

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

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RE: INVESTIGATION AND SUSPENSION )	
OF TARIFF SHEETS ACCOMPANYING )	INVESTIGATION AND SUSPENSION
ADVICE LETTER NO. 36 FILED BY )	DOCKET NO. 1452
COLORADO-UTE ELECTRIC ASSOCIATION,) )	
INC., AMENDING ITS WHOLESALE POWER) )	ORDER OF THE COMMISSION
CONTRACTS WITH CERTAIN OF ITS )	
MEMBER ASSOCIATIONS.	

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February 24, 1981  
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- APPEARANCES:
- John R. McNeill, Esq.,  
Howard S. Bjelland, Esq.,  
Gregory Haller, Esq.,  
Montrose, Colorado, for  
Colorado-Ute Electric Association, Inc.
  - Thomas T. Farley, Esq.,  
Petersen & Fonda,  
Pueblo, Colorado, for  
Southeast Colorado Power Association
  - Clifford C. Fossum, Esq.,  
Dilts, Dyer & Fossum,  
Cortez, Colorado, for  
Empire Electric Association, Inc.
  - David C. Johnston, Esq.,  
Paonia, Colorado, for  
Small Electric Consumers Association
  - Gordon H. Rowe, Jr., Esq.,  
Monte Vista, Colorado, for  
San Luis Valley Rural Electric Coop-  
erative, Inc.
  - Alvin J. Meiklejohn, Jr., Esq.,  
Jones, Meiklejohn, Kehl & Lyons,  
Denver, Colorado, for  
Shell Oil Company
  - Nels. R. Leutwiler, Esq.,  
Peter A. Ricciardelli, Esq.,  
Telluride, Colorado for  
The Telluride Company
  - Eugene C. Cavaliere, Esq.,  
Denver, Colorado, for the  
Staff of the Commission
  - John E. Archibold, Esq.,  
Denver, Colorado, for  
the Commission.

S T A T E M E N T

BY THE COMMISSION:

On July 1, 1980, Colorado-Ute Electric Association, Inc. (hereinafter "Colorado-Ute" or "Respondent") filed with the Commission its Advice Letter No. 36 accompanied by 12 separate amendments to its wholesale power contracts between Colorado-Ute and certain of its member associations.

The contracts to which the amendments pertain were filed with the Commission on May 13, 1974 under Advice Letter No. 11.

Colorado-Ute stated in its advice letter that the primary purpose of filing was to replace, for those members so desiring, the present demand price and energy rate schedules of Colorado-Ute with energy conservation rate schedules providing for an equal and uniform energy charge per kilowatt hour but with no demand charge. Colorado-Ute stated the secondary purpose of the filing was to comply with ordering paragraph 6 of Commission Decision No. C79-1111 requiring Colorado-Ute to file seasonally differentiated rates. The revenue of Colorado-Ute was not to be affected by this filing as the new rates were designed to produce the same amount of revenue.

On July 29, 1980, by Decision No. C80-1505, the Commission entered an order suspending the effective date of the proposed contract amendments until February 27, 1981, and setting the same for hearing on October 15, 1980. This initial hearing date was vacated and the hearing reset for January 15, and 16, 1981.

Also by Decision No. C80-1505, the Commission stated that any person, firm or corporation (including, if any, those who had filed a protest to the proposed amended contracts) desiring to intervene as a party should file a motion to intervene on or before September 25, 1980. The following persons, firms or corporations moved to intervene and were granted leave to do so.

Empire Electric Association, Inc. (Empire)  
San Luis Valley Rural Electric Cooperative, Inc. (San Luis)  
Small Electric Consumers Association (SECA)  
Sky Valley Lodge (Sky Valley)  
The Telluride Company (Telluride)  
Southeast Colorado Power Association (Southeast)  
The High Country Citizens Alliance Shell Oil Company  
(Shell)

Also, by Decision No. C80-1505, Colorado-Ute was directed to file six copies of its exhibits and direct testimony (or summaries thereof) on or before October 3, 1980. Hearing set for October 15, 1980 was vacated and reset for hearing December 17, 1980. Date for filing exhibits and direct testimony was extended to November 1, 1980 by Notice dated October 2, 1980. Pursuant to that direction, Colorado-Ute prefiled the direct testimony of: Girts Krumins, Larry R. Day, Raymond E. Keith and Gary E. Pierson on October 31, 1980.

Direct testimony of Robert H. Mace, President and General Manager of San Luis, was filed on November 26, 1980.

By Decision No. C80-2315, Motion was granted for the admission of certain evidence filed by SECA, such evidence being the transcript of the testimony of Dan Neidlinger before the Commission on 8-20-80 in Montrose in Investigation and Suspension Docket No. 1418 without the necessity of Mr. Neidlinger appearing for the hearing herein.

Exhibits and prepared testimony of Jack Bennett appearing for Shell Oil Company were filed on January 5, 1981.

Also on January 5, 1981, testimony and exhibits of Dr. George J. Parkins were filed on behalf of the Staff of the Commission.

The hearing commenced on January 15, 1981 and concluded on January 16, 1981.

The following witnesses appeared on behalf of Colorado-Ute: Larry Day, Raymond Keith, Girts Krumins, and Gary E. Pierson.

The following witness appeared on behalf of San Luis Valley Rural Electric Cooperative Inc.: Robert H. Mace.

The following witness appeared on behalf of Shell Oil Company: Jack Bennett.

The following witness appeared on behalf of the Small Consumers Electric Association: Thomas Lawley.

The following witness appeared on behalf of the Staff of the Commission: George J. Parkins.

All exhibits offered were entered into evidence.

The Commission concluded the hearings on January 16, 1981.

The herein 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 opening meeting of the Commission. At an open meeting the herein Decision was entered by the Commission.

#### FINDINGS OF FACT

##### THE COMMISSION FINDS:

Colorado-Ute's filing in this docket is the culmination of its efforts to eliminate promotional aspects from its wholesale rates and to price its service by a simple unit charge, understandable by the consuming public. Accordingly, the filing herein will eliminate, to those member systems desiring to receive services thereunder, traditional demand-energy rates, and substitute therefor a simple, uniform kilowatt hour charge for all energy purchased.

As indicated above, Colorado-Ute's present rate structure for its member systems uses a demand-energy rate which is a two-part rate consisting of a demand charge component and an energy charge component. The demand charge portion is a charge based on the customer's maximum demand for a limited period of time, and the energy charge component is a charge based upon the total amount of energy, or number of kilowatt hours (Kwh) used during the billing period. Load factor is a number expressed in percentage terms, obtained by dividing the average demand by the maximum demand and can be determined for any period of time, depending upon the intended use. Thus, an annual load

factor is determined by dividing the average demand for the year by the maximum demand for that year and a monthly load factor is determined by dividing the average demand for the month by the maximum demand for the month.

The calculation of a load factor is also affected by the length of time interval over which the maximum demand is calculated. Normally, an integrated reading for a period such as 15, 30, or 60 minutes is used to establish the maximum demand. Generally speaking, under a demand-energy rate, the higher the load factor, the lower the unit charge for electricity. It is also true that the unit cost of electricity under a monthly demand-energy rate may well vary more because of the number of days in the month than because of changes in the load factor.

It is also possible to have a flat demand rate with no energy component, or a flat energy rate. However, it is not true that the flat energy rate does not have within it a demand component. Rather, it is more accurate to say that the flat energy rate contains within it a demand component with the demand component measured on the basis of the same period as the energy component. Colorado-Ute contends that a demand energy rate is inevitably, or almost inevitably, a promotional rate, and that it is a rate which is designed to promote increased use of electric energy supplied by the utility. Stated another way, if a particular customer incurs a relatively high demand charge, and the energy charge is relatively low, once the demand charge is incurred there would be an incentive to use more energy because of the low or "bargain" rate therefor. It is somewhat analogous to the situation in the automobile rental business wherein there is a high daily rental charge and a low mileage charge. If a customer has already paid the high daily rental charge, and mileage rates are comparatively low, there is an incentive to go ahead and use the car more than one otherwise would if more of the total charge was attained by increased mileage rates vis a vis the daily rental charge. Colorado-Ute contends that a demand charge can be particularly effective in discouraging supplemental solar heating, for example, in that the value of energy savings would be measured only by the avoidance of relatively low energy charges.

Colorado-Ute states, and we agree, that promotional rates are no longer appropriate for a number of reasons. First, the advent of an interconnected system which operates for power pooling, interchange, and purchase and sale agreements among utilities with generating facilities has changed the traditional nature of the electric industry. Thus, base-load facilities generally are fully utilized at all times, and low cost resources are not idle during off-peak periods, and resources management effectively can be used. Second, Colorado-Ute's resources are fully utilized, for practical purposes, at all times; thus, there is no practicable opportunity to reduce unit costs by the increased utilization of plant. Third, rates should reflect the cost of service and not be based upon the elasticity or inelasticity of consumer demands. Fourth, conservation, rather than increased use of electric energy, is both national and state policy. Fifth, insofar as a demand rate or a demand-energy rate is promotional, it is a rate which has not been universally understood by the public. The costs to Colorado-Ute to generate power basically are constant and uniform. That being the case, a flat energy rate (which contains within it a demand component) would recover both the demand costs and the energy costs on the basis of usage, that is, the total number of Kwh which is used by a particular member system.

At a meeting of the Board of Directors of Colorado-Ute in May of 1980, the Board determined that Colorado-Ute should offer to each of its thirteen all-requirements members, the option, by amendment to its wholesale power contract, to purchase power and energy from Colorado-Ute under a rate schedule providing for an equal and uniform flat energy charge per kilowatt hour with no demand charge. Twelve of the thirteen Colorado-Ute all-requirements members have exercised this option by executing the requisite contract amendments. The thirteenth all-requirements member, Empire Electric Association, Inc., as of the time of Colorado-Ute's filing herein on July 1, 1980, had not exercised its option to receive service under the new rate and will, therefore, continue to receive electric service under the rates provided in Colorado-Ute's present schedule "B" with the continuing option of receiving electric service under the new flat rate at a later time.

Colorado-Ute, in this docket, filed seasonally differentiated rates, ostensibly in response to ordering paragraph 6 of the Commission's Decision No. C79-1111. The summer-winter differential on Rate Schedule B is only eight-tenths of a mill, and on Rate Schedule A-1, it is less than half a mill. The Staff is of the opinion, and we agree, the differentials of this size are too small to justify a seasonal differential in summer and winter rates. As the Staff pointed out, the plant of Colorado-Ute is used for at least three purposes, namely, (1) to meet member requirements, (2) to provide sales to non-members, and (3) to provide interchange. In the Staff analysis no portion of plant was allocated to non-member sales or to interchange even though a portion of Colorado-Ute's plant is used for these purposes. The Staff indicates that it is not really known how these will effect seasonal costs. We agree with the Staff that until a method or methods for allocating seasonal rates for non-members and interchange is developed, it is not appropriate at this time to assert what the seasonal differential, if any, really is. That being the case, the Commission has decided not to adopt a seasonal differential between summer and winter rates for Colorado-Ute at this time.

#### CONCLUSION

Premises considered, the Commission concludes that Colorado-Ute should be authorized to file appropriate amendments to its wholesale power contracts between itself and its various member associations, which contracts are dated February 8, 1974 and which were filed with the Commission on May 13, 1974 under Colorado-Ute's advice letter No. 11. The Commission takes note of the fact that subsequent to the filing of the amendments to its various wholesale power contracts on July 1, 1980, Colorado-Ute on October 10, 1980 filed its advice letter No. 39 for the purpose of increasing all bills for wholesale electric service provided under schedules to its wholesale power contracts between Colorado-Ute and its thirteen all requirements members systems by 20%. On October 28, 1980, by Decision No. C80-2064, the Commission suspended the Tariff Rider No. 1 which had been filed by Colorado-Ute pursuant to its advice letter No. 39 and set the same for hearing. On January 9, 1981, by Decision No. R81-21, Examiner Loyal W. Trumbull entered his decision recommending that the suspension of Tariff Rider No. 1 be terminated. Examiner Trumbull's Decision No. R81-21 became the decision of the Commission by operation of law on January 30, 1981. Accordingly, the rate level, presently in effect, is 20% higher than the rate level in existence at the time Colorado-Ute filed its advice letter No. 36 on July 1, 1980 which advice letter was accompanied by twelve separate amendments to its wholesale power contracts. Accordingly, in the Order hereinafter, we shall authorize Colorado-Ute to file appropriate amendments to its wholesale power contracts to reflect a flat energy rate at the revenue level found appropriate in Investigation and Suspension Docket No. 1474 by Decision No. R81-21 dated January 9, 1981.

An appropriate Order will be entered.

O R D E R

THE COMMISSION ORDERS THAT:

1. Colorado-Ute Electric Association, Inc., be, and hereby is, authorized to file amendments to its wholesale power contracts, dated February 8, 1974, which contracts were filed with this Commission on May 13, 1974 pursuant to Colorado-Ute Electric Association, Inc., Advice Letter No. 11, which amendments reflect the purchase of power and energy from Colorado-Ute Electric Association, Inc., under non-seasonally differentiated rate schedules providing for an equal and uniform flat energy charge per kilowatt hour, together with any necessary appropriate rate schedules pursuant to said contract amendments. The rate schedules shall reflect flat energy charges designed to recover the revenues authorized in Decision No. R81-21 dated January 9, 1981.

2. Colorado-Ute Electric Association, Inc., shall file an Advice Letter with the Commission, within thirty (30) days following the effective date of the Order herein, with such accompanying contract amendments and rate schedules as have been authorized in ordering paragraph 1 herein. Such filing may be made without further notice and is intended to be for record keeping and administrative purposes only, this Decision being fully self executing in all respects.

3. Nothing herein shall be construed to terminate or suspend the operation of ordering paragraphs 1 and 2 as contained in Decision No. R81-21 dated January 9, 1981 and the filings made thereunder shall continue to be operative with respect to any member association of Colorado-Ute Electric Association, Inc., which does not execute an amendment to its wholesale power contract pursuant to the authorization herein.

4. This Order shall be effective forthwith.

DONE IN OPEN MEETING the 24th day of February, 1981.

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

Daniel E. Muse

L. Duane Woodard

Commissioners

CHAIRWOMAN EDYTHE S. MILLER ABSENT  
SPECIALLY CONCURRING - TO FOLLOW LATER

SPECIAL CONCURRENCE TO (DECISION NO. C81-373)  
ENTERED FEBRUARY 24, 1981.

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ADVICE LETTER NO 36 FILED BY	)	DOCKET NO. 1452
COLORADO-UTE ELECTRIC ASSOCIATION,	)	
INC., AMENDING ITS WHOLESALE POWER	)	SPECIAL CONCURRENCE TO
CONTRACTS WITH CERTAIN OF ITS	)	MAJORITY DECISION
MEMBER ASSOCIATIONS.	)	

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February 27, 1981  
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CHAIRWOMAN EDYTHE S. MILLER SPECIALLY CONCURRING:

I concur with the decision entered by my colleagues. However, in view of the fact that the flat energy rate herein authorized is a departure from a demand-energy rate presently in effect, I believe the Commission has the responsibility of being fully advised as to what effects its implementation will have with respect to Colorado-Ute's system load factors, as well as the load factors of its all-requirements members. I believe the Commission also should be kept fully informed as to the operational performance measures of Colorado-Ute's fossil fuel plants. Thus, I think it would have been appropriate, in this decision, to require Colorado-Ute to submit to the Commission, on a quarterly basis, certain reports which would have included the foregoing data. I would assume that the information would be gathered by Colorado-Ute in any event for its own purposes. Thus, I do not believe the reporting requirement would have been unduly burdensome. Hopefully, Colorado-Ute would be willing to furnish the information to our staff on a voluntary basis.

In all other respects I concur with the decision entered herein by my colleagues.

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO



Commissioner