Power Lines: Coming Soon to a Community Near You

3:00 p.m.—4:15 p.m.
Friday, April 22, 2005
Sturm College of Law

Moderator: Larry Keith
Principal
EDAW, Inc.
Denver, Colorado

Panelists: Nicholas Faes
Manager, Siting and Land Rights
Xcel Energy
Denver, Colorado

Malcolm Murray, Esq.
Murray Dahl Kuechenmeister & Renaud
Denver, Colorado

Sandra Johnson
Manager, Transmission Reliability and Assessment
Xcel Energy
Denver, Colorado
Introductions

- Larry Keith, Principal, Director of Utility Services, EDAW Denver
  Larry is principal of EDAW, an international environmental, planning and landscape architecture firm. He has worked within the energy industry for 29 years providing energy, public involvement, and transportation planning services to clients. His particular expertise is in electric power transmission design and placement. He is a graduate of the University of Colorado and holds a Bachelor of Landscape Architecture degree in 1975.

- Nicholas Faes, Manager, Siting & Land Rights, Xcel Energy
  Nicholas has worked in the electric and gas utility industry for 34 years primarily focused on electric and gas transmission and generation planning. Nicholas has provided siting, permitting and land use rights acquisition services for all types of electric and gas facilities including hydro electric, wind, solar, gas and oil. Nicholas is a registered Professional Engineer in Colorado.

- Sandra Johnson, Manager, Transmission Reliability & Assessment, Xcel Energy
  Sandra has worked in the electric utility industry for 12 years primarily focused on System Planning and System Operation. She manages the Transmission Planning department responsible for developing transmission plans necessary to meet the reliability and integrity of the transmission system for Xcel Energy’s and its customers, including load growth and generation adequacy. Sandra received her Bachelors of Science degree in Electrical Engineering from the University of Colorado at Boulder in 1992 and her Masters of Science degree in Electrical Engineering with emphasis in Electric Utility Planning in 1995.

- Malcolm M. Murray, Partner, Murray Dahl Kuechenmeister & Renaud LLP
  Malcolm is a partner in the law firm Murray Dahl Kuechenmeister & Renaud LLP. His practice specializes in urban renewal and land use matters and eminent domain litigation for public and private entities. He is a partner in the law firm Murray Dahl Kuechenmeister & Renaud LLP and has been involved in numerous high-profile redevelopment projects, including the Denver Union Station Redevelopment Project. He has been a member of the Regional Advisory Board of the Rocky Mountain Land Use Institute.

Objectives

- Provide insights into planning, siting and permitting energy facilities.
- Electric system planning process
- Approach and challenges associated with siting and permitting
- Land use regulations and statutes

Objectives

- Issues Utilities Face
  Larry Keith
- Electric System Planning
  Sandra Johnson
- Approach to Siting Facilities
  Nick Faes
- Statutes and Regulations
  Malcolm Murray
- Summary, Mitigation and Questions
  Larry Keith

Issues Utilities Face

- Electricity can not be stored.
- It has to be generated, transported and used instantaneously.
- Issues associated with planning, siting, permitting and operating system.

Electric System Planning

- Electric Transmission System
  Status of existing transmission system
  Limitations of transmission system
Electric System Planning

Electric Transmission System
• Loads/Demand increases
• Regulatory Trends
• New Generation

Approach to Siting & Permitting

Electric System Planning
• New Generation
• Regional Reliability Requirements

Approach to Siting & Permitting
• Electric System Planning
  – Document Project Purpose, Need and Benefit
  – Review System Alternatives
  – Analyze Related Impacts and Permitting Requirements
  – Develop Preferred System Alternative
  – Prepare and Submit Necessary Regulatory Filings
  – Cost and Schedule

Approach to Siting & Permitting

• Engineering
  – Collaborate on Preliminary Design Alternatives
  – Analyze Related Impacts
  – Develop Acceptable Design and Options
  – Prepare Preliminary Survey Information
  – Cost and Schedule

Approach to Siting & Permitting

• Land Use and Environmental
  – Establish Siting Area
  – Contact Agencies and Jurisdictions
  – Develop Mapping and Aerial Imagery
  – Acquire Resource Data
  – Perform Field Reviews
  – Develop Alternative Sites/ Routes and Related Impacts
  – Complete Environmental Assessment
  – Cost and Schedule
Approach to Siting & Permitting

- Public Involvement
  - Package Alternatives Information, Mapping and Impacts
  - Assemble Project Team Representatives for Stakeholder Engagement
  - Develop Public Open House Meeting Dates and Locations, and Provide Notice and Advertising
  - Review Alternative Sites/Routes/Options with Stakeholders
  - Debrief Team, and Document and Catalog Responses
  - Review Input for Adjustment of Alternatives
  - Develop Preferred Alternative
  - Cost and Schedule

- Land Rights
  - Obtain and Analyze Market Valuation Data
  - Develop Project Land Rights Document Package
  - Research Ownership
  - Obtain Survey/Plat Data and Exhibits
  - Negotiate for Land Rights
  - Undertake Condemnation as Necessary
  - Cost and Schedule

- Legal and Permits
  - Review and Confirm Permitting Requirements for Preferred Alternative
  - Develop Permit Application Submittal Package(s) and Related Presentation Materials
  - Submit Applications and Schedule Related Meetings/Hearings
  - Support Agency and Jurisdiction Reviews, and Respond to Questions/Requests
  - Attend Meetings/Hearings with Project Team Representatives, and Respond to Questions/Requests
  - Appeal any Denial or Unreasonable Conditions to Public Utilities Commission
  - Cost and Schedule

- Local Government Review (cont.)
  - 1041 Regulation typically address
    - Size and scope of the facility
    - Number of employees
    - Traffic
    - Hazardous materials and emergency management
    - Water quality and water consumption
    - Fire, police and other public service demands
    - Visual impacts and noise
    - Wildlife impacts
    - Procedures
      - Application
      - Staff review
      - Planning commission review
      - Public hearing

Regulatory & Statutory Requirements

- Siting and Land Use
  - Shared Power Concept
  - Local Government reviews application
  - Denial or approval with unacceptable conditions subject to PUC review

- Local Government Review
  - Local land use authority
    - Zoning
    - Subdivision
    - Home rule powers
    - Allows local governments a mechanism to regulate areas and activities of state interest
    - Includes “major facilities of a public utility”
    - Transmission lines, power plants, substations, and pipelines
    - Establishes a permitting process to be implemented by local governments
    - Many counties have adopted 1041 regulations
Regulatory & Statutory Requirements

- PUC oversight
  - 30-28-127, C.R.S.
    - General statute in local government planning statutes
    - Requires public utility facilities to comply with regulations
    - Allows PUC override
    - No specifics on time frames or procedures
  - 29-20-108, C.R.S.
    - Adopted in 2000
    - Establishes specific procedures and time frames
    - Requires public utility to notify local government of plans
    - Requires local government to act on permit applications within 120 days of preliminary application or 90 days of final application
    - Failure to act is deemed approval
    - Denial or unacceptable conditions can be appealed to PUC
    - PUC to balance statewide interest with local government interest

Result
- Early consultation between utility and local government
- Tight and known time frames
- PUC review that balances local interest and broader public interest

Summary

- Electric System Planning
- Siting and Permitting
- Regulatory and Statutory

Examples of Mitigation

- Construction (topping trees vs. clear cutting, feathering, environmental protection measures)

Examples of Mitigation

- Siting (placement at edges of fields, topography or vegetation)

- Design (structure type, vegetation)
Examples of Mitigation

- Design (structure types, vegetation)

None of the provisions of this part 1 shall apply to any existing building, structure, or plant or other equipment owned or used by any public utility. After the adoption of a plan, all extensions, betterments, or additions to buildings, structures, or plant or other equipment of any public utility shall only be made in conformity with such plan, unless, after public hearing first had, the public utilities commission orders that such extensions, betterments, or additions to buildings, structures, or plant or other equipment are reasonable and that such extensions, betterments, or additions may be made even though they conflict with the adopted plan.


ANNOTATION


Administrative agency proceeding by Public Utilities Commission was quasi-judicial where it rendered its decision by applying the reasonableness standard set forth in this section, the parties adversely affected by the decision were identifiable, no new rule of general application resulted, and notice and a public hearing were required. Douglas County Board of Comm’rs. v. Public Utilities Comm’n., 829 P.2d 1303 (Colo. 1992).

The requirement that the Public Utilities Commission find a proposed improvement to be "reasonable" before ordering an upgrade to equipment contrary to a county land use plan, read in the context of the statutory scheme covering county planning along with the rules that the Public Utilities Commission has adopted, provides an adequate standard. Douglas County Board of Comm’rs. v. Public Utilities Comm’n., 829 P.2d 1303 (Colo. 1992).

In determining whether any improvement or upgrade in accordance with this section is reasonable statutory considerations for county or regional planning commissions are also factors for the Public Utilities Commission to consider. Douglas County Board of Comm’rs. v. Public Utilities Comm’n., 829 P.2d 1303 (Colo. 1992).

It is within the discretion of the Public Utilities Commission to determine what factors are germane to assessing the reasonableness of an utility upgrade, because the Public Utilities Commission has the knowledge and expertise to determine when, and under what circumstances, an upgrade is reasonable and it is constitutionally authorized to make such determinations. Douglas County Board of Comm’rs. v. Public Utilities Comm’n., 866 P.2d 919 (Colo. 1994).
29-20-108. Local government regulation - location, construction, or improvement of major electrical or natural gas facilities - legislative declaration.

(1) The general assembly finds, determines, and declares that the location, construction, and improvement of major electrical and natural gas facilities are matters of statewide concern. The general assembly further finds, determines, and declares that:

(a) A reliable supply of electric power and natural gas statewide is of vital importance to the health, safety, and welfare of the people of Colorado;

(b) Electric power is transmitted by means of an interconnected grid system serving every area of the state, and natural gas is carried through a series of interconnected pipelines statewide;

(c) Impacts on the electric grid system or natural gas pipelines in one area of the state may have impacts on other areas of the state; and

(d) It is critical that public utilities and power authorities that supply electric or natural gas service maintain the ability to meet the demands for such service as growth continues to occur statewide.

(2) Local government land use regulations shall require final local government action on any application of a public utility or a power authority providing electric or natural gas service that relates to the location, construction, or improvement of major electrical or natural gas facilities within one hundred twenty days after such utility's or authority's submission of a preliminary application, if a preliminary application is required by the local government's land use regulations, or within ninety days after submission of a final application. If the local government does not take final action within such time, the application shall be deemed approved. Nothing in this subsection (2) shall be construed to supersede any timeline set by agreement between a local government and a public utility or power authority applying for local government approval of location, construction, or improvement of major facilities as defined in subsection (3) of this section.

(3) As used in this section, "major electrical or natural gas facilities" includes one or more of the following:

(a) Electrical generating facilities;

(b) Substations used for switching, regulating, transforming, or otherwise modifying the characteristics of electricity;

(c) Transmission lines operated at a nominal voltage of sixty-nine thousand volts or above;

(d) Structures and equipment associated with such electrical generating facilities, substations, or transmission lines; or
(e) Structures and equipment utilized for the local distribution of natural gas service including, but not limited to, compressors, gas mains, and gas laterals.

(4) (a) A public utility or power authority shall notify the affected local government of its plans to site a major electrical or natural gas facility within the jurisdiction of the local government prior to submitting the preliminary or final permit application, but in no event later than filing a request for a certificate of public convenience and necessity pursuant to article 5 of title 40, C.R.S., or the filing of any annual filing with the public utilities commission that proposes or recognizes the need for construction of a new facility or the extension of an existing facility. If a public utility or power authority is not required to obtain a certificate of public convenience and necessity pursuant to article 5 of title 40, C.R.S., or file annually with the public utilities commission to notify the public utilities commission of proposed construction of a new facility or the extension of an existing facility, then the public utility or power authority shall notify any affected local governments of its intention to site a major electrical or natural gas facility within the jurisdiction of the local government when such utility or authority determines that it intends to proceed to permit and construct the facility. Following such notification, the public utility or power authority shall consult with the affected local governments in order to identify the specific routes or geographic locations under consideration for the site of the major electrical or natural gas facility and attempt to resolve land use issues that may arise from the contemplated permit application.

(b) In addition to its preferred alternative within its permit application, the public utility or power authority shall consider and present reasonable siting and design alternatives to the local government or explain why no reasonable alternatives are available.

(5) (a) If a local government denies a permit or application of a public utility or power authority that relates to the location, construction, or improvement of major electrical or natural gas facilities, or if the local government imposes requirements or conditions upon such permit or application that will unreasonably impair the ability of the public utility or power authority to provide safe, reliable, and economical service to the public, the public utility or power authority may appeal the local government action to the public utilities commission for a determination under section 40-4-102, C.R.S., so long as one or more of the following conditions exist:

(I) The public utility or power authority has applied for or has obtained a certificate of public convenience and necessity from the public utilities commission pursuant to section 40-5-101, C.R.S., to construct the major electrical or natural gas facility that is the subject of the local government action;

(II) A certificate of public convenience and necessity is not required for the public utility or power authority to construct the major electrical or natural gas facility that is the subject of the local government action; or

(III) The public utilities commission has previously entered an order pursuant to section 40-4-102, C.R.S., that conflicts with the local government action.

(b) Any appeal brought by a public utility or power authority to the public utilities commission under this section shall be conducted in accordance with the procedural requirements of section 40-6-109.5, C.R.S. In addition to the formal evidentiary hearing on the appeal, conducted in accordance with the procedural requirements of section 40-6-109, C.R.S., the public utilities commission shall take statements from the public concerning the appealed local government action at an open hearing held at a location specified by the local government.
(c) An appeal brought pursuant to this subsection (5) shall include a statement of the reasons why the local government action would unreasonably impair the ability of a public utility or power authority to provide safe, reliable, and economical service to the public.

(d) The public utilities commission shall balance the local government interest with the statewide interest in the location, construction, or improvement of major electrical or natural gas facilities. In striking such balance, the public utilities commission shall render a decision that is consistent with article 65.1 of title 24, C.R.S., including section 24-65.1-105, C.R.S., and the commission shall consider the following factors:

(I) The demonstrated need for the major electrical or natural gas facility;

(II) The extent to which the proposed facility is inconsistent with existing applicable local or regional land use ordinances, resolutions, or master or comprehensive plans;

(III) Whether the proposed facility would exacerbate a natural hazard;

(IV) Applicable utility engineering standards, including supply adequacy, system reliability, and public safety standards;

(V) The relative merit of any reasonably available and economically feasible alternatives proposed by the public utility, the power authority, or the local government;

(VI) The impact that the local government action would have on the customers of the public utility or power authority who reside within and without the boundaries of the jurisdiction of the local government;

(VII) The basis for the local government's decision to deny the application or impose additional conditions to the application;

(VIII) The impact the proposed facility would have on residents within the local government's jurisdiction including, in the case of a right of way in which facilities have been placed underground, whether those residents have already paid to place such facilities underground, and if so, shall give strong consideration to that fact; and

(IX) The safety of residents within and without the boundaries of the jurisdiction of the local government.

(e) The public utilities commission shall deny any appeal brought under this section unless the public utility or power authority has complied with the notification and consultation requirements of subsection (4) of this section.

(f) The public utilities commission may consult with the department of local affairs on land use issues in connection with any appeal. All information provided by the department of local affairs to the public utilities commission shall be part of the official record of the appeal and shall be subject to cross-examination or comments by the parties to the appeal.

(g) Unless otherwise specified in this subsection (5), the appeal shall be conducted in accordance with article 6 of title 40, C.R.S., including the provisions of section 40-6-116, C.R.S., concerning any
stay or suspension of the final determination made by the public utilities commission.

(h) Nothing in this section shall be construed to limit or diminish the right of a public utility, power authority, or local government to appeal a local government, public utility, or power authority action, decision, or determination to a court of law pursuant to any other provision of law, or any appeal brought in connection with any decision by the public utilities commission under this subsection (5). Appeals brought under this paragraph (h) shall be given priority over other pending matters.

(i) Nothing in this section shall be construed to limit the authority of a municipal government to require or grant a public utility franchise.

Source: L. 2000: Entire section added, p. 1608, § 1, effective July 1. L. 2001: (1)(d) and (2) amended and (4) and (5) added, p. 593, § 2, effective May 30.

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1041 Regulations for Saguache County
# Chapter 13

## REGULATIONS FOR SITE SELECTION AND CONSTRUCTION OF MAJOR FACILITIES OF A PUBLIC UTILITY

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Article 1 General and Introductory Provisions

13-101 Title and Citation

These various sections constituting Chapter 13 of the "Guidelines and Regulations for Areas and Activities of State Interest of Saguache County" may be cited as "Regulations for Site Selection and Construction of Major Facilities of a Public Utility," and may be referred to in this Chapter 13 as "these Regulations."

13-102 Purpose and Intent

The purpose and intent of the regulations contained in this Chapter 13 are:

(1) To encourage planned and orderly land use development;

(2) To provide for the needs of agriculture, forestry, industry, business, residential communities, and recreation in future growth;

(3) To encourage uses of land and other natural resources which are in accordance with their character and adaptability;

(4) To conserve soil, water, forest and agricultural resources;

(5) To protect the beauty of the landscape;

(6) To promote the efficient and economic use of public resources;

(7) To regulate the site selection and construction of major facilities of a public utility to prevent significant deterioration or degradation of existing air and water quality in the state; and

(8) To regulate the site selection and construction of major facilities of a public utility so as to avoid direct conflict with adopted local government, regional and state master plans.

13-103 Definitions

(1) "Applicant" means any individual, partnership, corporation, association, company, or other public or corporate body, including the federal government or any federal entity, and includes any
political subdivision, agency, instrumentality, or corporation of the state.

(2) "Appurtenant facilities" means any buildings, structures or other property which are clearly incidental to, and customarily found in connection with major facilities of public utilities and are operated and maintained for the benefit or convenience of the occupants, employees, customers or visitors of such major facilities.

(3) "Central office buildings of telephone utilities" means facilities, including appurtenant facilities, owned and operated by a telephone utility for the primary purpose of officeing of telephone utilities employees engaged in administrative, accounting, engineering, training and like activities or public offices maintained for the transaction of business with telephone utilities customers, including the expansion of existing facilities which would increase office floor space by fifty (50) percent or more.

(4) "Major facilities of a public utility" means:

(a) Central office buildings of telephone utilities;

(b) Transmission lines, power plants, and substations of electrical utilities; and

(c) Pipelines and storage areas of utilities providing natural gas or other petroleum derivatives.

(5) "Master plan" means a plan for the physical development of the jurisdiction as defined by Sections 30-28-106 and 30-28-107, C.R.S.

(6) "Nonconforming use" means a use in existence at the time of the adoption of these Regulations, which use, were it a new use, would be one for which a permit is required under these Regulations.

(7) "Pipelines" mean any pipeline and appurtenant facilities designed for, or capable of, transporting natural gas or other petroleum derivatives of ten (10) inches diameter or larger which creates a hoop stress of 20 percent or more at their specified minimum yield strength.
"Power plant" means any electrical energy generating facility with a generating capacity of fifty (50) megawatts or more, and any facilities appurtenant thereto, or any addition thereto increasing the existing design capacity of the facility by fifty (50) megawatts or more.

"Public utilities" as used in these regulations means the term as defined by Section 40-1-103, C.R.S.

"Site selection" means the process for determining the location of major facilities of a public utility or the expansion of existing major facilities of a public utility.

"Storage area" means any facility, including appurtenant facilities, designed to store 50 million cubic feet or more of natural gas or 35,000 barrels or more of petroleum derivatives, or any expansion of any existing storage facilities to accommodate 50 million cubic feet or more of natural gas or 35,000 barrels or more of petroleum derivatives. Deep underground storage areas are excluded.

"Substation" means any facility designed to provide switching, voltage transformation, or voltage control required for the transmission of electricity at 230 kilovolts.

"Transmission lines" mean any electric transmission line and appurtenant facilities which emanate from a power plant or substation and terminate at a substation.

**Authority**

These Regulations are adopted pursuant to, inter alia, Section 24-65.1-101, et seq., C.R.S., Section 30-28-101, et seq., C.R.S., Section 30-28-201, et seq., C.R.S., and Section 29-20-101, et seq., C.R.S. These Regulations are hereby declared necessary for the preservation of the public health, safety and welfare.

**Applicability**

These Regulations shall apply to site selection of major facilities of any public utility to be located wholly or partially within the unincorporated territory of this County.
13-106  Nonconforming Uses

The provisions of this Chapter shall not apply to any nonconforming use existing on the date the activity is designated or subjected to these Regulations, provided that, when such a nonconforming use shall be discontinued for six months or more or a nonconforming structure is damaged or destroyed to the extent of at least fifty (50) percent of the appraised value, any reuse, reconstruction, or replacement of such structure shall be deemed a new use and shall be subject to the provisions of these Regulations except when detrimental to the public health and safety.

13-107  Relationship of Regulations to Other County, State, and Federal Requirements

(1) Nothing in these Regulations shall be construed as exempting an applicant for a permit from any other requirements of this County or other state, or federal laws and regulations.

(2) To the extent that the requirements of these Regulations differ from any other applicable requirements, the more restrictive requirements shall apply.

(3) Nothing in these Regulations shall be construed as enhancing or diminishing the power and authority of municipalities, counties, or the Public Utilities Commission. Any order, rule, or directive issued by any governmental agency pursuant to these Regulations shall not be inconsistent with or in contravention of any decision, order, or finding of the Public Utilities Commission with respect to public convenience and necessity. The Public Utilities Commission and public utilities shall take into consideration and, when feasible, foster compliance with adopted master plans of local governments, regions and the state.

(4) Nothing in these Regulations shall be construed as enhancing or diminishing the rights and procedures with respect to the power of a public utility to acquire property and rights-of-way by eminent domain to serve public need in the most economical and expedient manner.
Article 2

DESIGNATION OF SITE SELECTION AND CONSTRUCTION OF MAJOR FACILITIES OF A PUBLIC UTILITY

13-201 Designation of Site Selection and Construction of Major Facilities of a Public Utility

The Board of County Commissioners having considered the intensity of current and foreseeable development pressures and applicable Guidelines for Identification and Designation adopted and issued by the Colorado Land Use Commission, it is the order of this body that site selection and construction of major facilities of a public utility be designated a matter of state interest and regulated pursuant to the provisions of this Chapter.

13-202 Boundaries of Area Covered by Designation

The site selection and construction of any major facility of a public utility wholly or partially within the boundaries of this County shall be subject to this designation and these Regulations.

13-203 Reasons for Designation

Site selection and construction of any major facility of a public utility is hereby designated as a matter of state interest for the reasons stated in Section 13-102 of this Chapter.

Article 3

PERMIT PROGRAM FOR SITE SELECTION AND CONSTRUCTION OF A MAJOR FACILITY OF A PUBLIC UTILITY

13-301 Prohibition on Site Selection and Construction of a Major Facility of a Public Utility Without Permit

(1) No person may locate or construct a major facility of a public utility wholly or partially in this County without first obtaining a permit pursuant to these Regulations.

(2) No local authority may issue a building permit for purposes of selecting a site for or constructing a major facility of a public utility wholly or partially in this County without the applicant first having obtained a permit pursuant to these Regulations.

13-302 Procedural Requirements

(1) The procedures concerning permit applications, notice and conduct of permit hearings, review of
Permit Authority decisions and issuance and content of permits for selecting a site and constructing any major facility of a public facility shall comply with the provisions set forth in Chapter 2, the Permit Regulations adopted by this County.

(2) Any person seeking to select a site or construct any major facility of a public facility shall apply for a permit from the Permit Authority on the appropriate form prescribed by these Regulations, at Exhibit B, and maintained in the office of the Saguache County Land Use Administrator.

(3) To minimize expenditures of time and money by all concerned, an application for a permit to locate and construct a major facility of a public utility shall be submitted first in a preliminary form so that general feasibility of the application can be assessed. Also, any major problems and issues can be identified and defined to direct the data gathering and assessment that are to accompany the final application.

(4) The requirement of this Section 13-302 shall not be deemed to waive the requirements of Section 40-5-101, et seq., C.R.S., that a public utility obtain a certificate of public convenience and necessity.

13-303 (Reserved)

13-304 Submission Requirements

(1) Preliminary application:

(a) At the time of making preliminary application, all applicants shall submit five (5) copies of the following documents and information:

(i) A completed application form;

(ii) Description of proposed facility and site; and

(iii) Description of the present use and zoning.

a. Location map showing the proposed site and clearly indicating the
relationship of the site to the surrounding area within fifty (50) miles from the site if central office building or power plant is proposed, and within ten (10) miles of the site if another major facility is proposed. For transmission lines and pipelines, provide map showing all existing transmission lines and pipelines within the County.

b. Type of facility -- specify where applicable:

   i. approximate floor space of office building
   ii. voltage and length transmission line
   iii. power source and generating capacity
   iv. function and size of substation
   v. diameter and length of pipeline
   vi. capacity of storage tanks, and type of petroleum derivative to be stored
   vii. service area
   viii. resource area (e.g. source of power being generated or transmitted, source of petroleum derivative being transported).

c. Projected development schedule:

   i. Estimate maximum number of employees, number of shifts and employees per shift during the following phases: construction, operation and maintenance.
   
   ii. Specify any future phases or extensions of the facility and relationship of the facility (if currently foreseen) to larger programs and plans.
   
   iii. Specify timetable for planning (e.g., federal permits, state permits, local zoning, etc.).
iv. Estimate beginning and completion of construction and beginning of operation of facility.

v. Describe support facilities (e.g. pollution control parking areas, landscaping, etc.) to be provided.

vi. Describe any feasible "non-structural" alternatives to meet the objectives of the proposed site selection and construction.

d. Hazards and emergency procedures:

i. Describe hazards, if any, of fire, explosion and other dangers to the health, safety and welfare of employees and the general public.

ii. Describe hazards, if any, of environmental damage and contamination due to materials used at or activities taking place at the proposed facility.

iii. Describe emergency procedures to be used in the event of fire, explosion or other event which may endanger the public health, safety and welfare.

iv. Describe any prevalent natural hazards that will affect or be affected by development, and describe mitigating measures to be taken to reduce danger due to such natural hazards.

(b) Review of preliminary application

(i) Upon acceptance of complete submission requirements by the Permit Authority, the applicant shall be issued a receipt indicating that preliminary application requirements have been met.

(ii) Within thirty (30) days of issuing receipt of the preliminary application, the Permit Authority shall provide the applicant with a written review concerning the general feasibility of
the application. Major problems and concerns will also be outlined in this review.

(iii) If the applicant, after receiving the written review, decides to proceed with the permit application, he shall notify the Permit Authority in writing within thirty (30) days. The Permit Authority shall then arrange a meeting at a mutually agreeable time and place.

(iv) The purpose of the meeting is to discuss and clarify, if necessary, the preliminary review, to determine submission requirements for final application, to identify sources of data and information, to coordinate this study with others, and to establish study format, methodology, map scales, work schedules gathering and analyzing data for the final application.

(2) Final application

(a) At the time of making final application, all applicants shall submit five (5) copies of the following documents and information:

(i) Delineation of base area (that area likely to be subject to land use changes as a result of the project).

a. Map showing base area; describe how the determination was made.

b. Map showing all special districts, (school, fire, water sanitation, etc.) affected by the proposal.

(ii) Delineation of impact area (that area whose physical and socio-economic environment is likely to be impacted, beneficially and adversely, by the site selection and construction of the proposed facility).

(iii) Objectives of the proposed site selection and facility.

a. Describe the relationship of project to local land use policies
and comprehensive plans and to policies and plans adopted or under preparation by federal, state and other affected local governmental agencies.

b. Describe the relationship of the project to other existing and planned utility facilities of similar nature, other communication or energy generation and transmission facilities, local government capital improvement programs, and special district expansion programs.

(iv) Description of need for project

a. Describe briefly why the public convenience and necessity require the facility of the size and nature proposed be constructed on the site proposed.

b. Sources of demographic and economic data and methods of analysis.

c. Market function (i.e. what user needs and patterns will project fulfill).

(v) Description of support facilities needed

a. Type of water quality control.

i. Describe proposed sewage treatment facilities and nonpoint source controls.

ii. Describe pollutant loads (point and non-point sources) expected directly from development. Specify seasonal variations.

b. Public services and facilities.

i. Estimate police and fire protection requirements.

ii. Estimate public road maintenance requirements.

iii. Estimate educational and health service requirements.
iv. Estimate facilities and services required to provide adequate water supply and sewage treatment.

(vi) Description of employment and economic opportunities.

a. Describe capital investment in facility.

b. Estimate anticipated revenues to local, state and federal governments, special districts.

c. Describe employment opportunities.

i. Types of jobs and number of positions anticipated; employment; wage and salary schedules.

ii. Opportunities for employment of local citizens.

iii. Employment opportunities for low income and minority population in impact area.

(vii) Description of visual conditions (base area).

a. Map area within view of project.

b. Map access and travel routes, public areas, residential areas that will have a view of the project.

(viii) Description of noise conditions (base area).

Describe and map possible expected noise levels by immediate and future facility operation.

(ix) Description of socio-economic environment (impact area).

a. Characteristics of the existing population.

i. Age, income level and distribution, education,
social background, family size, etc.

ii. Neighborhood and distinct socio-economic groups.

iii. Migrational trends and seasonal fluctuations.

iv. Anticipated population changes.

b. Current employment.

i. Principal employers, type, number of employees.

ii. Unemployment and underemployment.

iii. Characteristics of local labor pool.

iv. Manpower training and retraining potential.

c. Inventory local governments and special districts providing services in base areas.

i. Map jurisdiction and type of service.

ii. Capacity and utilization of services.

iii. Operating revenue and expenditures.

iv. Tax base.

v. Current level of taxation.

vi. Estimate revenue generating capacity and identify potential new sources of revenue.

d. Housing.

i. Current housing inventory (including numbers, types, (owner or rental), sales or rental prices, year-round or seasonal, dormitories, mobile homes and locations).

ii. Projected housing requirements (including numbers, types (owner or rental), sales or rental prices, year-round or seasonal, dormitories, mobile homes and locations).
e. Existing Transportation Network.
   i. Access to site.
   ii. Circulation within base area and commuting patterns in impact area.
   iii. Capacities of arterial streets within impact area.
   iv. Maintenance provisions and costs.

f. Description of historical and archaeological resources.
   i. Describe historical and archaeological sites by means of completing state inventory forms and submit these to the State Historical Society for evaluation.
   ii. Describe resources individually and as they relate to the community; include photos wherever possible.

(x) Description of atmospheric conditions (impact area).
   a. Meteorology (based on worst-case winter time conditions).
      i. Wind speed and direction.
      ii. Inversion height.
      iii. Atmospheric stability.

b. Topography

   Describe general and outstanding topographic feature in project area (maps and aerial photos should be provided).

c. Background ambient air quality (TSP, SO₂, HC, CO, NOₓ, O₃, etc.).

(b) At the time of final application, applicants seeking a permit for the site selection and construction of transmission lines or substations shall submit, in addition to those requirements set forth in Section
304(2)(a) of this Chapter, five (5) copies of the following documents and information:

(i) Description of geologic and pedologic conditions of base area.

a. Map bedrock and surficial geology.

b. Map and describe areas of:
   i. avalanches
   ii. mud flows and debris fans
   iii. all types of unstable or potentially unstable slope
   iv. special seismic considerations
   v. areas of high radioactivity
   vi. ground subsidence
   vii. expansive soil and rock
   viii. other geologic conditions which are pertinent

c. Map extent of 100-year floodplain if present.

d. Map topography in adequate detail to determine adequacy of facility design.

e. Map and evaluate mineral and energy resources.

f. Map and evaluate agricultural resources.

(ii) Description of biotic conditions (impact area).

a. Map plant communities.
   i. Characteristics, quantity, productivity of plant types.
   ii. Endangered or threatened plant species.
   iii. Evidence of past disturbance and current indications of stages in ecological succession.

b. Wildlife (Terrestrial)
i. Determine species present, seasonal occurrence, status and relative importance.

ii. Map distribution of species.

iii. Map biological features (migration routes, breeding grounds, etc.).

iv. Identify species included on official federal or state list of endangered or threatened species.

v. Identify species that are unique in their Colorado distribution.

c. Wildlife (Aquatic)

i. Identify species present.

ii. Map streams, lakes and reservoirs which provide or have potential for habitat.

iii. Map biological features (spawning runs, spawning beds, etc.)

iv. Identify any endangered species (federal or state) or any which are unique in their Colorado distribution.

(c) At the time of final application, applicants seeking a permit for the site selection and construction of pipelines or storage areas shall submit, in addition to those requirements set forth in Section 304(2)(a) and 304(2)(b) of this Chapter, five (5) copies of the following documents and information:

(i) Description of hydrologic conditions - surface (impact area).

   a. Provide map of all surface water.
   b. Describe expected monthly streamflows for typical year, wet year, dry year (include 7 day - 10 year low flows where sufficient data exists).
   c. Describe physical stream features (gradient, velocity, depth, etc.).
   d. Provide data on chemical and biological quality, including BOD, dissolved O₂, free CO₂, PH, TDS,
ph-th alkalinity, MO alkalinity, NH₄, heavy metals and other toxic or deleterious substances.

(ii) Description of hydrologic conditions - subsurface (impact area).

a. Map all aquifers that may be affected by project.
b. Provide tables, graphs, map showing permeability, transmissibility, thickness, volume, depth of aquifers.
c. Describe geology of strata overlying aquifers including percolation rates, travel time to groundwater surface.
d. Map of all wells using aquifers including diameter, flow rates.

(d) At the time of final application, applicants seeking a permit for the site selection and construction of a power plant shall submit, in addition to those requirements set forth in Sections 304(2)(a), 304(2)(b), and 304(2)(c) of this Chapter, five (5) copies of the following documents and information:

(i) Map locating and describing resource areas to be utilized as sources of energy.

(ii) Description of water system proposed:

a. Source of supply, volume and rate of flow at full development.
b. Water rights owned or utilized.
c. Proposed points of diversion and changes of points of diversion.
d. Volume of stream flow to remain unused between points of diversion.
e. Dependability of supply (physical and legal).
f. Effects on downstream users.

(iii) Description of air pollution control measures.

(e) At the time of final application, all applicants shall submit an analysis of impacts as follows:
(i) Summarize the major natural and socio-economic environmental constraints as they affect the site selection and construction of the facility as proposed.

(ii) Describe present utilization of land, water, air, biotic, geologic and socio-economic resources within impact area as applicable to submission requirements.

(iii) Describe alternative uses for these resources.

(iv) Analyze the effects of the proposed site selection and construction upon the natural and socio-economic environment of the impact area as applicable to submission requirements.

a. Provide analysis of hydrologic, atmospheric, geologic, pedologic, biotic, visual, and noise impacts.

b. Provide surface and subsurface drainage analysis.

c. Provide socio-economic impact analysis.

d. Provide transportation impact analysis.

e. Provide analysis of impacts upon agricultural productivity and agricultural resources.

(v) Analyze the long-term effects of the proposed site selection and construction upon the physical and socio-economic development of the impact area.

(vi) Justify the proposed site selection and construction against the present and alternative uses of the resources in the impact area.

(vii) Describe a program to minimize and mitigate adverse impacts and to maximize the positive impacts of the proposed site selection and construction.
a. Analyze alternatives
   i. Alternative locations and routes
   ii. Alternative types of facilities
   iii. Use of existing rights-of-way
   iv. Joint use of rights-of-way with other utilities
   v. Upgrading of existing facilities

b. Analyze non-structural alternatives as applicable.
   i. Conservation of energy use
   ii. No development

c. Analyze management alternatives (i.e. development scheduling, training programs, facility design, land trades, etc.).

d. Analyze air and water pollution control alternatives.

e. Analyze design alternatives (access, landscaping, architectural controls, etc.).

f. Submit a program to meet "front end" costs of providing necessary services and facilities.

13-305 Waiver of Submission Requirements

(1) The Permit Authority may waive any part but not all of the submission requirements imposed by these Regulations upon petition of the applicant that full compliance with the submission requirements would be unreasonably burdensome for the applicant and that the proposed development will have an insubstantial impact on the surrounding area. Such a waiver may be granted, after due consideration by the Permit Authority, upon a written determination that the information to be submitted is sufficient for the Permit Authority to arrive at a permit decision in full compliance with the law and these Regulations and that the proposed development will have an insubstantial impact on the surrounding area.
(2) The petition shall be considered and the decision rendered by the Permit Authority at a public hearing held in compliance with the provision of Section 2-301 of the Permit Regulations adopted by this County.

(3) In the event the waiver request is denied, the applicant shall provide the required additional information on or before five (5) days prior to the date set for hearing of the application itself. If the applicant fails to provide such information, the Permit Authority may in its discretion vacate the public hearing on the application itself and require complete reapplication, or may continue the hearing in accordance with Section 2-303 of the Permit Regulations adopted by this County.

13-306 Approval of Permit Application

(1) The Permit Authority shall approve an application for permit for site selection and construction of a major facility of a public utility (with reasonable conditions, if any, in the discretion of the Permit Authority) only if the proposed site selection and construction complies with all of the following criteria:

(a) The health, welfare and safety of the citizens of this County will be protected and served;

(b) The natural and socio-economic environment of this County will be protected and enhanced;

(c) All reasonable alternatives to the proposed action, including use of existing rights-of-way and joint use of rights-of-way wherever uses are compatible, have been adequately assessed and the proposed action represents the best interests of the people of this County and represents the best utilization of resources in the impact area;

(d) A satisfactory program to mitigate and minimize adverse impacts has been presented;

(e) The nature and location or expansion of the facility complies with all applicable provisions of the master plan of this County, and other applicable regional, metropolitan, state, and national plans;
(f) The nature and location or expansion of the facility complements the existing and reasonably foreseeable needs of the service area and of the area immediately affected by the facility;

(g) The nature and location or expansion of the facility does not unduly or unreasonably impact existing community services;

(h) The nature and location or expansion of the facility will not create an expansion of the demand for government services beyond the reasonable capacity of the community or region to provide such services, as determined by the Permit Authority;

(i) The facility site or expansion area is not in an area with general meteorological and climatological conditions which would unreasonably interfere with or obstruct normal operations and maintenance;

(j) The nature and location of the facility or expansion will not adversely affect the water rights of any upstream, downstream, or adjacent communities or other water users;

(k) Adequate water supplies are available for facility needs;

(l) The nature and location of the facility or expansion will not unduly interfere with any existing easements for or rights-of-way, for other utilities, canals, mineral claims, or roads;

(m) The applicant is able to obtain needed easements for drainage, disposal, utilities, access, etc.;

(n) Adequate electric, gas, telephone, water, sewage, and other utilities exist or shall be developed to service the site;

(o) The nature and location for expansion of the facility will not interfere with any significant wildlife habitat or adversely affect any endangered wildlife species, unique natural resource or historic landmark within the impact area;
(p) The nature and location or expansion of the facility, including expected growth and development related to the operation and provision of service, will not significantly deteriorate air quality in the impact area;

(q) The geological and topographic features of the site are adequate for all construction, clearing, grading, drainage, vegetation, and other needs of the facility construction or expansion;

(r) The existing water quality of affected state waters will not be degraded below state and federal standards or established baseline levels.

(s) The benefits of the proposed developments outweigh the losses of any natural resources or reduction of productivity of agricultural lands as a result of the proposed development.

(2) The Permit Authority shall deny the permit if the proposed development does not meet all of the criteria in subsection (1) of this Section.

Article 4
Administration, Enforcements, and Penalties

13-401 Administration, Enforcement, and Penalties

The provisions of these Regulations and any permit issued hereunder shall be administered and enforced according to the provisions of the Administrative and Permit Regulations adopted by this County.

13-402 Severability

If any section, clause, provision, or portion of these Regulations should be found to be unconstitutional or otherwise invalid by a court of competent jurisdiction, the remainder shall not be affected thereby.