

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE APPLICATION)
OF COLORADO-UTE ELECTRIC ASSOCIA-)
TION, INC., P. O. BOX 1149, MONT-)
ROSE, COLORADO, FOR A CERTIFICATE)
OF PUBLIC CONVENIENCE AND)
NECESSITY TO CONSTRUCT, OPERATE AND)
MAINTAIN A 345 KILOVOLT TRANSMISSION)
LINE TOGETHER WITH RELATED SUB-)
STATION FACILITIES, TO BE LOCATED)
IN NINE COUNTIES IN WESTERN)
COLORADO, AND ONE SUCH COUNTY IN)
NEW MEXICO, SUCH FACILITIES)
COLLECTIVELY TO BE KNOWN AS THE)
RIFLE-SAN JUAN 345 KV TRANSMISSION)
LINE.)

APPLICATION NO. 34979

RECOMMENDED DECISION OF
EXAMINER ROBERT E. TEMMER

IN THE MATTER OF THE APPLICATION)
OF PUBLIC SERVICE COMPANY OF)
COLORADO, 550 - 15TH STREET, DENVER,)
COLORADO, FOR A CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY TO)
PARTICIPATE IN THAT PORTION OF THE)
ABOVE NOTED TRANSMISSION LINE)
BETWEEN RIFLE AND GRAND JUNCTION,)
COLORADO.)

- - - - -
July 13, 1983
- - - - -

Appearances: L. Christain Hauck, Esq. and
Jonathon P. Schneider, Esq.
Montrose, Colorado, for Applicant,
Colorado-Ute Electric Association, Inc.;

James K. Tarpey, Esq. and
Kenneth V. Reif, Esq., Denver,
Colorado, for Public Service Company
of Colorado;

John L. DeWeerd, Esq., Denver,
Colorado, for Union Oil Company of
California;

William H. McEwan, Esq., Denver,
Colorado, for Empire Electric Association, Inc.;

Edward T. Lyons, Jr., Esq., Denver, Colorado and
William G. Riddoch, Esq., Denver, Colorado
for Shell Oil Company;

Robert T. James, Esq. Colorado Springs, Colorado
for Delta-Montrose Electric Association;

Frank Maynes, Esq., Durango, Colorado
for La Plata Electric Association, Inc.;

Robert Fullerton, Esq., Golden, Colorado
for the interest of the Western Area Power
Administration;

Bourtai Hargrove, Esq., Grand Junction, Colorado
and Robert E. Krute, Esq., Montrose, Colorado
for Western Colorado Congress; and

Steven H. Denman, Assistant Attorney General
Denver, Colorado for the Staff of the Commission.

S T A T E M E N T

The above-entitled application was filed on August 6, 1982 by Colorado-Ute Electric Association, Inc., hereinafter referred to as Colorado-Ute, and by Public Service Company of Colorado, hereinafter referred to as Public Service. The Commission issued Notice of the application on August 19, 1982.

Motions or Petitions to Intervene in the proceeding were received and acted upon as follows: from Union Oil Company of California, Energy Mining Division, hereinafter referred to as Union on August 25, 1982, which was granted by ER No. 82-336 entered on August 26, 1982; from Empire Electric Association, hereinafter referred to as Empire, on August 31, 1982, which was granted by ER No. 82-340 entered on September 2, 1982; from Shell Oil Company, hereinafter referred to as Shell, on September 3, 1982, which was granted by ER No. 82-334 issued September 8, 1982; from the Western Colorado Congress, hereinafter referred to as WCC, and from the Wrights Mesa Consumers Association on September 21, 1982, which were granted by Decision No. C82-1518 issued September 28, 1982; from Delta-Montrose Electric Association, hereinafter referred to as Delta-Montrose, on November 19, 1982, which was granted by ER No. 82-450 entered on December 14, 1982; and from La Plata Electric Association, Inc., hereinafter referred to as La Plata, on December 6, 1982, which was granted by Decision No. C82-1980 issued on December 21, 1982.

The Staff of the Commission filed a Notice that it might participate in the proceeding on October 6, 1982.

The Commission set the application for a hearing to be held on January 17, 1983 through January 21, 1983 in the District Court Room, in the County Courthouse, in Montrose, Colorado. The location of the hearing was later changed to the Friendship Hall, 1001 North Second Street, Montrose, Colorado to commence at 9 a.m. each morning.

The Staff filed a Motion for Procedural Order on December 30, 1982, and the Commission issued its Decision No. C83-39 on January 4, 1983. That decision, in Ordering Paragraph No. 4, provided as follows:

Staff of the Public Utilities Commission and any parties intervenor who intend to present direct testimony and exhibits, other than as provided in paragraph 3, above, shall prefile their direct testimony and exhibits on or before February 23, 1983. Staff of the Commission and such Intervenor shall timely serve copies of their direct testimony and exhibits on counsel for all parties of record.

Said decision also established hearing dates of March 7, 8, and 9, 1983 in Denver, Colorado for additional hearing. Errata Notice C83-39-E was issued January 6, 1983 which changed the location of the March hearings to the District Courtroom, in the Montrose County Courthouse, for March 7 and 8, 1983, and to the County Courtroom in the Montrose County Courthouse in Montrose, Colorado for March 9, 1983, all hearings to commence at 9 a.m.

The parties to the proceeding in response to Decision No. C83-39 made various filings, including the filing by WCC on February 28, 1982 of the prepared testimony and exhibits of Joseph F. Pepi and the prepared testimony of Charles Worley.

Additional hearing days of March 10, 1983 and March 11, 1983 were set to be held in the Meeting Room, County Commissioner's Office, in the Montrose County Courthouse in Montrose, Colorado commencing at 9 a.m. by Decision No. R83-258-I issued February 10, 1983 and by Decision No. R83-272-I issued February 18, 1983.

The hearing was held on January 17, 18, and 19, and on March 7, 8, 9, 10, and 11, 1983 at the times and locations set, except that the location of the hearing was changed on March 9, 10, and 11, 1983 to the County Sheriff's Office, 317 South Second Street, Montrose, Colorado, and a sign was posted to that effect outside of the County Courtroom and outside of the Meeting Room, County Commissioner's Office in the Montrose County Courthouse. In addition, the time of the hearing was changed to commence at 8 a.m. on March 10, and 11, 1983 rather than at 9 a.m.

During the course of the hearing Exhibits A through M and 1 through 71 were marked, or reserved for identification. Exhibits A through M were admitted, with modifications as noted on the Exhibits, and 1 through 25, 33 through 47, 49 through 56, 60 through 64, 66 through 69 and 71 were admitted into evidence. Exhibits 26 through 32, 48, 57 through 59 and 65 were rejected. Exhibit No. 70 was reserved for an offer of proof to be submitted in writing by WCC relating to the testimony expected from proposed witness Fred Kuhlemeier. Exhibit 70 was attached to the Statement of Position of WCC filed April 20, 1983.

During the course of the hearing testimony was received from witnesses on behalf of the Applicants, from witnesses on behalf of Intervenor, and from witnesses on behalf of the Staff of the Commission. In addition, testimony was received from numerous members of the public, both in support of and opposed to the Application.

At the Conclusion of the presentation of evidence it was ordered that the parties could submit Briefs or Statements of Position by April 15, 1983 and Reply Briefs or Statements of Position by April 22, 1983. It was also ordered that Western Colorado Congress could submit its offer of proof to be marked as Exhibit No. 70 by April 15, 1983. It was further ordered that the dates applied only to mailing the documents and not to the actual receipt of those documents by the Commission. Statements of Position were received from Colorado-Ute on April 18, 1983, Public Service on April 15, 1983, Shell on April 15, 1983, Delta-Montrose on April 15, 1983, Empire on April 15, 1983, the Staff of the Commission on April 15, 1983, WAPA on April 15, 1983, and WCC on April 20, 1983. Reply Briefs were received from Colorado-Ute on April 25, 1983, Public Service on April 22, 1983, Empire on April 22, 1983, Shell on April 25, 1983, and WCC on April 20, 1983.

The Staff of the Commission filed a Motion to Strike the Statement of Position of WAPA on April 26, 1983. Colorado-Ute filed a Response to the Motion on May 5, 1983, and WAPA filed its Response on May 9, 1983. WCC in its Statement of Position asked that the record be reopened and that further hearings be held to permit WCC to cross-examine Mr. Kuhlemeier. These issues, as well as all other issues inherent in this Application will be dealt with in this decision.

At the conclusion of the hearing the matter was taken under advisement.

Pursuant to 40-6-109, CRS 1973, the Examiner herewith transmits to the Commission the record and exhibits of this proceeding along with this recommended decision.

FINDINGS OF FACT AND CONCLUSIONS THEREON

Based upon all the evidence of record, the following facts are found and conclusions thereon are drawn:

THE PARTICIPANTS

1. Colorado-Ute is a public utility subject to the jurisdiction of this Commission which is engaged in the transmission, generation, purchase and sale of electric power and energy at wholesale. It is a corporation organized and existing as a cooperative association in the State of Colorado, and is owned by its fourteen members who are rural electric distribution cooperative associations which provide electric service principally in Colorado.

2. Public Service is a public utility subject to the jurisdiction of this Commission. Among other things, it is engaged in the generation, purchase, transmission and sale of electric power and energy in various locations throughout the State.

3. WAPA, the Western Area Power Administration, is an agency of the United States Government within the Department of Energy. It is responsible for power marketing and transmission functions associated with federal hydroelectric generation within its established marketing area. The State of Colorado is within the established marketing area administered by WAPA. WAPA is not subject to the jurisdiction of this Commission and declined to intervene in this proceeding. It did not acquire party status to the proceeding.

4. La Plata is a rural electric association. It is a non-profit cooperative organized under the laws of the State of Colorado, owned by its consumer members. It is engaged in the transmission and

distribution of electrical power to the public in its territory, and is subject to the jurisdiction of this Commission. It is headquartered in Durango, Colorado, and is one of the fourteen members of Colorado-Ute. It receives all of its electrical requirements from Colorado-Ute at wholesale.

5. Empire is a rural electric association owned by its consumer members. It is in the business of supplying electric service to its consumers. It is subject to the jurisdiction of this Commission. It is one of the fourteen members of Colorado-Ute, and purchases all of its electric power from Colorado-Ute. Empire is headquartered in Cortez, Colorado.

6. Delta-Montrose is a non-profit Colorado cooperative electric association engaged in the transmission and distribution of electrical power to the public within the territory Certificated to it. It is headquartered in Montrose, Colorado, and is subject to the jurisdiction of this Commission. It is a member of Colorado-Ute and receives all of its electrical power from Colorado-Ute at wholesale.

7. Union is an oil company with certain facilities in the service territory of Public Service.

8. Shell is an oil company that is developing a CO₂ field in the service territory of Empire.

9. WCC is a 2 1/2 year old membership based organization with an office in Montrose, Colorado. It is a non-profit organization with 3 classes of memberships, consisting of individual members, member groups, and affiliate groups. There are approximately 300 individual members most of whom reside on the western slope. There are 13 member groups which are located on the western slope and 7 affiliate members without

voting rights not all of which are located on the western slope. Most of the individual members receive electrical service from member coops of Colorado-Ute.

THE PROPOSED PROJECT

10. The Project for which is the subject matter of this proceeding is a single circuit 345 Kilovolt Transmission Line, which would have a nominal capacity of about 500 megawatts and which would run from the Rifle Substation of Colorado-Ute to the San Juan Generating Station located in northwestern New Mexico. It would be approximately 275 miles in length, and would go through nine counties in western Colorado and one county in New Mexico. It would have termination and substation facilities. It will proceed generally from Rifle to Grand Junction to Delta to Montrose to Norwood to Cortez to Durango and then to New Mexico. It is proposed that it will connect with existing substation and termination facilities near Rifle, Grand Junction and Montrose, and also to have substations at Lost Canyon near Cortez and Long Hollow near Durango. Although it was stated in the original application that a substation would be located near Norwood, that proposal was withdrawn. A substation would not be located near Norwood until the load in the Norwood area from the San Miguel Power Association would require the construction of a substation in that location. The project is shown as Phase I on Exhibit 19.

11. Public Service and Colorado-Ute seek Certificates from this Commission for their participation in the project. WAPA does not. Public Service will only participate in the project from Rifle to Grand Junction. Colorado-Ute and WAPA will participate in the line from Rifle to New Mexico. From Rifle to Grand Junction, WAPA and Colorado-Ute will contribute financially to the project 37 1/2% each. Public Service will contribute 25%. Each will receive capacity in relationship to the financial contribution. Title to that section of the line from Rifle to

Grand Junction will be in Colorado-Ute and Public Service, with Colorado-Ute holding 75% and Public Service holding 25%. From Grand Junction to San Juan, New Mexico, Colorado-Ute and WAPA will each contribute 50%, and each will have that amount of capacity. Ownership of the line will be divided at the mid-way point, with Colorado-Ute holding title to the northern part and WAPA to the southern part.

12. General routing of the line has been determined but the exact location of the line will be determined in accordance with applicable law and is not an issue in this proceeding.

13. Colorado-Ute and WAPA have termed this line "Phase I". They have termed the proposed upgrading of the WAPA 230 KV Line that runs from WAPA's Rifle Substation to Curecanti to New Mexico, as "Phase II." They have termed a possible future 345 KV Line that would basically parallel the one proposed in this Application as Phase III. Phase I is the subject of this Application and is all that is being considered at this time. If Colorado-Ute decides to proceed with what they have termed as Phase II or Phase III, it will comply with applicable law at that time, as this Decision does not consider or authorize Phase II or Phase III.

14. Exhibit No. 3 is the agreement entered into between Colorado-Ute, Public Service and WAPA concerning the section of the line from Rifle to Grand Junction. It specifies that it is anticipated that the line will be in service 24 months after all permits and approvals are received. Exhibit No. 4 is a draft of the agreement between Colorado-Ute and WAPA covering the Grand Junction to San Juan portion of the line. It should be noted that Exhibit 4 specifies that the parties anticipate that Phase II is expected to be required by 1987, and that Colorado-Ute will have 12 months after the formal execution of the agreement to advise WAPA

whether it desires to participate in Phase II. The Exhibit further specifies that Phase III will only be proceeded with when needed. Exhibit 4 does specify that right-of-way may be acquired in Phase I where possible so that the Phase III would be accommodated within the right-of-way acquired in Phase I. It is also intended that some of the towers in Phase I would be constructed to accommodate Phase III, if and when built.

THE PURPOSE OF AND NEED FOR THE PROJECT

15. Colorado-Ute states that the purpose of the project is to provide adequate transmission capacity to serve its members in southwestern Colorado. Colorado-Ute states that it has insufficient transmission capacity with which to serve its loads in southwestern Colorado, and that it has been relying on capacity belonging to WAPA to provide service.

16. WAPA desires to participate in Phase I to provide for system stability and reliability, and to provide capacity for energy transactions.

17. Public Service desires to participate in the line from Rifle to Grand Junction because Grand Junction is presently an isolated radial system and Public Service desires the capacity for system reliability, to provide service in the case of outages and for voltage support in the Grand Junction area.

18. The nominal capacity of the proposed line is expected to be about 500 megawatts. As noted above, the capacity entitlements in the line will be 25% to Public Service and 37 1/2% each to Colorado-Ute and WAPA between Rifle and Grand Junction. From Grand Junction south Colorado-Ute and WAPA will each have 50% of the capacity. Public Service

will have approximately 125 megawatts of transfer capability between Rifle and Grand Junction while Colorado-Ute and WAPA would each have approximately 187.5 megawatts of transfer capability between those points. From Grand Junction south, Colorado-Ute and WAPA would each have approximately 250 megawatts of capacity in the line.

19. Colorado-Ute bases its contention that it needs for the proposed line upon the power requirements of its southwest members, including Delta-Montrose, Empire, La Plata, Grand Valley Rural Power Lines, and San Miguel Power Association, Inc. The transmission capacity Colorado-Ute has at the present to serve those loads consists of a 115 KV Transmission Line running from Rifle through southwest Colorado. The capacity of that line is approximately 50 megawatts. Colorado-Ute also has certain generating capacity in southwest Colorado. Colorado-Ute rates the reasonably available generating capacity in southwest Colorado through 1983 at 50 megawatts, and at 64 megawatts after 1984 because of additional capacity expected to be operational at the Tacoma-Hydro Plant. Colorado-Ute's position on the capacity of its generating facilities in southwest Colorado is reasonable, and will be accepted for purposes of this proceeding. Therefore, it is found that Colorado-Ute presently has available 50 megawatts of transmission capacity and 50 megawatts of generating capacity that it can rely on, and that from 1984 forward it will have an additional 14 megawatts of generating capacity, for a total of 114 megawatts of capacity to meet the loads in southwestern Colorado. It is projected that during 1983 the demand of the 5 southwest members will reach 180 megawatts, that during 1985 the demand will reach 226 megawatts and during 1990 it will reach 311 megawatts. Thus, by 1990 Colorado-Ute's existing capacity will be 197 megawatts short of meeting the demand of Colorado-Ute's southwest members. The projections of demand are found to be reasonable for this proceeding.

20. WAPA presently has a 230 KV Transmission Line from Rifle to the San Juan area that runs through southwestern Colorado. It is interconnected with Colorado-Ute's 115 KV Transmission Line. Together, these two lines constitute the transmission system through southwestern Colorado. The only way that Colorado-Ute has been able to serve its load in the southwestern part of the State has been by relying on the capacity in WAPA's line. Colorado-Ute does not have a contractual right to do this, however, WAPA has taken the position that it will allow Colorado-Ute to rely on this capacity as long as Colorado-Ute is making good faith efforts to obtain additional capacity of its own so it can serve its own loads.

21. WAPA desires additional capacity in the southwest part of the State to accommodate problems caused by loop flow on the interconnected transmission system, and to provide capacity for energy transactions it is obligated to make.

22. The projections of increased load for the 5 southwest members of Colorado-Ute include projections of a particular load that will be served by Empire. It is the Shell CO₂ Project which is in Empire's service territory. It is projected that this load will require service beginning in 1984 of approximately 22 megawatts, and that it will increase to 25 megawatts in 1985 and to approximately 65 megawatts in 1990. The evidence in this proceeding establishes that Empire, La Plata and Delta-Montrose are all experiencing significant problems due to the lack of sufficient capacity to provide service to them. The problems encountered are voltage fluctuations and reliability problems related to lack of sufficient capacity to provide for their needs. Excessive line losses are also being encountered.

23. Public Service provides electric service to the Grand Junction area. It is an isolated system with a 230 KV Transmission Line tying it to the interconnected grid system, and 90 megawatts of generation capacity in the area. Public Service estimates that its load west of its Cameo Power Station in the Grand Junction area in the 1995 through 1997 time frame will be approximately 165 megawatts. Since Grand Junction is an isolated system, Public Service analyzed the situation on the basis of having 2 facilities out of service, namely the 230 KV Transmission Line and the largest generator at the Cameo Plant. If both of these facilities were out service there would only be 40 megawatts available to serve the load. The 125 megawatts of its share of this line added to the 40 megawatts would allow it to serve its Grand Junction load in the 1995 to 1997 time frame. The likelihood of both of these facilities being out at the same time is very small.

24. There is a need for additional transmission capacity to serve loads in southwestern Colorado. There is a need for additional transmission capacity to improve system reliability and to improve the level of service available to consumers in southwestern Colorado. Additional transmission capacity in southwestern Colorado would also provide the capability for energy transfers.

25. The forecast used and found to be reasonable takes into account the effects of conservation. Colorado-Ute does not expect small power producers to supply any considerable amount of the power in the southwestern part of the State, and that in fact they will supply less than 10% of what will be needed.

THE OPERATIONAL FEASIBILITY OF THE PROPOSAL

26. The evidence presented in this proceeding, by Applicants, by Intervenor, and by Staff, outlined various potential alternative

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solutions to provide additional transmission capacity to make up for the lack of transmission capacity that exists in southwestern Colorado. Colorado-Ute considered several alternatives to the proposed line, however, Colorado-Ute only looked at alternatives that would meet a limited set of criteria. The alternatives outlined by Intervenor and Staff, were suggestions of possible ways to provide more transmission capacity for southwestern Colorado or to provide a possible path for energy transfers. The feasibility and details of these alternatives were not established by the evidence. In some cases the evidence showed that the alternative proposal by itself would not provide sufficient additional capacity to eliminate the problem that exists in southwestern Colorado. In other cases the proposal was merely speculative in that it would depend upon construction of other future projects. Most of these alternatives would be the responsibility of one utility rather than being a coordinated project of several utilities.

27. Applicants in this case presented evidence that they considered alternatives that would meet their requirements, and that they selected their best alternative. It would be unreasonable to require the Applicants to anticipate and refute every possible alternative. It should be enough that other alternatives which could become part of the proposed long term solution have been evaluated from an engineering and economic perspective and found not to be as good a solution as the one proposed. The Applicants have done that in this case.

28. The proposed transmission line will meet the needs of the Applicants into at least the early 1990's. It is a viable coordinated solution to the inadequacy of the present system to provide capacity for serving southwestern Colorado, and it also provides a path for transfers of power between Colorado and points in the southwest and west. It is

coordinated between three entities, and will minimize the construction of major facilities in southwestern Colorado. It is an operationally feasible solution to the problems that exist.

THE FINANCIAL FEASIBILITY OF THE PROPOSAL

29. WAPA has received funds for its share of the proposed line.

30. Public Services's estimated cost to complete its share of the project is approximately \$8,500,000. Public Service intends to finance its share by a combination of internal and external sources or funds. Public Service has the financial ability and resources to finance the project. It is financially feasible for Public Service, especially in view of the fact that this project will require a substantially smaller outlay than one independently developed by Public Service to provide additional transmission facilities for Public Service's Grand Junction load.

31. It is estimated that the Colorado-Ute share of the project will be approximately \$70.4 million. Colorado-Ute intends to borrow all of the funds necessary to fund its portion of the project. At December 31, 1982 Colorado-Ute's equity was \$1,926,262. Its long-term debt was \$866,518,899. Adding the cost of the Colorado-Ute share to this would increase its long-term debt to approximately \$936,904,899. This would change its capital structure from .22% equity and 99.78% debt to .21% equity and 99.79% debt. For the twelve months ended December 31, 1982 Colorado-Ute had operating margins of \$4,808,086 and non operating margins of \$923,074. Colorado-Ute has provided an exhibit, which was admitted into evidence as Exhibit No. 15, which shows that with the rate increase effective December 1, 1982 that Colorado-Ute will be able to support the proposed transmission line without a rate increase. Colorado-Ute would expect to obtain 90% of its requirements under the

guaranteed loan program of the Rural Electrification Administration with the Federal Financing Bank as the lender. It expects to obtain the remaining 10% from the National Rural Utilities Cooperative Finance Corporation, commonly referred to as CFC. Colorado-Ute has a commitment from CFC, and expects approval of its loan application to REA once the REA completes the environmental process.

32. The project is financially feasible for the participants, with the limitations noted in the following portions of this Decision.

OTHER MATTERS

33. It has been argued in this proceeding that the transmission system reliability problem, voltage levels, stability problems, and line losses do not establish a need for this particular proposed project. It is true that the outages shown by the evidence tend to indicate that the lines have not been out much on a percentage basis. There was evidence that outages may be increasing. It has also been argued that other solutions may be appropriate to solve these problems, and it has been argued that the projections concerning demands in the southwest area are flawed in that additional capacity will be provided by small power production and a reduction in demand will be, or could be, caused by conservation, load management and price elasticity. All of these matters have been considered by the Applicants. Any disagreement that exists concerns the magnitude of the effect of these matters. The Applicants proposal to solve the problems that exist is a reasonable, viable, feasible solution. The alternatives suggested were not shown to be superior to the proposal of the Applicants.

34. A recurring theme during the hearing in this Application concerned the Shell CO₂ load. Shell is developing a CO₂ field in the service territory of Empire. This load will be served by Empire. The

facilities to serve Shell are being constructed by Empire pursuant to a certificate of public convenience and necessity issued by this Commission and are being paid for by Shell. See Exhibit 55. Exhibit 5 shows that this load is projected to amount to 22 megawatts in 1984 and to increase to 62 megawatts in 1991. A large number of the public witnesses suggested that they should not be required to pay for a facility to serve Shell. Several times there was a suggestion that Shell should shoulder a percentage of the cost of the transmission line which is the subject matter of this Application. The evidence presented in this matter establishes that Shell will be a customer of Empire and will be treated like any other industrial load of a distribution cooperative. The evidence also establishes that there is a need for the subject transmission line whether or not the proposed Shell load is considered, and that it would be proposed by the Applicants even in the absence of the Shell load. This proposal relates to the bulk transmission system which serves distribution cooperatives, and it would be inappropriate to pick out one customer of a distribution system and require that customer to contribute funds for the construction of the bulk transmission system. If such a procedure were to be followed, an assessment should be made against each and every customer that would benefit from the addition to the bulk transmission system, which would include all customers in southwestern Colorado. The evidence is clear that Shell is in fact paying for those facilities constructed especially for it and that other consumers in southwestern Colorado will not be asked to pay for the facilities designed just to serve Shell.

35. The argument has been advanced that sufficient alternatives were not considered by Applicants, and that sufficient study was not given to alternatives. A number of alternatives were pointed out during the hearing. The evidence establishes that a number of alternatives were studied by Colorado-Ute, some less extensively than others. The evidence establishes that none of the alternatives pointed out at the hearing were

superior to the proposal of the Applicants. It would be unreasonable to reject this Application on the basis that there are a number of alternatives that could possibly help meet the needs that have been established by the evidence in this case at some possible time in the future, when those alternatives have not been shown to be superior to the proposal of Applicants.

36. There were assertions in this proceeding that Colorado-Ute will not be able to absorb the financial impact of this project along with the financial impact of Craig 3. There were also contentions that rate increases might be required. Colorado-Ute takes the position that it will be able to meet the financial burden of both projects without requiring a rate increase. It has submitted exhibits showing the effect of these projects and that it will still be in a positive margin position after they are on line. The evidence does establish that this project and Craig 3 will have an impact on the financial position of Colorado-Ute, however the evidence viewed as whole establishes that Colorado-Ute will be able to meet the financial burden without undue rate relief and that it is financially feasible for Colorado-Ute to participate in this project.

37. The Staff has proposed that certain conditions be placed on any certificate to be issued in this proceeding. Applicants oppose an imposition of conditions. One condition proposed by Staff was that all participants participate in the line. Since the elimination of any participant could materially alter the financial feasibility of this project, such condition will be reasonable. Another condition proposed by Staff was that Colorado-Ute be required to use funds from the CFC and the FFB or both. This would prevent Colorado-Ute from seeking funds on the open market. The basis for this proposal is that Colorado-Ute's bond rating would require much higher interest than the other sources. It would be reasonable to require that Colorado-Ute finance its share with

FFB and CFC, unless more favorable terms could be obtained elsewhere. Such a requirement will be imposed. Staff also suggested that certain conditions be imposed regarding what has been termed as Phase II and Phase III in this proceeding. Phase II is the proposed upgrading of the existing WAPA 230 KV Transmission Line to 345 KV, and Phase III would be a future 345 KV Line. The evidence in the record in this case establishes that Phase I is the only thing within the scope of this application, and any certificate to be granted will not authorize Colorado-Ute or the other Applicant to participate in Phase II or Phase III. If Colorado-Ute decides to participate in Phase II it will have to comply with the Public Utilities Law at that time. The evidence does establish that Colorado-Ute plans to attempt to purchase additional right-of-way and construct certain towers to facilitate Phase III. Phase III would not be constructed, if at all, until some time in the far future. It would be imprudent to authorize expenditures for a contingent Phase III project that would not be constructed until far in the future, if at all. Any certificate to be issued in this proceeding will not authorize the Applicants to expend any funds for Phase III.

38. Western Colorado Congress has requested that the record be reopened so that it would be able to call and cross-examine Mr. Frederick Kuhlemeier. During the hearing, WCC attempted to call Mr. Kuhlemeier as an adverse witness in its case, which was objected to by Colorado-Ute. That objection was sustained by the Examiner. The basis for the ruling was that WCC had failed to comply with a Commission order controlling the procedure in this application. They were allowed to submit a written offer of proof, which is in the record as Exhibit 70. During the hearing the Examiner mentioned that the order may have been impossible to comply with, however, as was pointed out, Western Colorado Congress could have taken the disposition of Mr. Kuhlemeier and used the disposition as his direct testimony. Therefore, they could have complied with the

Commission's order. Nothing in the argument of WCC or the offer of proof would warrant changing the ruling entered during the hearing. The record in this proceeding should not be reopened.

39. WAPA filed a pleading entitled "Amicus Curia Statement of Position of the United States" on April 15. Staff of the Commission filed a Motion to Strike this document on April 26, on the grounds that WAPA and the United States were not parties to the proceeding and had not petitioned to be Intervenor or Amicus Curia. Responses were filed to the Motion to Strike. The Motion to Strike sets forth proper grounds and should be granted. The Amicus Curia Statement of Position of the United States should be stricken.

40. Having considered all of the evidence submitted in this proceeding, and all of the arguments advanced by the parties, including the Statements of the Public Witnesses, both opposed to and in favor of the proposed facilities, it is found that the public convenience and necessity requires the granting of this application with certain conditions, in that there has been shown to be a need for additional transmission capacity in southwestern Colorado, the proposed project is operationally feasible to meet those needs, and the proposal is financially feasible for the participants. The need shown for Public Service's participation in the project might not be strong enough to authorize it to independently build a project, but given all the circumstances of this proceeding, it is sufficient to authorize its participation in this project. Applying the conditions suggested by Staff is also required by the public convenience and necessity, as is strictly limiting the authority granted to Phase I as described on Exhibit 19 admitted into evidence herein.

41. Pursuant to CRS 1973, 40-6-109 it is recommended that the Commission enter the following Order.

O R D E R

THE COMMISSION ORDERS THAT:

1. Application No. 34979 be and hereby is granted to the extent set forth in this Order. Colorado-Ute Electric Association, Inc. and Public Service Company of Colorado be and hereby are granted a Certificate of Public Convenience and Necessity to construct, operate and maintain a 345 Kilovolt Transmission Line together with related substation facilities, such transmission line and related facilities to be located in nine counties in western Colorado and one county in New Mexico, collectively to be known as the Rifle-San Juan 345 KV Transmission Line, as described and set forth as Phase I on Exhibit 19 in this proceeding. This Certificate of Public Convenience and Necessity does not apply to any Phase other than Phase I, and is specifically conditioned upon participation by the Western Area Power Administration, Colorado-Ute Electric Association, Inc. and Public Service Company of Colorado in the manner and to the extent set forth in the application and as described in the evidence presented herein. It is further conditioned upon Colorado-Ute Electric Association, Inc. being able to obtain financing from the Federal Financing Bank under the Rural Electrification Administration Program and from the National Rural Utilities Cooperative Finance Corporation, or other financing that would be financially more beneficial than from those two sources. Construction of the facilities shall not commence until all financing has been obtained by Colorado-Ute Electric Association, Inc. This Certificate and Order does not authorize any other projects or expenditures for any other projects than Phase I, and specifically does not authorize any expenditures for Phase II or Phase III. This Order shall be deemed to be and be a CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY therefor.

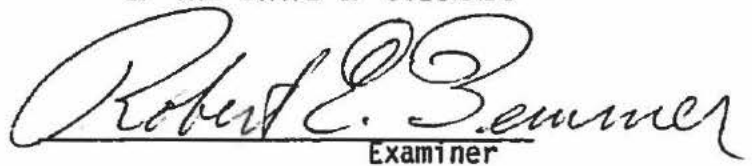
2. The request of Western Colorado Congress that the proceeding be reopened to allow it to call and cross-examine witness Kuhlemeier be and hereby is denied.

3. The Amicus Curia Statement of Position submitted by Western Area Power Administration on behalf of the United States be and hereby is stricken.

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

5. As provided by 40-6-109, CRS 1973, copies of this Recommended Decision shall be served upon the parties, who may file exceptions thereto; but if no exceptions are filed within twenty (20) days after service upon the parties or within such extended period of time as the Commission may authorize in writing (copies of any such extension to be served upon the parties), or unless such Decision is stayed within such time by the Commission upon its own motion, such Recommended Decision shall become the Decision of the Commission and subject to the provisions of 40-6-114, CRS 1973.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


Examiner