

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

\* \* \*

IN THE MATTER OF THE JOINT APPLICATION )  
OF PUBLIC SERVICE COMPANY; THE OFFICE )  
OF CONSUMER COUNSEL; THE OFFICE OF )  
ENERGY CONSERVATION; AND THE LAND AND )  
WATER FUND OF THE ROCKIES TO OPEN A )  
DEMAND SIDE MANAGEMENT COLLABORATIVE )  
PROCESS DOCKET. )

DOCKET NO. 91A-481EG

INTERIM ORDER

-----  
Mailed Date: November 27, 1991  
-----

STATEMENT, FINDINGS, AND CONCLUSIONS

**Background.** On July 17, 1991 in Decision No. C91-918, the Public Utilities Commission (Commission) approved Revised Settlement Agreement II (the "Agreement") in Docket No. 91S-091EG and Docket No. 90F-226E. Paragraphs 8 through 12 of the Agreement committed the signatories to undertake and complete a Collaborative Process (CP) for the purpose of designing demand side management (DSM) programs for Public Service Company of Colorado (Public Service or PSCo). Paragraph 11 also commits the signatories to develop and file a workplan for the CP by October 1, 1991.

**The Workplan.** On October 1, 1991 the signatories to the Agreement filed a workplan with the Commission. The workplan contemplates the design of DSM programs in four phases. The first phase, now completed, involved researching CPs in other states, the establishment of a CP structure and guiding principles, and submission of the workplan.

The second phase, which is scheduled to be concluded by December 31, 1991, involves the selection of DSM program opportunities.

The third phase, which is scheduled for completion by April 15, 1992, involves the study of program opportunities selected by means of scenario analysis.

The fourth phase, to be concluded by October 1, 1992, involves the development of DSM program applications.

The Commission approves these required tasks into the four phases proposed, and also the stated time frames for performance.

**Communication between the CP and the Commission.** On page 4 of the workplan the CP participants state that they:

. . . believe that it is important to keep the Commission informed in a timely manner of the progress of the CP. This workplan includes the submission of quarterly reports to the Commission in accordance with Paragraph 12 of the Revised Settlement Agreement II. . . . If there are any delays in the progress of the workplan, a special report will inform the Commission of the nature of and reason for the delay. The participants will also keep the Commission informed on an expedited basis by submitting informational letters on any other special topics as they have done in recent correspondence.

The Commission is committed to resolve any real or perceived communication problems that were discussed at the October 31, 1991, special open meeting in this docket. The Commission sees merit in many of the options suggested at the October 31 meeting by John Huyler, a

professional facilitator familiar with the public participation processes. Accordingly, the Commission asks the CP to respond to the suggestions advanced by Mr. Huyler concerning improving the written and verbal communication between the Commission and the CP. The Commission believes that submission of quarterly reports are inadequate; and that monthly reports are more appropriate. The Commission agrees that the CP participants shall inform the Commission on an expedited basis if there are any delays in the progress of the workplan.

During the course of the October 31, 1991 meeting, the Commission learned that in other states, agents from public utilities commissions were involved at varying levels in demand side management collaboratives. The Commission believes that this docket will be improved by a CP investigation and analysis of the successful methods employed by other CPs concerning communication between the CPs and their respective public utilities commissions. Accordingly, the CP shall submit a report to the Commission on this investigation which shall: (1) summarize the methods employed in other jurisdictions; (2) discuss the CP's analysis of these methods; and (3) contain recommendations for Commission action.

**Guiding Principles.** The Commission believes that it would be beneficial to the process to respond to the Guiding Principles, commencing on page 5 of the workplan.

- A. "One of the goals of the CP will be to develop, for early implementation by PSCo, a number of DSM programs which are agreed to be clearly cost-effective, to have an acceptable rate impact, and to have the potential to save large amounts of electricity."

**Response:** Has the CP selected the criteria it will employ to determine which programs are cost-effective and what an acceptable rate impact is? How does the goal of saving "large amounts of electricity" relate to the residential sector? Does the CP plan to develop residential gas DSM programs? If so, how does the CP propose that residential gas DSM programs be developed consistent with the goal of saving "large amounts of electricity"? Are these definitions changed, or potentially changed, by Commission decisions in the Fort St. Vrain and Colorado-Ute asset transfer dockets, and if so, in what manner?

- B. "The CP's early focus will be on programs developed by other utilities which, with modification, would be applicable to the PSCo system. Lessons learned from other utility programs as well as PSCo pilots will be incorporated."

**Response:** The Commission agrees with this principle.

- C. "The CP will develop monitoring and evaluation plans for each DSM program."

**Response:** The Commission agrees with this principle. The Commission asks the CP to analyze and propose methods for monitoring and evaluation that meet the needs of PSCo as well as the independent needs of the Commission, both at the minimum cost. The Commission is uncertain about the prospects for obtaining the additional staff it needs to monitor and evaluate the DSM programs in house. Can an independent monitoring and evaluation method be employed that meets both the needs of PSCo and the Commission?

- D. "The analysis and detailed program design will be done by PSCo with ongoing participation and review by the non-utility parties."

**Response:** The Commission agrees with this principle, subject to the qualification contained in Paragraph I below, which could involve active participation by the CP or third-party consultants.

- E. "The CP believes that DSM programs will be developed for all customer classes of PSCo including industrial, commercial, residential, and low-income users. Also, the CP believes it is important that excessive costs are not imposed on any one customer class. However, as a general matter, cost recovery issues will be addressed in other dockets. All PSCo-sponsored DSM programs will be reviewed and evaluated by the CP. There may be one exception to this guiding principle which is referenced in the accompanying cover letter."

**Response:** The Commission agrees that DSM programs must be developed for all customer classes of PSCo, and that excessive costs not be imposed on any one customer class. The Commission assumes that the "other dockets" the CP is referencing are the Decoupling and DSM Incentives docket, and the Low-Income Assistance docket scheduled to be filed by Public Service by December 1, 1991.

- F. "The CP will focus on programs that include direct investment in DSM by PSCo as well as other types of PSCo-sponsored activities (as opposed to programs that rely completely on customer responses to price signals)."

**Response:** The Commission agrees with this principle, although the Commission reconfirms its intent to review pricing issues in other dockets, primarily the next PSCo general rate case.

- G. "Fuel switching between PSCo customers will not be ruled out by the CP. Gas DSM may also be considered in the design of DSM programs within the CP."

**Response:** The Commission agrees that fuel switching between PSCo customers should not be omitted as an option. The Commission has some concern regarding the interpretation of the second sentence, in that the word "may" could be interpreted as allowing the CP to pass up opportunities for gas DSM programs delivered to PSCo customers, particularly residential customers. That interpretation is contrary to the intent of the Commission.

The Commission asks that the CP analyze the DSM opportunities available to PSCo through innovative approaches to rates and service with respect to the delivery of steam to existing or new commercial buildings in downtown Denver.

- H. "To effectively participate, the non-utility parties will need technical assistance in reviewing the DSM programs developed by PSCo. In most situations, this assistance can be best rendered by outside consultants with experience in DSM program design."

**Response:** The Commission agrees with this principle.

- I. "To effectively develop DSM programs and participate in the CP, PSCo may need technical assistance through increased staffing or consultants."

**Response:** The Commission agrees with this principle. Cost implications will be addressed on a case-by-base basis.

- J. "It is imperative that the Commission be kept timely informed of the progress of the CP."

**Response:** The Commission agrees with this principle.

**Other Matters.** The Commission believes that it would be beneficial to the process to respond to the "Other Matters" commencing on page 6 of the workplan.

- A. "Certain legal issues may affect DSM program design as well as the internal workings of the CP. An Attorneys' Group has been formed to study these issues and resolve them as quickly as possible. These legal issues include: (1) anti-trust concerns with utility DSM programs; (2) access to PSCo proprietary data; (3) conflicts of interest among CP participants; and (4) ongoing study of CP procedures."

**Response:** The Commission would benefit by receiving a briefing on these topics, particularly concerning items (1), (3), and (4).

- B. "Initially, cost-effectiveness analysis will be done by screening selected DSM programs at various rebate-cost levels and against a number of avoided cost scenarios. DSM programs will be evaluated under a range of cost-effectiveness perspectives with no specific perspective being endorsed."

**Response:** The Commission agrees with this approach. The Commission directs the CP to ask all participants directly whether they endorse the "No Losers Test" for cost-effectiveness. Due to the consensus-based decision-making procedure of the CP, and the potentially devastating effect of adoption of the "No Losers Test" on many significant DSM programs, it is essential that the Commission be apprised at the earliest possible date whether a consensus exists with respect to the inapplicability of the "No Losers Test" in the CP.

- C. "The CP will not make any recommendations regarding how the costs associated with implementing collaboratively-designed programs will be recovered by PSCo; rather, this issue should be addressed in the incentives docket. Nevertheless, the actual costs of the CP, associated with program design, up to the budgeted amount, will be treated as an expense and recovered through the Demand Side Management Cost Adjustment ("DSMCA")."

**Response:** The Commission assumes that the CP anticipates that the Decoupling and DSM Incentives docket will resolve the cost recovery issues associated with the collaboratively-designed DSM program applications to be filed by Public Service.

With respect to the DSMCA, the Commission agrees with the approach to the recovery of CP costs, so long as gas and steam DSM programs are not eliminated from consideration by the CP solely on the grounds that the recovery mechanism is paid by electric customers.

- D. "Since the non-utility parties have divergent interests, the CP is unsure whether one pool of non-utility consultants will be sufficient to review PSCo's early program designs. Nevertheless, to keep costs down and reduce the problems associated with information flow, the non-utility parties will make every effort to rely on only one pool of consultants. This issue will most likely be resolved in the consultant hiring phase where the CP hopes that the people eventually employed will be capable of representing all of the various interests of the non-utility parties. In any case, all non-utility parties will have an opportunity to participate in the hiring process."

**Response:** The parties shall timely apprise the Commission of their progress in hiring one pool of consultants for the non-utility parties. These parties should attempt to hire in such a manner that divergent interests are not sacrificed, but without unnecessarily increasing CP costs.

**Structure.** The Commission agrees with the approach outlined under the section entitled "Structure" commencing at page 8 of the workplan.

**Decisionmaking Process.** The Commission agrees with the approach outlined under the section entitled "Decisionmaking Process" found at page 10 of the workplan.

**Milestone II: Identify and Screen DSM Opportunities.** The Commission agrees with the approach.

**Milestone III: Program Concepts.** The Commission agrees with the approach in this section.

**Milestone IV: Detailed Program Applications.** The Commission agrees with the approach in this section. Item 7 states:

"At the end of the process, the CP will review the success of the Collaborative Process and begin the process for developing more programs and monitoring implementation of approved programs."

**Response:** The Commission views the CP as an appropriate way to increase the deployment of DSM resources in Public Service's portfolio. The Commission directs the CP to present recommendations for the continuation or discontinuation of the CP at least 60 days prior to October 1, 1992.

**Proposed Budget.** The Commission is desirous of moving the CP forward, and recognizes that the CP must have at least limited approval of the Proposed Budget, as found on page 14, in order to allow the timely execution of contracts with consultants. However, the Commission finds that it cannot approve the budget as presented due to the absence of any supporting documentation. Accordingly, the Commission will approve the initial payment for obtaining the services of consultants, subject to the submission to the Commission of supporting documentation, including scope of work and fiscal procedures. The Commission agrees with the cap on spending of \$400,000. The Commission approves here PSCo's decision to make a pro forma adjustment in its next rate case to account for monies received to cover labor costs through the CP.

**Conclusion.** The Commission congratulates the participants in the CP for the work it has conducted during the CP structure design stage over the past several months. The workplan reflects the CP's success in meeting its initial goals. The personal testimonials of the participants at the October 15, 1991, special open meeting demonstrated the collective commitment to the process. The review of the CP at the October 31, 1991, special open meeting provided the Commission with further evidence from objective and informed sources that the Commission should have full confidence in the process under way in this docket. The Commission believes that the workplan represents a very positive approach to this docket and, coupled with the modifications and increased communication that is anticipated to stem from this order, the Commission looks forward to the continuation of this innovative approach to public participation in utility regulation.

IT IS ORDERED THAT:

1. The workplan submitted by the Collaborative Process is approved, as amended.

2. All reports and data submissions referenced in this order, along with any other comments concerning this order are due by January 10, 1992.

This Decision is effective immediately on its Mailed Date.

(S E A L)



ATTEST: A TRUE COPY

*Robert E. Temmer*  
Robert E. Temmer  
Acting Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

ARNOLD H. COOK

GARY L. NAKARADO

CHRISTINE E. M. ALVAREZ

Commissioners

MW:1687W