

(Decision No. C94-764)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE)	
INVESTIGATION OF INCENTIVE)	DOCKET NO. 93I-199EG
REGULATION AND DEMAND SIDE)	
MANAGEMENT INCENTIVES FOR PUBLIC)	
SERVICE COMPANY OF COLORADO.)	

**COMMISSION ORDER ACCEPTING STIPULATION
AND SETTLEMENT AGREEMENT**

Mailed Date: June 16, 1994
Adopted Date: May 13, 1994

BY THE COMMISSION:

In Decision No. C94-344, dated March 21, 1994, the Commission declined to accept a Stipulation and Settlement Agreement ("Stipulation") which the parties had offered to us as a resolution of the issues in this proceeding.¹ We held, in that decision, that we should conduct a full hearing to consider all potential options before approving the agreement of the parties. Since the Stipulation was not accepted, we scheduled a prehearing conference to establish new hearing dates. The parties were directed to appear at the prehearing conference for the purpose of establishing a new procedural schedule in this matter.

That prehearing conference was conducted on May 13, 1994. As an initial matter, the parties appearing at the conference

¹ As Decision No. C94-344 points out, this proceeding was initiated to investigate mechanisms designed to decouple Public Service Company of Colorado's ("PSCo" or "Company") revenues from its electricity sales, as well as regulatory incentives to encourage the Company to implement demand side management programs.

requested that the Commission reconsider the decision not to accept the Stipulation. The parties unanimously agreed that the Stipulation, while representing a compromise of various positions, was the most acceptable resolution of the controverted issues in this case. That Stipulation, in part, provides that:

1. The Public Service Company of Colorado ("PSCo" or "Company") will analyze its costs, sales, revenues, prices, and earnings as if its proposed parity revenue and incentive setting mechanism ("PRISM") had been adopted by the Commission as of the conclusion of the proceeding involving its Integrated Resource Plan.
2. The Company will analyze its costs, sales, revenues, prices, and earnings as if the Commission had ordered the Company to institute a statistical recoupling mechanism ("SRM") upon completion of the design and estimation of the applicable models.
3. The Company will analyze what would have been the impact of PRISM, SRM, the Inducement Formula (referenced in the Stipulation), and any other mechanisms the parties consider appropriate for study upon PSCo's costs, sales, revenues, prices, and earnings for a suitable historic period selected by the parties.
4. After conducting the above-referenced simulations and various studies specified in the Stipulation, the parties will present the results at a hearing before the Commission. Under the proposal, this hearing would be conducted in mid-1995.

Pursuant to the request of the parties at the prehearing conference, we have reconsidered whether the Stipulation should be approved without further hearings. We now determine that the Stipulation should be accepted as a resolution of the issues in the present proceeding.

In Decision No. C94-344, page 5, the Commission concluded that, since all testimony had been prefiled, the incremental effort in conducting the hearing "should not be great for the parties." Given that conclusion, we believed that it would be in the public interest to proceed to hearing and consider all options, not only

the Stipulation. The parties, however, at the prehearing conference persuaded us that our previous finding regarding additional costs of proceeding to hearing was in error. We now believe that the effort required in preparing for and participating in potentially lengthy hearings in this case could be significant.

More importantly, the comments at the prehearing conference persuaded us that the Commission, even after conducting full hearings, may not be able to arrive at a resolution of the issues which would be better than that agreed upon in the Stipulation. We note that implementation of any decoupling or incentive mechanism would likely be a substantial departure from existing regulation of the Company. Simulations of the effects of such changes in policies, before actual implementation, would be beneficial. The Stipulation provides for just such simulations for some of the mechanisms suggested in prefiled testimony, as well as other analyses.

We are persuaded that the Commission should not embark upon a potentially costly proceeding unless we are firmly convinced that the Commission's decision, after hearing, would be better than the settlement arrived at by the parties in the Stipulation. Since we are unable to make that determination at the present time, we conclude that acceptance of the Stipulation is more in the public interest than proceeding to hearing over the objection of the involved parties. Therefore, we determine that the Stipulation should be accepted without further proceedings.

By letter dated May 20, 1994, counsel for PSCo informed us that the schedule contained on Exhibit 4 of the Stipulation should be slightly modified. That modification would change the commencement date for the required simulations from August 1, 1994 to September 1, 1994. Counsel for PSCo has represented to the Commission, in the above-referenced letter, that all parties agree to the modification of the schedule contained on Exhibit 4. Therefore, we find that this modification should be approved.

THEREFORE THE COMMISSION ORDERS THAT:

The Stipulation and Settlement Agreement submitted by the parties on February 10, 1994 and attached as the Appendix to this Decision is hereby approved in accordance with the above discussion. Exhibit 4 to the Stipulation shall be modified to reflect a beginning date of September 1, 1994 for the required simulation.

This order is effective upon its Mailed Date.

ADOPTED IN PREHEARING CONFERENCE May 13, 1994.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

CHRISTINE E. M. ALVAREZ

VINCENT MAJKOWSKI

Commissioners

ATTEST: A TRUE COPY

CHAIRMAN ROBERT E. TEMMER RESIGNED
EFFECTIVE MARCH 1, 1994.

A handwritten signature in cursive script, appearing to read "Bruce N. Smith".

Bruce N. Smith
Director

BEFORE THE PUBLIC UTILITIES COMMISSION
STATE OF COLORADO

RECEIVED
JUN 17 1994
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* * *

IN THE MATTER OF THE INVESTIGATION)
OF INCENTIVE REGULATION AND DEMAND) DOCKET NO. 93I-199EG
SIDE MANAGEMENT INCENTIVES FOR)
PUBLIC SERVICE COMPANY OF COLORADO)

*file
Henry
2-14-94*

STIPULATION AND SETTLEMENT AGREEMENT

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COME NOW, Public Service Company of Colorado ("Public Service Company" or "the Company"), the Land and Water Fund of the Rockies ("LAW Fund"), Colorado Office of Energy Conservation ("OEC"), Colorado Office of Consumer Counsel ("OCC"), Cyprus Climax Metals Company ("Climax"), CF&I Steel L.P. ("CF&I"), Multiple Intervenors, WestPlains Energy, The Colorado Business Alliance for Cooperative Utility Practices, the U.S. Department of Energy and U.S. Executive Agencies, Colorado Interstate Gas, and the Staff of the Public Utilities Commission of the State of Colorado ("Staff") (collectively referred to as the "Parties"), by and through their undersigned representatives and submit this Stipulation and Settlement Agreement ("Settlement Agreement") to the Commission for its consideration and adoption in the above-referenced proceeding. In support thereof, the Parties state as follows:

1. This docket is an outgrowth of Commission Decision No. C93-38 which was issued in Docket No. 91A-480EG, the "Decoupling" docket. In Decision No. C93-38, the Commission directed the Staff and Public Service Company to develop an annual revenue reconciliation mechanism for consideration by the Commission. The

Commission also accepted the terms of a Settlement Agreement (the Docket No. 91A-480EG Settlement Agreement) for the limited purpose of addressing the demand side management programs developed by the Demand Side Management Collaborative Process in Docket No. 91A-481EG.

2. In the instant docket, Public Service Company has proposed the adoption of the parity revenue and incentive setting mechanism ("PRISM"). Public Service Company contends that PRISM establishes a direct link, through performance-based incentives, between the Company's profits and achievement of the energy efficiency targets established in the Company's Integrated Resource Plan filed with the Commission in Docket No. 93I-098E.

3. The LAW Fund has proposed a statistical recoupling mechanism ("SRM"). The LAW Fund contends that SRM improves upon revenue per customer decoupling by including consideration of weather and economic factors in the breaking of the link between Public Service Company's revenues and sales.

4. Other parties in this docket have urged the Commission to maintain the status quo (increased DSM incentives pursuant to the Docket No. 91A-480EG Settlement Agreement) or alternatively "traditional regulation" for the time being. These Parties argue that neither PRISM nor the SRM are sufficiently developed to be capable of being implemented at this time and that there is no need at this time for further increases in the DSM incentives to be paid to Public Service Company.

5. The Parties to this docket have engaged in settlement discussions in an attempt to resolve this matter for presentation of the instant settlement agreement to the Commission. The Parties are cognizant of the statements made by the Commission in Decision No. C93-38, whereby the Commission, at that time, stated an interest in further considering possible modifications to the current regulatory system so as to remove or reduce any disincentive to Public Service Company for the acquisition of demand side management resources, and remove any incentive to sell. The Parties believe that the terms of this Settlement Agreement should serve to advance the cause of Public Service Company's acquisition of appropriate resources to meet its customers' future needs over the term of this Settlement Agreement. The Parties also submit that this Settlement Agreement represents an opportunity for the Parties, as well as the Commission, to obtain Public Service Company specific information upon which reasoned decisions can be made in the future regarding the state of regulation and the need, if any, to develop further incentives for Public Service Company's acquisition of energy efficiency measures. By this Settlement Agreement, the Parties intend to analyze PRISM, SRM, the Inducement Formula (Exhibit 3), and possibly other approaches for the encouragement of Public Service Company's pursuit of an appropriate amount of demand side management resources.

6. As a result of the foregoing, the Parties to this docket respectfully request that the Commission issue an order directing

Public Service Company to implement the terms of this Settlement Agreement by:

- a. Analyzing the Company's costs, sales, revenues, prices and earnings as if PRISM had been adopted by the Commission as of the conclusion of the proceeding involving the Company's Integrated Resource Plan, Docket No. 93I-098E.
- b. Analyzing the Company's costs, sales, revenues, prices and earnings as if the Commission had ordered the Company to institute a statistical recoupling mechanism upon completion of the design and estimation of the models.
- c. Analyzing what would have been the impact of PRISM, SRM, the Inducement Formula (Exhibit 3), and any other mechanisms the Parties consider appropriate to study on Public Service Company's costs, sales, revenues, prices and earnings for a suitable historic period selected by the Parties. In conducting the simulation, Public Service Company will gather and maintain the information listed on Exhibit 1, which is attached hereto and incorporated by reference herein.

d. Modifying the terms of the Docket No. 91A-480EG Settlement Agreement adopted by the Commission in Decision No. C93-38 as follows:

(i) The "Modified DSMCA" implemented pursuant to Decision No. C93-38 shall be applied to the programs covered by the Docket No. 91A-480EG Settlement Agreement for the Company's 1993 program expenditures. In clarification of Paragraph 7 of that Settlement Agreement, the Parties agree that the term "loan" shall mean the net cost of loans.

(ii) For Demand Side Management Collaborative Process and new incremental DSM program expenditures made during 1994 and 1995, the Parties agree that the terms of the Docket No. 91A-480EG Settlement Agreement shall be modified so as to include a component which recognizes energy (KWh) savings in addition to the capacity (KW) savings set forth in that Settlement Agreement. The modified "Net Bounty" mechanism by which both energy and capacity savings are to be recognized is attached hereto as Exhibit 2 and incorporated

by reference herein. This modification of the Docket No. 91A-480EG Settlement Agreement shall continue until December 31, 1995. The Parties believe that by placing the bounty payment on KWh as well as KW they have addressed one of the primary concerns identified by the Commission in Decision No. C93-38. Moreover, by retaining a mechanism that is similar to the one currently in place, this agreement provides Public Service Company with short-term stability in regard to its incentive mechanism as it implements the Demand Side Management Collaborative Process programs.

(iii) On January 1, 1996 the Formula for Calendar Years 1996, 1997 and 1998 set forth in Exhibit 3 attached hereto and incorporated by reference herein shall be implemented unless or until another mechanism or regulatory approach is approved by the Commission. The actual numbers that would be implemented as part of this formula (Exhibit 1, Section 7, parts a, b and c) will be determined during the simulation period (as discussed below).

As a result, the Parties expect to have Commission-approved numbers for the Inducement Revenue formula by the Fall of 1995. The mechanism set forth in Exhibit 3 shall continue to operate until December 31, 1998 or until replaced by another mechanism approved by the Commission, whichever occurs first. (See Paragraphs 7, 8 and 9 below.)

- (iv) The Parties agree that the issue of an appropriate rate impact cap for DSM programs should be a topic considered by the Technical Working Group established by this Settlement Agreement (see Paragraph 10, below). This issue may also be informed by the resolution of the Company's Integrated Resource Plan (Docket No. 93I-098EG). The applicability of the appropriate rate impact cap is primarily an issue for the time period 1996-1998 as described in Exhibit 3, since the potential rate impact of DSM for the period 1994-1995 is essentially governed by the implementation of the Demand Side Management Collaborative Process programs approved by the Commission in Docket No. 91A-481EG.

(v) The Parties agree that the revenue flowing to the Company under the mechanisms defined in Exhibits 2 and 3 of this Agreement would be reset with the effective date of a new Phase I base rate change.

e. The Parties agree to retain the cost recovery component of the modified DSMCA through December 31, 1998.

7. The Parties submit that the approach proposed by this Settlement Agreement will permit the Commission to develop important additional data and information to consider in the development of appropriate energy efficiency incentives for Public Service Company. Neither statistical recoupling nor PRISM, the two mechanisms proposed in this docket, has been fully implemented in any jurisdiction. Moreover, although these two mechanisms address many of the concerns expressed by the Commission in Decision No. C93-38, the parties acknowledge that these mechanisms may not be sufficiently developed such that either could be implemented directly as a result of a Commission Order in this case. All Parties will be provided access to Public Service Company specific information for the period of time set forth in the Settlement Agreement, upon which potentially to propose additional incentives or other new cost recovery mechanisms and lost revenue adjustments to the Commission. This Settlement Agreement provides the opportunity to develop the SRM to a "regulatory grade" level for

consideration by the Parties and the Commission without an accompanying revenue or rate impact attributable to SRM during the simulation. This approach also permits Public Service Company, the Parties and the Commission to investigate the impact of PRISM on the Company's revenues based on the Integrated Resource Plan of Public Service Company that is approved by the Commission.

8. The Parties suggest the implementation of this Settlement Agreement in the following manner. The initial phase of the simulation would be for the purpose of agreeing on the data, inputs and components of the statistical recoupling mechanism and the operation of a simulation utilizing this information. The variables and information to be utilized in the implementation of the SRM during the simulation period (as set forth in Exhibit 1) will permit the development of candidate equations for analysis during the simulation. With respect to PRISM, the proposed approach will allow the Commission and the Parties to more accurately determine the components of lost revenue for each rate class.

9. The conducting of the simulation will allow the Parties to determine how each mechanism works from the standpoint of administration, implementation and production of results and will permit the comparison of projected and actual results. In addition, the Parties will also analyze how these approaches would have performed in the past. The Parties propose that at the conclusion of the simulation the Commission hold hearings to

consider the results of the simulation and the positions of the Parties with respect to those results. The Commission would then be in the position of having a more developed record upon which to base a decision regarding the regulatory treatment to be accorded demand side management for Public Service Company. A proposed procedural schedule which the Commission could implement is attached hereto as Exhibit 4 and incorporated by reference herein. The Parties will file a report of the simulation results, using the best information available at that time, with the Commission on January 31, 1995. As described in Exhibit 4, the Parties agree to update the simulation information as of March 31, 1995 and reserve the right to update their positions accordingly, if necessary, prior to hearing.

10. The Parties agree that the Company will take the lead in gathering information regarding its system and operations. However, the analysis work, development of formulae and models, and gathering of data external to the Company (e.g., economic factors) will be performed by a Technical Working Group of OEC representatives from at least the Company, the LAW Fund, OEC, the OCC, and the PUC Staff. All other parties are invited and encouraged to participate. If a party chooses not to participate in the Technical Working Group, that party will still have access to the information gathered and work performed by the group for the development of positions, but may not assert after the fact that


the Technical Working Group should have analyzed issues beyond those specified in Exhibit 1.

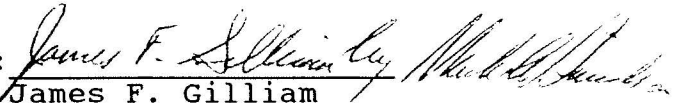
11. This Settlement represents a compromise and does not indicate that all parties agree that any of the approaches which are considered during the simulation or implemented during the period of this Settlement Agreement are appropriate or correct. Public Service Company will continue to file applications for future DSM programs. The Parties reserve the right to comment upon, support or contest aspects of future DSM applications that are not covered by this Settlement Agreement. By agreeing to this Settlement Agreement, no Party has been deemed to have waived any of its rights or factual or legal arguments with respect to future proceedings involving any of these issues.

12. The Parties have entered into this Settlement Agreement as an integrated document and strongly urge that the Commission adopt it in its entirety. Accordingly, in the event any part, or all, of this Settlement Agreement is modified or rejected by the Commission, each party reserves the right, upon written notice to the Commission and all other parties within five (5) days of the date of the Commission's order, to withdraw from this Settlement Agreement without being bound by its terms in this, or any other proceeding. Any party which elects to withdraw shall be entitled to proceed having its full claim, defenses and rights and shall otherwise not be prejudiced by the terms of the Settlement Agreement.

WHEREFORE, for all the foregoing reasons, the Parties to this Stipulation and Settlement Agreement respectfully request that the Commission accept and adopt this Settlement Agreement in its entirety.

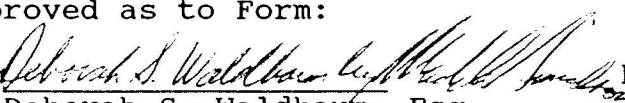
DATED this 10th day of February, 1994.

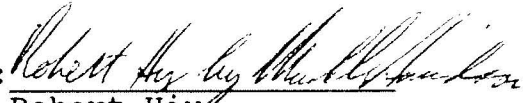
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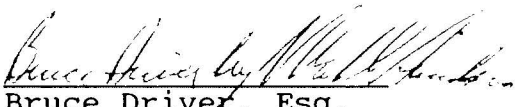
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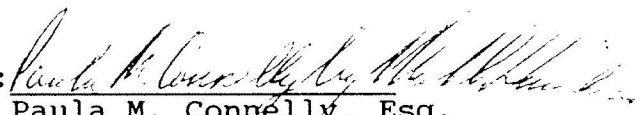
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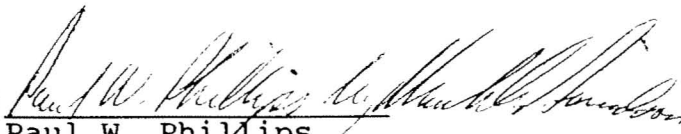
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**THE COLORADO BUSINESS ALLIANCE
FOR COOPERATIVE UTILITY
PRACTICES**

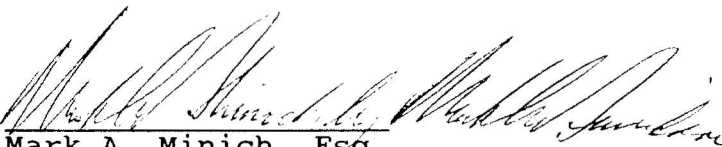
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**ATTORNEY FOR COLORADO
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List of Research Issues and Data

1. Parity Revenue & Incentive Setting Mechanism (PRISM)
 - a. Determination of the demand and energy marginal revenue rate (data from rate case phase 2)
 - b. Determination of actual growth in demand & energy sales
 - c. Application of the Value Test to implemented programs
 - d. Determination of thresholds for updating of IRP data between annual updates
 - e. Evaluation of other energy efficiency projects such as cogeneration, efficient expansion of customer use in total energy sense, and interruptible rates
 - f. Evaluation of administrative burden
 - g. Availability of required data
 - h. Quantify financial impact of sales growth under PRISM

2. Statistical Recoupling Mechanism (SRM)
 - a. Application to total PUC electric and to individual customer classes, such as residential, non-residential as a group, commercial, and industrial)
 - b. Correlation of economic variables with the actual impact of the economy on the Company's sales
 - c. Rate volatility due to:
 - i. random statistical error
 - ii. major structural shifts not captured in the historical data used to estimate the models
 - iii. sales reductions or gains which are not in any way induced by the Company
 - d. Adequacy by which SRM addresses the fixed/variable cost issue
 - e. Evaluation of administrative burden
 - f. Availability of variables such as degree days and economic factors and risks related to revisions of those variables
 - g. Appropriate frequency of updating the formula (quarterly, semi-annually, or annually)

3. DSM Program Evaluation
 - a. Determination of actual revenue lost
 - b. Cost-effectiveness test evaluations (TRC & RIM)
 - c. Determination of free-riders, free drivers, snapback, and other effects
 - d. Determine the net revenue effect of fuel switching DSM programs
 - e. Determination of DSM program capacity factors

4. Determination of wholesale revenue effects related to "freed-up" capacity due to Company-sponsored DSM
5. Determination of short-run variable costs (i.e. those which vary with sales); and short-run avoided fixed costs (e.g. purchased capacity reductions)
6. Impact and effects on Company-sponsored DSM programs of:
 - a. 1996-1998 DSM inducement revenue formula
 - b. Traditional regulation
 - c. PRISM
 - d. SRM
7. Evaluation of Incentive mechanisms
 - a. 1996-1998 DSM inducement revenue formula
 - b. Determine appropriate percentage (<100%) to apply to the "VC" and "FC" factors in the 1996 to 1998 formula
 - c. Determine avoided supply-side costs for use in shared savings mechanisms
 - d. Research incentive plan characteristics as identified by the Commission in Decision No. C93-38, pages 26 and 27
8. Evaluation of Net Lost Revenue Adjustment Mechanisms
 - a. Quantify financial impact of sales growth under this mechanism
9. Research DSM related rate impacts and rate impact caps, and DSM program participant surcharges

Modified "Net Bounty" Formula for Calendar Years 1994 and 1995

For Public Service Company of Colorado sponsored demand-side management programs installed in calendar years 1994 and 1995, the "net bounty payment" specified in paragraph 7 of the Settlement Agreement Addressing (Non-decoupling) Incentive Mechanism, dated September 24, 1992, and approved by the Commission in Decision No. C93-38, shall be modified. The modified net bounty payment shall be the sum of:

- (1) 60% of the net bounty payment therein specified,
and
- (2) 1.866 cents for each kwh of customer energy saved during the calendar year of program installation.

Inducement Revenue Formula for Calendar Years 1996, 1997, and 1998

The following formula for Public Service Company of Colorado sponsored demand-side management programs installed in calendar years 1996, 1997, and 1998 will replace the modified "net bounty" formula (specified for calendar years 1994 and 1995) in this stipulation. For each year, the inducement revenue will be calculated for each applicable retail customer class, and recovered uniformly from all retail customer classes.

$$\text{Inducement revenue} = [(R - VC) \times ES] + [(DC - FC) \times DS] - FS$$

where:

R - Current price per kwh for the applicable customer class.

VC = ___ % (<100%) of the short-run avoided variable costs per kwh.

ES = Kwh savings actually incurred or estimated by engineering analysis for DSM measures going into service during the applicable annual period. At the time recovery is sought, engineering analyses will be updated with the most current evaluation information, and shall include appropriate treatment of free riders, free drivers, snapback, persistence of savings, and impact of DSM collaborative programs installed in 1994 and 1995 to the extent such elements can be quantified.

DC - Current price per kw for the applicable customer class.

FC = ___ % (<100%) of the short-run identifiable avoided fixed costs (such as purchased capacity costs), adjusted for the diversity of the customer's billing demand from system peak demand.

DS = Billing kw savings actually incurred or estimated by engineering analysis for DSM measures installed during the applicable annual period. At the time recovery is sought, engineering analyses will be updated with the most current evaluation information, and shall include appropriate treatment of free riders, free drivers, snapback, persistence of savings and impact of DSM collaborative programs installed in 1994 and 1995 to the extent such elements can be quantified.

FS = Additional revenue actually received, or estimated based upon engineering analyses, by the Company as a result of DSM programs that result in increases in Company sales of an energy commodity. At the time recovery is sought, engineering analyses will be updated with the most current evaluation information, and shall include appropriate treatment of free riders, free drivers, snapback, and persistence of savings to the extent such elements can be quantified.

PROPOSED PROCEDURAL SCHEDULE

Simulation Development Begins upon Commission Decision Acceptance of Settlement -	March 1, 1994
Simulation Begins in Accordance with Exhibit 1 -	September 1, 1994 * August 1, 1994
Initial Simulation Concludes -	December 31, 1994
Initial Report and Simulation Results Filed with the PUC -	January 31, 1995
Parties File Direct Testimony and Exhibits Based on Simulation Information (30 days after filing of Numbers with PUC) -	March 1, 1995
Parties' File Answer Testimony and Updated Simulation Information (30 days after filing of Direct Testimony and Exhibits) -	March 31, 1995
Trial Data Certificates Due (14 days prior to Hearing) -	April 14, 1995
Prehearing Conference (7 days prior to Hearing) -	April 21, 1995
Hearings -	May 1 - 5, 1995
Posthearing Statements of Position (14 days after close of Hearings) -	May 19, 1995

* Modified by Decision No. C94-764 mailed June 16, 1994

PROPOSED PROCEDURAL SCHEDULE

Simulation Development Begins upon Commission Decision Acceptance of Settlement -	March 1, 1994
Simulation Begins in Accordance with Exhibit 1 -	August 1, 1994
Initial Simulation Concludes -	December 31, 1994
Initial Report and Simulation Results Filed with the PUC -	January 31, 1995
Parties File Direct Testimony and Exhibits Based on Simulation Information (30 days after filing of Numbers with PUC) -	March 1, 1995
Parties' File Answer Testimony and Updated Simulation Information (30 days after filing of Direct Testimony and Exhibits) -	March 31, 1995
Trial Data Certificates Due (14 days prior to Hearing) -	April 14, 1995
Prehearing Conference (7 days prior to Hearing) -	April 21, 1995
Hearings -	May 1 - 5, 1995
Posthearing Statements of Position (14 days after close of Hearings) -	May 19, 1995

CERTIFICATE OF SERVICE

I hereby certify that on February 17th, 1994 a true and correct copy of the foregoing **STIPULATION AND SETTLEMENT AGREEMENT** has been deposited in the U.S. Mail, postage prepaid, addressed to the following:

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