

RESOLUTION NO. 7-93

A RESOLUTION SUPPORTING PROCEEDING WITH THE ECONOMIC ANALYSIS OF THE ACQUISITION AND OPERATION OF THE ELECTRICAL UTILITY SYSTEM IN THE TOWN OF BERTHOUD.

WHEREAS, the Board of Trustees of the Town of Berthoud has determined that it is imperative that the Town explore and pursue all possible economic avenues which may feasibly lead to sources of income to the citizens of the Town of Berthoud without increasing their tax burden; and,

WHEREAS, municipalities in this locale which have operated their own electric utility system have determined that the provision of electricity to their citizens has resulted in a positive impact to their municipalities and costs savings to their citizens;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF BERTHOUD, LARIMER COUNTY, COLORADO THE TOWN'S STAFF IS HEREBY AUTHORIZED TO PURSUE THE FOLLOWING COURSE OF ACTION:

1. Continue negotiations with Public Service Company of Colorado (Public Service) to establish an interim operational agreement and to create an acceptable franchise.

a. Provide a formal notice to Public Service that subsequent to December 15, 1993, its right to continue to operate as a licensee with respect to the placement of its electrical and gas utility system components located on the streets, alleys, easements and property of the Town of Berthoud is terminated.

2. Clearly define and establish an agreement with R. W. Beck which will:

a. Generate a list of Public Service assets in Berthoud;

b. Determine the fair market values of these assets based upon comparable sales, replacement, and depreciation costs, if applicable;

c. Provide a written feasibility analysis as to the acquisition of the system; and,

d. Prepare and present this appraisal in depositions and at trial.

3. Whenever possible staff should work cooperatively with Public Service to establish the fair market value of its corporate assets within the Town of Berthoud. If Public Service is unwilling or unable to provide the economic data necessary to generate the financial analysis and appraisal of its Berthoud system the staff shall proceed with the initial stages of a condemnation proceeding.

4. Upon receipt of the R. W. Beck feasibility study the Board of Trustees shall determine whether acquisition of Public Service's electrical system is in the best economic interests of the citizens of Berthoud and if the system can be acquired and operated on a long term positive basis.

5. If the Board of Trustees determines it should proceed with the acquisition a final settlement offer should be provided to Public Service prior to proceeding with the trial of the condemnation action.

6. Upon receipt of the judicial determination of the value of the system the Board of Trustees shall once again determine whether the acquisition of the system would result in a long term positive economic benefit to the community.

7. If the Board determines that the answer is in the affirmative the staff is directed to proceed with analysis of alternative financing possibilities. This should include at a minimum analyzing whether the bonds to pay for the system should be sold by the Town or by a broker.

8. The staff shall again report to the Board of Trustees as to whether the acquisition is economically feasible based upon the available funding alternatives.

9. It is specifically understood that the actual economic impact of this acquisition will only be determinable upon completion of step number 8. Therefore the Board of Trustees hereby commits to proceeding through this analysis until number 8. is achieved or the Board determines that the acquisition is clearly not in the community's best interests.

10. In the event the current franchise is terminated and in order to ensure the continued health, safety, and welfare of the citizens of Berthoud the staff shall proceed with the implementation of a safety inspection and inventory of Public Service Company's facilities and operations. The costs of this analysis and the economic operational impact of Public Service Company's operations in Berthoud shall be analyzed and an appropriate fee assessed against Public Service Company.

This resolution was adopted by the Board of Trustees of the Town of Berthoud at its regular meeting on November 9, 1993.

DATED this 9th day of November, 1993.

TOWN OF BERTHOUD:

ATTEST:

Mary K. Cowdin
Mary K. Cowdin
Town Clerk

Richard D. Strachan
Richard D. Strachan
Mayor