

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE INVESTIGATION)	DOCKET NO. 89S-701E
OF CERTAIN MANAGEMENT PRACTICES OF)	
COLORADO-UTE ELECTRIC ASSOCIATION,)	COMMISSION DECISION
INC., MONTROSE, COLORADO.)	INSTITUTING INVESTIGATION INTO
)	MANAGEMENT PRACTICES

- - - - -
December 13, 1989
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STATEMENT AND FINDINGS OF FACT

BY THE COMMISSION:

On April 26, 1989, the Commission established Docket No. 89M-230E for the purpose of establishing a repository for the receipt of certain information, in writing, by Colorado-Ute Electric Association, Inc. (Colorado-Ute or CUEA). That decision directed Colorado-Ute to file certain information with the Commission including monthly updates of the information and status reports concerning any workout plans involving Colorado-Ute.

On September 1, 1989, the Staff of the Commission (Staff) submitted to the Commission a document entitled "Financial Audit and Management Review of Colorado-Ute Electric, Inc." (Referred to here as the Audit Report.) On September 6, 1989, the Commission entered Decision No. C89-1203 which released the Audit Report for comment by Colorado-Ute and each of its 14 distribution electric cooperative members, and allowed Colorado-Ute and its members to file comments in response to the Audit Report. Response comments were filed by Inter Mountain Rural Electric Association, Inc., and Colorado-Ute on September 15, 1989, and September 19, 1989, respectively. On October 4, 1989, Colorado-Ute filed response comments to the response comments that had been filed on September 15, 1989, by Inter Mountain Rural Electric Association, Inc.

On October 11, 1989, the Staff submitted its final version of its "Final Audit and Management Review of Colorado-Ute" (Final Audit Report). The Final Audit Report attached as appendices the comments filed by Colorado-Ute and Inter Mountain Rural Electric Association, Inc. Also on October 11, 1989, the Commission entered Decision No. C89-1369 which released the Final Audit Report to the public, to

Colorado-Ute, and its 14 distribution members. Ordering paragraph 3 of Decision No. CB9-1369 requested Colorado-Ute to advise the Commission on or before November 15, 1989, of how it intends to implement the recommendations set forth in the Final Audit Report, the time frames for implementation, or why one or more of the recommendations set forth in the final audit report should not be implemented, or should be modified, together with Colorado-Ute's reasons.

Colorado-Ute, on November 15, 1989, submitted its response regarding the implementation of the Final Audit Report. Colorado-Ute's response to the Final Audit Report indicates that it apparently disagrees with certain of the recommendations made in the Final Audit Report. There were 25 recommendations in the Final Audit Report, and it appears that Colorado-Ute has not responded or disagrees with the Final Audit Report with respect to the following numbered recommendations (corresponding to the numbers in the Final Audit Report):

Recommendation 2. The Board should examine whether corporate management has taken action to control and contain costs.

Recommendation 4. The Board needs to determine whether corporate management, when reviewing the operating plans, has ensured that the plan generates positive member operating margins. The Board also needs to be informed what the TIER will be in the operating plan, and ensure that it is adequate to meet the requirements of the mortgage agreements. The Board must ensure that the budget developed is adequate to meet the financial needs of CUEA, its members, and its creditors.

Recommendation 5. The Board should require the inclusion of cash flow statements in corporate management's report at the Board meetings.

Recommendation 7. The Board should design rates for its members which will generate positive operating margins and ensure meeting TIER requirements.

Recommendation 8. The Board of Directors needs to monitor its own expense levels. A summary of each director's expenses should be presented at each Board meeting for the Board to approve or to challenge. The presentation of the expenses should be recorded in the Board minutes which will demonstrate to the members that the Directors are controlling their expenditures.

Recommendation 9. The Board should develop a management succession plan.

- Recommendation 10. Corporate management should apprise the Board of correspondence from its lenders and regulators concerning the financial health of CUEA and other relevant topics.
- Recommendation 11. CUEA should consider having one director from each cooperative on the Board, and one non-cooperative director elected at large from each cooperative to serve on the CUEA Board. The non-cooperative director should have a professional background - such as engineering, law, accounting, finance, or management - which would be applicable to utility operations.
- Recommendation 13. Corporate management should monitor CUEA's TIER and other essential financial indicators, and regularly notify the Board of the status of the TIER ratio.
- Recommendation 14. Corporate management should inform the Board of the cash flow position of CUEA. Corporate management, the Chairman, and the Vice Chairman of the Board should review the financial and operational presentations to the Board for adequacy and accuracy of information, make the appropriate revisions as required.
- Recommendation 15. Corporate management should notify the Board of adverse correspondence from various regulatory agencies concerning the financial health of CUEA or other significant events.
- Recommendation 16. CUEA should establish a formal strategic business plan for the next five years.
- Recommendation 17. CUEA should review its organizational structure for the appropriateness of its function and accountability. Upon completion of the organizational structure review, revisions should be instituted.
- Recommendation 18. CUEA should perform a cost benefit analysis on the use of outside service versus hiring a permanent person at the company to perform these services.
- Recommendation 19. Prior to the expenditure of extraordinary funds, CUEA should verify that contracted services and products can be delivered.
- Recommendation 20. CUEA should develop financial policies that establish member rates to recover its members' cost of service. CUEA should design rates that recover and meet, at a minimum, the mortgage agreement's TIER ratio.
- Recommendation 21. CUEA should hire appropriate personnel, such as a Vice President of Finance, to develop and implement a course of action that will put CUEA in a sound financial position.

Recommendation 23. CUEA budgets should be prepared, which allow the company to meet its TIER requirements. The TIER ratio should be included in the operating plan.

Recommendation 24. CUEA should design rates that generate positive member operating margins and build equity. Corporate management should design the rates with Board approval, that meets a minimum of at least a 1.0 TIER.

Recommendation 25. CUEA should perform a cost-benefit analysis prior to any future layoffs in order to retain the expertise in crucial areas and to avoid the hiring of consultants to perform functions that may be effectively managed internally.

The Commission finds that Colorado-Ute should be required to respond formally as to the reasons why it has determined that the above recommendations of the Staff should not be implemented. The Commission makes reference to Decision No. C89-1538, dated November 22, 1989, in Docket No. 89I-498E which on page 12 makes reference to the imprudence of Colorado-Ute in disregarding this Commission's own regulatory warnings as set forth in Decision No. C82-199 in Application No. 33226. The Commission would also make reference to its Decision No. C89-598, dated April 26, 1989, in Docket No. 89M-230E which reviewed the then current financial condition of Colorado-Ute as of April 26, 1989. Accordingly, we find that a formal management docket is necessary and should be established at this time.

THEREFORE THE COMMISSION ORDERS THAT:

1. Docket No. 89-701E is established for the purpose of investigating certain management practices of Colorado-Ute Electric Association, Inc., and for taking whatever additional action may be appropriate as a result of the investigation undertaken in this docket.

2. Colorado-Ute Electric Association, Inc., is made a Respondent in this docket.

3. Colorado-Ute Electric Association, Inc., shall show cause why it should not be required by the Commission to implement the recommendations of the Staff of the Commission set forth in the "Financial Audit and Management Review of Colorado-Ute Electric Association, Inc.," which was submitted to the Commission on October 11, 1989, with respect to the particular recommendations set forth in the above findings of fact in this Decision.

4. All persons who desire to intervene in this docket shall do so by filing an appropriate pleading requesting intervenor status which pleading shall be filed with the Commission on or before January 16, 1990.

5. A prehearing conference for the purpose of establishing further procedural orders in this docket is set as follows:

DATE: February 14, 1990
TIME: 9:00 a.m.
PLACE: Commission Hearing Room
Office Level 2 (OL-2)
Logan Tower
1580 Logan
Denver, Colorado

6. Further procedural orders shall be issued in this docket, as necessary.

This Decision and Order is effective immediately. .

DONE IN OPEN MEETING December 13, 1989.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ARNOLD H. COOK

RONALD L. LEHR

Commissioners

COMMISSIONER GARY L. NAKARADO DISSENTING.

COMMISSIONER GARY L. NAKARADO DISSENTING:

I respectfully dissent from the majority opinion for the reasons stated in my dissent to Decision No. C89-1644.

While the issues raised in the Staff's report and this Order are obviously relevant to creating a well managed organization, that is all the more reason why this is not the right time to attempt to force Colorado-Ute to spend their scarce resources on the issues raised. We know, and they know, that these are real problems. They are under extreme pressure to conclude a merger which might eliminate much of what is left of Colorado-Ute management. So what is the point of this order, at least at this time? We are insisting on closing the barn door when the horse is not only already out but on the way to the glue factory. A merger, and/or a sale of assets, or the Bankruptcy Court will most likely address these issues more effectively than these proceedings. I would let Colorado Ute continue to concentrate on the more realistic solutions.

(S E A L)

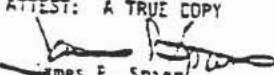


THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GARY L. NAKARADO

Commissioner

ATTEST: A TRUE COPY


James F. Spier
Executive Secretary

JEA:srs:1656J:mn