
17. The within matter, be, and hereby is, set for hearing on the summary of direct examination and cross examination of Public Service Company of Colorado witnesses, with respect to Phase II (spread of the rates) as follows:

DATE: March 4, 5, 6, 1981
TIME: 10:00 a.m.
PLACE: Fifth Floor Hearing Room
500 State Services Building
1525 Sherman Street
Denver, Colorado 80203

The dates of March 11, 12, 13, 18, 19, and 20, 1981, shall be reserved on the Commission calendar for hearing, if necessary.

18. The Staff of the Commission and each intervenor who wishes to present direct testimony in Phase II (spread of the rates) of the Docket herein shall file with the Commission, on or before April 3, 1981, ten (10) copies of its prepared written direct testimony and supporting exhibits with respect to Phase II.

19. The summary of direct examination and cross-examination of Staff and intervenor witnesses with respect to Phase II (spread of the rates) and submission rebuttal testimony, if any, by Public Service Company of Colorado shall be as follows:

DATE: April 22, 23, 24, 1981
TIME: 10:00 a.m.
PLACE: Fifth Floor Hearing Room
500 State Services Building
1525 Sherman Street
Denver, Colorado 80203

The dates of April 29, 30, and May 1, 6, 7, and 8, 1981, shall be reserved on the Commission calendar for hearing, if necessary.

20. Any person or party, including the Staff of the Commission, responsible for filing with the Commission written or direct testimony and exhibits shall, in addition thereto, mail or deliver copies of the same to all parties of record in this proceeding and to the Chief of Fixed Utilities Section of the Public Utilities Commission. The Staff of the Commission is not required to mail or deliver copies of the same to the Chief of the Fixed Utilities section.
21. The procedural directives herein may be modified, as appropriate, by subsequent order or orders of the Commission.
22. Further procedural directives or modifications thereto will be issued, as appropriate, by subsequent order or orders of the Commission.
23. The decision and order herein, with the exception of ordering paragraphs 15 thru 22 herein, shall be considered a final decision subject to the procedural provisions of C.R.S. 1973, 40-6-114 and 40-6-115.
24. This Order shall be effective on January 3, 1981, unless stayed by applicable law.

DONE IN OPEN MEETING the 12th day of December, 1980.

(S E A L)



ATTEST: A TRUE COPY

Harry A. Gailigan, Jr.
Harry A. Gailigan, Jr.
Executive Secretary

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

EDYTHE S. MILLER

DANIEL E. MUSE

L. DUANE WOODARD

Commissioners

E X H I B I T S

APPENDIX A

I&S 1425
PHASE I

<u>Public Witness Exhibits</u>	<u>Title and Description</u>
Public Witness 1	Letter dated September 12, 1980 from Dwight M. Saunders to Colorado Energy Advocacy Office
Public Witness 2	Selected PSCo Expense Items
Public Witness 3	Statement of State Senator Barbara Holme To Colorado Public Utilities Commission Re PSCo Request For \$123 Million RATE INCREASE
Public Witness 4	Memorandum dated September 16, 1980 from Anna Martinez, Director, Platte Valley Action to Public Service Commission (Sic)
Public Witness 5	Petition to Colorado Public Utilities Commission in support of PEOPLE'S UTILITY ALLIANCE with 174 signatures
Public Witness 6	Newspaper clipping entitled PSC's Earnings, Revenues <u>Jump</u>
Public Witness 7	Petition to Colorado Public Utilities Commission in support of COLORADO CITIZEN ACTION GROUP with 801 signatures
Public Witness 8	Petition to Colorado Public Utilities Commission in support of PEOPLE'S UTILITY ALLIANCE with 162 signatures
Public Witness 9	Petition to Colorado Public Utilities Commission in support of PEOPLE'S UTILITY ALLIANCE with 17 signatures
Public Witness 10	Petition to Colorado Public Utilities Commission in support of PEOPLE'S UTILITY ALLIANCE with 32 signatures
Public Witness 11	Ft. St. Vrain vs. Average PSCo Electric Power Plant (Arapahoe Steam)
Public Witness 12	Letter dated February 11, 1980 to the Honorable Stanley Fink, Speaker of the Assembly State of New York from Robert J. Schwartz of Shearson Loeb Rhoades Inc with attachment of statement by Schwartz
Public Witness 13	Copy of Publication - Power Propaganda by Charles Komanoff for the Environmental Action Foundation
Public Witness 14	Petition to Colorado Public Utilities Commission in Support of PEOPLES'S UTILITY ALLIANCE with 1141 signatures

E X H I B I T S

I&S 1425
PHASE I

<u>Exhibit</u>	<u>Title and Description</u>
A	Direct Testimony of Richard F. Walker
B	Direct Testimony of J. H. Ranniger
C	Direct Testimony of D. D. Hock
D	Direct Testimony of R. R. Midwinter
E	Direct Testimony of Eugene W. Meyer
F	Direct Testimony of J. N. Bumpus
G	Testimony of Dr. Irwin M. Stelzer
H	Supplementary Testimony of R. R. Midwinter
I	Direct Testimony of Eric L. Jorgensen
J	Direct Testimony of Garrett Y. Fleming
K	Direct Testimony of Richard D. Giardina
L	Testimony of Philip R. Winter
M	Testimony of Rudolph L. Bertschi
N	Testimony of Dr. E. Jeffery Livingston
O	Direct Testimony of Charlotte Ford
P	Direct Testimony of James A. Richards
Q	Direct Testimony of Jatinder Kumar
R	Testimony of Jean Bress
S	Testimony of Dr. David S. Schwartz
T	Testimony of Jamshed K. Madan

EXHIBITS

I&S 1425

<u>Exhibit</u>	<u>Title and Description</u>
1 through 10	Exhibits to testimony of Richard F. Walker
11 through 14	Exhibits to testimony of J. H. Ranniger
15 through 19	Exhibits to testimony of D. D. Hock
20 through 28	Exhibits to testimony of R. R. Midwinter
29	Exhibit to testimony of Eugene W. Meyer
30	Exhibit to testimony of J. N. Bumpus
31 through 36	Supplementary Testimony of R. R. Midwinter
37	PSCo Customers and Sales Estimates 1979-1989
38	Sales Estimates for Selected PSCo Customer Classes 1980-1990; Data and Assumptions-Budget & Operating Plans and Economics & Forecasting
39	Commission Decision No. C80-1592
40	Commission Decision No. C80-1817
41	PSCo Electric Planning and Analysis "Contract List" Agreements Under Negotiation
42	PSCo Irrigation Power 1977 thru 1979
43	PSCo Fort St. Vrain Nuclear Generating Station Power and Energy Cost
44	PSCo Steam-Electric Generating Plant Statistics (Large Plants)
45	PSCo Electric Department--Operating Report
46	PSCo Average Daily Power Level (MWe)-Operating Status Fort St. Vrain
47	Marked but not offered into evidence
48	Summary Unit Capacity Factor For Fort St. Vrain Test Period Ending June 30, 1980
49	PSCo Electric Department--Operating Report June - 1979-April - 1980
50	Exhibit not marked or identified
51	PSCo Response of Interrogatory No. 9 of Concerned Citizens Congress of Northeast Denver

E X H I B I T S

I&S 1425
PHASE I

<u>Exhibit</u>	<u>Title and Description</u>
52	PSCo Answers To Concerned Citizens Congress of Denver Interrogatories Numbers 16, 17 and 18
53	Exhibit not marked or identified
54	U. S. Nuclear Regulatory Commission - 1979 Annual Report
55	Electric Utility Common Stock Market Data Stock Research
56	PSCo Letter to Congressman Tim Wirth
57	Government-Funded Activism: Hiding Behind the Public Interest - Part of presentation of H. Peter Metzger
58	Pamphlet - Government Funded Activism: Hiding Behind the Public Interest by H. Peter Metzger, Ph.D.
59	Memo from Dr. Peter Metzger to T. T. Person, Jr., Vice President in Department of Public Affairs re. Attacks on PSCo by the Legal Aid Society of Metropolitan Denver and Other Federal Government/ United Way Funded Social-Activist Groups
60A	Power Purchase Agreement between PSCo and CF&I Steel Corporation
60B	Modification Agreement between PSCo and CF&I Steel Corporation
61	Analysis of Adequacy of Gas Cost Adjustment Mechanism in the Recovery of Purchased Gas Costs by J. H. Ranninger
62	Electric Power Research Institute, Inc., Statement of Revenues and Expenses and Changes in Fund Balance
63	Settlement Agreement between PSCo and General Atomic Company (GAC)--Fort St. Vrain - June 27, 1979
64	PSCo - Hypothetical Depicting Impact On Choice Between Completing Plant & Purchasing Power Where Full Return Earned on CWIP
65	Attachment No. CS-36
66	PSCo Attachment No. 26(a)(ACORN) - Pamphlet entitled The Coercive Utopians: Their Hidden Agenda by H. Peter Metzger, Ph.D.

E H I B I T S

I&S 1425
PHASE I

<u>Exhibits</u>	<u>Title and Description</u>
67	Pro Forma Inclusion of Full Rate Case-- 11.75% Cost of Capital
68	Supreme Court Decision in Docket No. 79 SA 204
69	PSCo Publication - 2nd Quarter Report to Shareholders
70	Key Financial Ratio Characteristics For Electric Utilities in the 1980's
71	Construction and External Capital Requirements EEI Investor-Owned Utilities 1978-1984
72	AMAX Question 18 - Internal Generation of Funds, Construction Expenditures and Percent Generated Internally (Consolidated)
73	AMX Question 19 - Internal Generation of Funds, Construction Expenditures (Consolidated) and Percent Generated Internally
74	Letter dated September 23, 1980 from James R. McCotter to Dudley P. Spiller, Jr., Assistant Attorney General - Response to Staff's Data Request of September 2, 1980
75	PSCo Discount Rate Prime Refe, & Moody's Bond Interest Rate (Corporate) - Source: Continental Bank Interest Rate Comparisons
76	PSCo - Adjusted Return on Equity
77	AMAX Question 19 - Internal Generation of Funds, Construction Expenditures (Consolidated and Percent Generated Internally (\$000)
78	PSCo - Discounted Cash Flow Analysis For the 16 Week Periods Ending January 4, 1980 - September 26, 1980
79	PSCo - Comparison of CWIP vs. AFUDC Cash Flow (000'S) Report as of 10/02/80
80	PSCo Generating Units Hours Connected to Load - 12 Months ended 12/31/79
81	CF&I Steel Curtailment Hours
82	Energy Audit Program

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<u>Exhibits</u>	<u>Title and Description</u>
83	PSCo Electric Department Net Operating Earnings Twelve Months Ended June 30, 1980
84	Affidavit of H. Peter Metzger dated October 23, 1980
85	Letter dated October 20, 1980 from James R. McCotter to D. Bruce Coles, Esq., Colorado Energy Advocacy Office
86	PSCo Cost of Preferred Stock Capital June 30, 1980
87	PSCo Electric Department Rate Base Twelve Months Ended June 30, 1980
88	PSCo Customer Advances for Construction
89	PSCo Determination of Revenue Requirements Based Upon 10.02% Rate of Return
90	PSC Capitalization and Rate of Return (Pursuant to PSCo Request) - Staff Exhibit
91	Average Underwriting and other Expenses - 2 pages
92	Market Pressure Study - 11 pages
93	Effects of Different Accounting Treatments for CWIP and AFUDC - 1 page
94	Revenue Requirement for \$100,000 of CWIP Included in Rate Base - 4 pages
95	Payback on CWIP for Various Discount Rates - 1 page
96	Return on Equity Investment - 1 page
97	Slippage with Various Amounts of Pawnee CWIP in Rate Base Test Year Ending 6-30-80 - 1 page
98	The Implication of Institutionalizing the Practice of Including CWIP in Rate Base
99	Comparison of Selected Financial Ratios - 1 page
100	PSCo Dividends, Earnings, and Book value - 14 pages
101	Glossary - S & P Common Stock Ranking System - 2 pages
102	Cost and Energy Saving Data for PSCo's Conservation Programs - 1 Page

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<u>Exhibit</u>	<u>Title and Description</u>
103	20-Year Costs of California Solar Demonstration Program per Residential Customer (Present Value) 1 page
104	Graph of Electricity Usage - 1 page
105	Graph of Natural Gas Usage - 1 page
106	Load Reductions and Costs Attributed to GPU's "Master Plan" - 1 page
107	Electric Jurisdictional Revenue Requirement Test Year Ended June 30, 1980 - Associated Regulatory Consultants, Inc., Rockville, Maryland - 20 pages
108	Testimony of Jatinder Kumar Part II: Revenue Requirement - 7 pages
109	PSCo Response to Question Posed by AMAX - 1 page
110	PSCo - Property Casualty Losses 1970-1979 - 1 page
111	Exhibit of JEAN BRESS - Federal Register October 7, 1980 - 2 pages
112	Exhibit of JEAN BRESS - Summary of Colorado Low Income Energy Assistance Program - 6 pages
113	Exhibit of JEAN BRESS - Comparison of AFDC, AND OAP B
114	Exhibit of JEAN BRESS - September 24, 1980 letter from Jones to Knapp Regarding 1980 Assistance Levels - 3 pages
115	PSCo Impact on Revenue Requirements of 40% Current Earnings on Pawnee Including Slippage 3 pages
116	Commission Decision No. C80-130 - 75 pages
117	Report on Equipment Availability For The Ten-Year Period -- 1868-1977 - 13 pages
118	Nuclear Power Plant Operating Experience - 1977 Annual Report - 21 pages
119	Nuclear Power Operating Experience - 1978 Annual Report - 21 pages

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<u>Exhibit</u>	<u>Title and Description</u>
120	PSCo of Platteville, Colorado, Fort St. Vrain Unit 1 Letter dated October 3, 1980 to Director Office of Inspection and Enforcement, U. S. Nuclear Regulatory Commission, Washington, D.C., from Don Waremlourg with attachments - 26 pages
121	PSCo of Platteville, Colorado, Fort St. Vrain Unit No. 1 Letter dated February 25, 1980 to Karl V. Seyfrit, Director Nuclear Regulatory Commission, Region IV, Office of Inspection and Enforcement, Arlington, Texas with attachments - 38 pages
122	Commission Decision No. C80-675 - 8 pages
123	Commission Decision No. C80-1039 - 25 pages
124	PSCo Working Capital - 1 page
125	PSCo Working Capital Calculations - 1 page
126	USAFERC Union Electric Company, Docket No. ER77-614, Initial Decision of the Administrative Law Judge (August 7, 1979) - 6 pages
127	USAFERC-Opinion No. 94, Union Electric Company No. ER77-614, Opinion and Order on Application For Rate Increase - 4 pages
128	Interest Expense Annualization Based On PUC Staff's Exhibits - 1 page
129	Commission Decision No. C79-1821 (forthcoming)
130	PSCo Electric Department Proposed Increases and Rate of Return - 8 pages