

(Decision No. C92- 1129)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

INVESTIGATION INTO THE DEVELOP-)	DOCKET NO. 91R-642E
MENT OF RULES CONCERNING)	
INTEGRATED RESOURCE PLANNING.)	NOTICE OF PROPOSED
)	RULEMAKING

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Mailed Date: September 2, 1992
Adopted Date: August 26, 1992
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STATEMENT

BY THE COMMISSION:

PROCEDURAL HISTORY

On October 1, 1991, Public Service Company of Colorado (PSCO) and the other parties to the settlement of PSCO's 1991 general rate case filed a petition with the Commission to commence a rulemaking docket for the purpose of developing rules concerning integrated resource planning (IRP). In response, the Commission commenced a miscellaneous docket (91M-642EG). On December 16, 1991, the Commission issued its Advanced Notice of Proposed Rulemaking (ANOPR) in docket 91R-642EG and subsequently closed the miscellaneous docket. In the ANOPR, the Commission announced its intention to consider a number of issues which, at a minimum, included:

1. The integration of demand side management (DSM) into resource

planning.

2. The evaluation of environmental externalities and whether and how they are taken into account in resource selection.
3. The use of the societal test, or other tests, in determining the cost effectiveness of resources.
4. The procedures, if any, to be used for the review of the planning assumptions, forecasts, and methodologies for electric and gas corporations within the jurisdiction of the Colorado Public Utilities Commission.
5. The appropriate methodology for the determination of avoided costs of supply side resources and appropriate discount rates.
6. The objectives of IRP, and any matter related to the implementation of IRP.
7. Methods to address the uncertainty of demand forecasts.

The outcome anticipated by the Commission in this docket called for the Commission to set forth proposed IRP rules to be noticed in accordance with the State Administrative Procedures

Act. Docket 91R-642EG and Docket 91A-480EG, pertaining to the decoupling of revenues from sales and incentives for DSM, were established on parallel tracks with consolidated evidentiary hearings. Finally, although the initial IRP docket was noticed to include both gas and electric issues, the gas portion was bifurcated from the electric portion and a separate rulemaking for gas IRP was established by Decision No. C92-530.

Hearings in the consolidated docket were held from June 10, 1992 to June 19, 1992. During the hearings, the parties asked the Commission to delay the filing date for post-hearing statements of position to provide an opportunity for the parties to meet and attempt to develop a consensus set of IRP rules. The Commission granted this request by Decision No. C92-833-I and gave the parties until July 24, 1992 to file recommended electric IRP rules and/or statements of position. On that date, thirteen separate statements of position were filed by the parties, three of which included separate proposed sets of IRP rules. PSCO submitted a "Utility Consensus Rule" concurred in by Tri-State G&T, WestPlains Energy and also by CF&I. The Office Of Consumer Counsel (OCC) submitted a second set of rules, and finally the Land and Water Fund of the Rockies (the LAW Fund) together with the Office of Energy Conservation (OEC) jointly submitted a third set of rules. These rules and statements of position were considered by the Commission at a Special Working Session on

August 21, 1992. As a result of decisions reached in that meeting, the Commission is now proposing the attached rule.

POSITIONS OF THE PARTIES

I. **DEFINITIONS** - The three rules proposed by the parties each contain a section of definitions. For the most part, these contain identical or equivalent definitions of terms with some rules proposing more definitions than others. Some rules contain differences that reflect the different approaches of the parties to IRP. As an example, the definition of an IRP plan proposed by OCC provides that, "An integrated resource plan shall mean the resource plan which the utility will implement, upon acceptance by the Commission..." (emphasis supplied) In contrast, the definition proposed by PSCO provides that, an "Integrated Resource Plan (IRP) shall mean the resource plan a utility will implement and that was submitted by the utility to the Commission for its review..." (emphasis supplied) There are some definitions, however, which conflict with one another. In particular, the definition of Demand Side Management proposed by PSCO explicitly allows fuel-switching as a DSM measure whereas that proposed by OCC provides that "Unless proven otherwise, fuel-switching shall not be considered DSM."

II. **FILING REQUIREMENTS** - The filing requirements again reflect the differing approaches of the parties to the formulation of an integrated resource plan. While the Utility Consensus Rule devotes only one section to the contents of the IRP the OCC rule

and the LAW Fund/OEC rule (the non-utility rules) devote four sections. The latter two rules are very similar with differences that will be contrasted below. Although it might be argued that the Utility Consensus Rule contains, at least implicitly, most or all of the filing requirements contained in the OCC and the LAW Fund/OEC rules, the fact is that the latter two rules specify the filing requirements with more specificity. The four sections in the non-utility rules deal with: (1) Filing Requirements, (2) Electric Energy and Demand Forecasts, (3) Resources Assessment and (4) Development of Integrated Resource Plans.

With respect to filing requirements, the OCC rule requires all utilities to file simultaneous plans every three years with an accompanying request for Commission acceptance of the plan. The LAW Fund/OEC rule provides for a staggered three year cycle for PSCO, Tri-State G&T, and WestPlains Energy. Each submission is to be accompanied by a request for Commission approval. The OCC rule provides that the utility shall provide IRP information in machine readable form for all parties who request such information. Other than that, the two sections are identical. The PSCO rule provides that a utility not be required to submit an IRP more often than 36 months from its previous IRP, although it allows the utility the option of submitting an IRP more frequently based on changing conditions or other reasons. The filing will be accompanied by a request to open a docket for the presentation of the utility's

IRP.

With respect to electric energy and demand forecasts, the LAW Fund/OEC rule requires that the utility forecast the annual peak demand for major customers while the OCC rule omits this requirement. Other than that, the two rules are identical. The PSCO rule requires that the utility's IRP plan contain justification and documentation of load and energy forecasts.

With respect to resources assessment, the non-utility rules are similar with some important exceptions. These are:

(1) The LAW Fund/OEC rule specifies consideration of four particular means of achieving the emission reductions required by Title IV of the Clean Air Act Amendments of 1990 while the OCC omits these specific requirements.

(2) The LAW Fund/OEC rule requires that the utility describe for all existing utility-owned and non-utility-owned supply-side resources the impact on land and water resources including solid-waste disposal. The OCC rule omits this requirement.

(3) The LAW Fund/OEC rule requires that all cost-effective DSM programs shall be acquired by the utility during the 20-year planning period. The OCC rule omits this requirement.

(4) The LAW Fund/OEC rule specifies that avoided costs be calculated on the basis of the Resource Planning Method to reflect long-term costs. The OCC rule requires that avoided costs be calculated on the basis of the Short Run Marginal Cost method and the Resource Planning Method to reflect long-term costs. (The PSCO rule provides no specific method of calculating avoided costs.)

(5) The LAW Fund/OEC rule requires that avoided costs shall include avoided environmental and other externality costs.

The OCC rule omits this requirement.

(6) The LAW Fund/OEC rule requires that all DSM resources be screened using the societal cost test. This position is concurred in by the City and County of Denver, and they argue that CO2 should be included in the externalities to be considered. In contrast, the OCC rule requires that the utility perform initial screening of all DSM resources utilizing the Participant Test, the Ratepayer Impact Measure Test, The Utility Cost Test and the Total Resource Cost Test. It also provides that, "An intervenor may supply the Commission with information regarding the screening of a demand-side resource utilizing the Societal Cost Test." Staff suggests that all available cost-effectiveness tests should be used giving primacy to none.

(7) The LAW Fund/OEC rule contains a section requiring utilities that sell both natural gas and electricity to analyze the costs and benefits of the substitution of natural gas for electricity or vice versa in meeting the demand for energy services. This section is omitted from the OCC rule.

(8) The OCC rule contains a section requiring a utility, to the extent possible, to use competitive bidding to obtain both supply and demand-side resources. This is omitted from the LAW Fund/OEC rule and the PSCO rule, but is concurred in by Climax Molybdenum (Climax) and the Multiple Intervenors.

(9) The Law Fund/OEC rule contains a section requiring a utility to identify the environmental and other externalities associated with each resource in its resource portfolio. To the extent feasible, the externalities shall be quantified and converted to monetary terms. Where quantification is not feasible, the utility is required to show how qualitative consideration of these factors affected their decisions. The PSCO rule contains much more general requirements. It provides that a utility shall develop a specific recommended resource portfolio to meet the additional resource needs it has identified. This portfolio is to be designed to provide economical, reliable, efficient and sustainable electric service at the best total cost to all customers. No definite method is specified for computing avoided costs, and no specific cost tests are specified to be utilized in the screening of DSM technologies. The rule does provide, however, that complete documentation of how the screening system was applied be submitted. It also provides that a

sensitivity analysis be included to include a range of growth scenarios. With respect to externalities, the PSCO rule perhaps differs most radically from the non-utility rules. The PSCO rule provides that if environmental standards established by federal, state, or local regulatory agencies are met, then no negative impacts to the environment occur and the externalities have been internalized. Western Fuels Association adds that environmental externalities are not an appropriate subject of regulation by the Public Utilities Commission. Climax expresses the view that while environmental externalities do exist, they should be taken into account in the planning of additional resources only as a "tie-breaker". In Climax's view, and in the view of the Multiple Intervenors, the methodologies for "monetizing" environmental externalities are not well developed, and to use such numbers in any absolute sense would tend to artificially inflate the cost of resources and hence rates. Consequently Climax and Multiple Intervenors oppose the use of the societal test for screening DSM resources. Multiple Intervenors believe that monetization of externalities should be allowed but not required. Climax and Multiple Intervenors believe that all standard cost effectiveness tests should be considered in the screening of resources and Climax adds that no DSM measure that does not pass both the utility test and the total resource test should be considered. Western Fuels Association agrees that monetization of externalities at this time is premature and that the record lacks substantial evidence on this issue. Staff also argues that quantification of the impacts of externalities at this time is neither feasible nor advisable. In contrast, the Independent Petroleum Association of the Mountain States (IPAMS) and the Colorado Oil and Gas Association (COGA) argue that the IRP rule should quantify and monetize environmental externalities, and to consider the costs and benefits of fuel switching (e.g. coal to natural gas). The commission was unable to reach a consensus on this matter and therefore has presented two options in the proposed rule.

III. DEVELOPMENT OF PLANS

With respect to the development of integrated resource plans, there are once again some significant differences between the two non-utility rules. These include:

(1) The LAW Fund/OEC rule specifies that the utility develop its plans so as to minimize societal costs while the OCC rule specifies the Optimal Total Cost Standard (a term defined in their rule). The PSCO rule specifies the Best Total Cost Standard (also a term defined in their rule).

(2) The LAW Fund/OEC rule provides that the utility shall develop any additional plans to meet different objectives that it deems appropriate in consultation with the Working Group established in the rule. The OCC rule omits this provision.

(3) The LAW Fund/OEC rule requires that the utility examine the risks and uncertainties associated with meeting the forecasts considering, among other things, risk-adjusted discount rates. The OCC rule omits this provision, and the IPAMS AND COGA urge caution in the use of such discount rates. Staff on the other hand, finds the concept an interesting one and one that could be incorporated into an IRP rule. The Colorado Solar Energy Industries Association (COSEIA) also strongly endorses the use of risk-adjusted discount rates.

(4) The LAW Fund/OEC rule requires that the utility report results on each of the plans developed with respect to its impact on the environment including environmental externalities while the OCC rule requires reporting with respect to impacts according to present federal, state and municipal regulations. The LAW Fund/OEC rule also requires an assessment of the impact on the utility's financial condition while the OCC rule omits this. On the other hand, the OCC rule requires that each plan be assessed with respect to the impact on alternative rate designs.

(5) The LAW Fund/OEC rule requires that if the utility's preferred plan differs from the plan that minimizes societal costs, that the utility shall explain fully the reasons for its choice. This is omitted from the OCC rule. The PSCO rule contains a provision omitted from the non-utility rules. It requires that in assessing new supply and demand side resources, a utility shall investigate supply-side efficiency improvements and the role of existing resources as future resources by means of re-powering and life extension. Climax, Multiple Intervenors and Staff agree with this

position.

IV. **PUBLIC PARTICIPATION** - On the issue of public participation, the proposed LAW Fund/OEC rule is substantially different from that of the OCC. In the rule proposed by the OCC, an IRP working group will be formed prior to a utility filing official notice of its intent to file an IRP. The group will consist of representatives of the utility, the Staff of the Commission, the OCC and any other interested parties. The purpose of the working group according to the OCC rule is to provide comments on the utility's draft and preliminary IRP analyses and to provide information to the utility regarding load growth, resources to meet load, risk analysis and resource portfolio development. The utility shall chair the working group and schedule meetings as necessary. The utility shall prepare a summary of the IRP working group's agendas and discussions and file them with the integrated resource plan.

In the OCC rule, there is no provision for a Participation Fund (to be described below). In contrast, the LAW Fund/OEC rules envision that a utility shall afford all interested persons the opportunity to participate fully throughout the development of the utility's IRP. In their view, the purposes of the IRP Working Group are for the utility to provide information on the status of its plan development and for nonutility parties to provide input to, and comments on, the utility's IRP process, including assumptions, models and results. The utility, subject to approval

from the members of the Working Group, shall prepare a summary of the agendas and discussion held. The summaries as well as the utility's responses to the inputs from the Working Group shall be included in the utility's IRP filing.

The LAW Fund/OEC rule also contains provisions for a Participation Fund from ratepayer monies to help ensure meaningful participation in the Working Group. This fund is to provide for a set of consultants to be jointly controlled by the non-utility parties. The rule provides for six principles which will guide the use of the fund.

Staff argues for a process in which the working group would be scheduled on a periodic basis between plan filings to allow feedback from interested parties. Staff argues that this working group "phase" not include formal discovery. They envision an informal information gathering and information exchange.

The PSCO rule also provides for a series of points during the IRP process at which public feedback will be sought. These are: (1) Development of a demand and energy forecast; (2) Screening analysis of demand-side and supply-side options; (3) Integration of supply and demand side resource options; (4) Risk analysis of resource options, including consideration of experimentation with discount rates which reflect the relative riskiness of those

resources when future resource decisions are being made; and (5) Analysis of models being used for the IRP. Staff argues that there should be continuous interaction between the utility and interested parties as the utility develops its IRP.

The Commission was unable to reach a consensus on the issue of a participation fund, and therefore incorporated two different approaches in the proposed rule.

V. FILING REQUIREMENTS AND COMMISSION REVIEW

PRE-IRP FILING PROCEDURES - The two non-utility rules are quite similar in their provisions. They provide that 120 days (180 days in the OCC version) prior to filing its IRP, a utility shall file with the Commission a request to open a docket for the purpose of resolving resource planning issues. Parties may then intervene in the docket. The utility shall then strive to create opportunities for informal discussion between it and the parties. At a minimum, a utility shall provide a Preliminary Plan including a preferred plan, and action plan and various alternative plans at least 90 days prior to filing an IRP. Any party may then conduct informal or formal discovery to the utility and have a reasonable opportunity to have the utility run the models it uses to develop plans with assumptions specified by such party.

In the OCC rule, the utility shall not be required to run such models during the 45 day period prior to its IRP filing. In both non-utility rules, provisions are made for protective agreements. Staff also recommends that there be a minimum of 120-150 days between the filing of the notice of intent to file and "approval" of the plan. During this period formal discovery would be available and parties could ask for sensitivity and scenario computer "runs".

The PSCO rule provides that the utility shall present the IRP for discussion among the participants. In their rule, a participant is anyone who files an intervention or otherwise makes known their interest when the utility requests that the Commission open a docket for the presentation of the utility's IRP. Any person who wishes to participate in discussions of the IRP as a participant shall give written notice to the Commission. Participants may submit data requests to the utility which may include requests to prepare additional sensitivity and resource analyses. As a result of these discussions, the utility may modify the IRP prior to submitting it to the Commission for review. The participants shall have 60 calendar days for their discussion of the IRP.

COMMISSION REVIEW OF THE IRP - Once again, the two non-utility rules are quite similar in their provisions. They provide that when the utility files its IRP, the Commission alone (LAW Fund/OEC rule) or the Commission and intervening parties (OCC rule) shall, within 15 days following the filing of the plan, review the plan and determine whether the plan is complete and reviewable . If the Commission determines that the plan is not complete and reviewable, it shall reject the plan and require that the utility file a new IRP within 90 days. If the Commission determines that the plan is complete and reviewable, the Commission shall hold a hearing. Based upon the evidence, the Commission shall render a

decision either accepting the IRP (OCC rule) or approving the IRP (LAW Fund/OEC rule), accepting/approving the plan subject to conditions or modifications, accepting/approving it in part and rejecting it in part or rejecting it. In the LAW Fund/OEC rule, the Commission would have to reach a decision within 120 days of receipt of the plan.

In the PSCO proposed rule, the Commission would review the utility's IRP. The Multiple Intervenors argue that the IRP process should augment and not replace the Commission's current oversight of resource planning, and that at least initially, the Commission should use the IRP process only as a planning forum. The Commission would then accept the IRP as having complied with the specified planning process. Acceptance would not constitute adoption of any specific proposal in the plan.

EFFECT OF COMMISSION ACCEPTANCE/APPROVAL OF AN IRP - In the non-utility rules, the utility has the burden of going forward at the time of a proceeding for recovery of investment and expenses incurred pursuant to its IRP short term action plan. If it meets that burden, the burden of going forward shifts to intervenors who wish to challenge the propriety of the utility's actions. The intervenors must present evidence that the utility's actions were not consistent with the plan, or were improper, not in the public interest or resulted in unjust or unreasonable rates. Upon a

showing of evidence by an intervenor, the utility shall bear the ultimate burden of proof to show that its actions were appropriate and in the public interest.

In the OCC rule, the acceptance of a utility's IRP by the Commission shall not preclude an independent finding by the Commission which differs from the utility's accepted IRP in a subsequent proceeding. The LAW Fund/OEC rule contains provisions that pertain to the circumstance in which the utility acknowledges that recovery of investment or expenses or issuance of a CPCN is inconsistent with an existing approved plan. In that case, the utility shall file evidence to indicate the effect of such recovery or CPCN on the existing approved plan. Within 30 days of such filing, and after holding a public hearing, the Commission shall determine whether such recovery or CPCN is sufficiently significant in terms of its effect on the approved plan to warrant an amendment to the approved plan prior to ruling on the recovery or issuance. The LAW Fund/OEC rule also provides that a utility may, at any time, file an application to amend an approved IRP.

In their filing, Staff does not support a mere "compliance filing" type rule. On the other hand, Staff does not support a rule that creates a binding effect or a presumption based on Commission review and "approval" of a filed IRP. Staff also raises the issue of notice. If Commission action on an IRP has a

binding effect or creates a presumption of some sort in subsequent Commission proceedings, all parties potentially affected by the resource decisions made in the IRP must receive notice that lets them know exactly how the outcome of the IRP could affect their interests in subsequent proceedings. Staff recommends that the Commission "approve" a utility's IRP by a process akin to an inquiry docket.

VI. WAIVER PROVISIONS

- A. The LAW Fund/OEC rule and the PSCO rule contain an explicit Small Utility Waiver provision. The Law Fund/OEC rule provides that any electric utility with annual sales in Colorado of less than 1750 GWh may request a waiver from those portions of the rule for which the cost of compliance is likely to exceed the benefits of compliance. The utility must demonstrate that if the waiver is granted, its IRP will likely meet the purpose of the rule. In the PSCO rule, for the first cycle IRP, small utilities and generation and transmission cooperatives, may report existing resource planning activities provided that the report includes a description of the projected activities which will bring the utility into compliance for its next IRP filing.
- B. Both the OCC rule, the LAW Fund/OEC rule and the PSCO rule contain a General Waiver provision. The OCC rule provides that a utility may request a waiver from those portions of the IRP rules with which the utility is unable to comply, and must demonstrate that, if the waiver is granted, its IRP will meet the purpose of the IRP rules. In the LAW Fund/OEC rule, a utility may file an application for a waiver from any provisions of the IRP rule. It must demonstrate the basis for its contention that it should be granted a waiver including documentation regarding the costs and benefits of compliance. The Commission may grant a waiver if it finds that compliance is impracticable or unreasonable provided that the plan is likely to be consistent with

the purpose of the rule. In the PSCO rule, the Commission may permit variance for good cause shown if it finds that compliance is impossible, impracticable or unreasonable or that compliance does not achieve the purpose of the rules.

VII. MISCELLANEOUS COMMENTS

- A. The IPAMS and COGA fully support the Proposed Rule submitted jointly by the LAW Fund and OEC. They also argue that the rule should contain a definition of life-cycle costs applicable to either supply-side or demand-side resources.
- B. WestPlains Energy argues that from their perspective, it is imperative that any electric IRP noticed by the Commission must include a small electric utility exemption provision or a less burdensome initial IRP filing provision for small electric utilities.
- C. Staff supports the concept of a two-part initial IRP filing for small utilities and for generation and transmission cooperatives. The filing cycles for all jurisdictional electric utilities however would remain synchronized.
- D. Staff supports the concept that the utility should file a three-year short term action plan in conjunction with its 20 year IRP.
- E. Staff argues that the IRP rule should articulate Commission policy and guidance, but should not contain specific methodologies and similar detail. These should be developed and focused on a utility-by-utility basis.
- F. COSEIA proposes a set aside in the resource plan for renewables. In particular they suggest a two percent set aside portion of its annual load growth to be provided by renewable resources.
- G. The Colorado Independent Energy Association (CIEA) restated its position that an IRP rule should explicitly recognize the energy efficiencies of, and include or cross-reference procedures for utility acquisition of non-utility cogeneration resources on a fair, competitive basis, including by means of existing or subsequently adopted bidding programs, in order to optimize the potential utility resource pool.

PROPOSED RULEMAKING

Based upon the discussions and proceedings summarized above,

the Public Utilities Commission hereby gives notice of proposed rulemaking regarding integrated resource planning for electric utilities. The intent of the proposed rulemaking is to investigate issues, such as those discussed above, including procedures which electric utilities may be required to follow in the development of integrated resource plans. A copy of the proposed rules is attached to this notice. The Commission emphasizes that the attached rules are merely proposals. Any interested person is free to advocate particular provisions suggested (or not suggested) in previously filed comments or at the previously conducted hearings, but which do not appear in the proposed rules. None of the proposals made have been rules upon, and none of them are rejected.

The Commission hereby notifies all interested persons and parties that it will take administrative notice of the record already established in this docket for purposes of the formal rulemaking proceeding. That is, the formal rulemaking record shall include all oral and written comments or filings already made by the parties in 91R-642E (or 91R-642EG to the extent these relate to electric resource planning). The parties need not refile comments already made in this docket.

The Commission will conduct a hearing on the proposed rules, and any other proposals offered by any interested person,

beginning October 30, 1992, and continuing, if necessary, on November 2, 1992. Hearings will be held in Hearing Room A, Office Level 2 (OL2), Logan Tower, 1580 Logan Street, Denver, Colorado commencing at 9:00 a.m. on each scheduled day. Interested persons may submit written data, views, or arguments at the scheduled hearings, or before, and may present these orally unless the Commission deems this unnecessary. All such submissions shall be considered by the Commission.

The statutory authority for these rules is contained at §§ 40-2-108 and 40-3-102, C.R.S.

THEREFORE THE COMMISSION ORDERS THAT:

1. This Notice of Proposed Rulemaking along with the attached proposed rules shall be filed with the Secretary of State for publication in the September 10, 1992, copy of The Colorado Register. This notice shall also be filed in the Office of Regulatory Reform.

2. Hearings on the proposed rules and related matters shall be held beginning October 30, 1992, and continuing, if necessary, on November 2, 1992, at the above-referenced time and place.

3. The rulemaking record in this matter shall include all written or oral comments, testimony, and exhibits previously filed in this docket.

4. Interested persons may file written comments and make oral presentations to the Commission consistent with the above discussion.

This Order is effective on its Mailed Date.

ADOPTED IN OPEN MEETING August 26, 1992.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

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