(Decision No. C93-399)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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IN THE MATTER OF THE JOINT APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO; 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
IN THE MATTER OF PUBLIC SERVICE COMPANY OF COLORADO, 1225 - 17TH STREET, DENVER, COLORADO 80202, FOR AUTHORITY TO IMPLEMENT DEMAND SIDE MANAGEMENT PROGRAMS DEVELOPED BY THE DEMAND) SIDE MANAGEMENT COLLABORATIVE PROCESS.	DOCKET NO. 93A-099EG PROCEDURAL ORDER

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Mailed Date: April 14, 1993
Adopted Date: April 14, 1993

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STATEMENT

BY THE COMMISSION:

On April 2, 1993, the Public Utilities Commission ("Commission") held a prehearing conference in the above-captioned proceedings to discuss procedural matters. Consistent with the discussion and rulings at the prehearing conference, we now issue this order.

We consolidated these cases in Decision No. C93-294, inasmuch as we believed they involved closely related issues. However, at the prehearing conference, several parties expressed concern that consideration of issues relating to the collaborative process (Docket No. 91A-481EG) at the same time as issues relating to the substance of Public Service Company of Colorado's applications (Docket No. 93A-099EG) would be problematic. For example, the parties pointed out that discussion of the workings of the collaborative process might require the parties to reveal to the Commission the substance of confidential negotiations relating to the applications which are the subject of Docket No. 93A-099EG. It now also appears that consolidation will unnecessarily complicate consideration of the demand side management ("DSM") programs

proposed by the Company (Docket No. 93A-099EG). Therefore, we agree with the parties' request to bifurcate the two proceedings.

The hearings presently scheduled for April 16, 1993, will be limited to consideration for the DSM programs proposed in Docket No. 93A-099EG. The parties shall address all issues relevant to whether the applications should be approved (*e.g.*, cost effectiveness of the proposed DSM programs, rate impacts of the proposals, technical issues related to the programs, how the effectiveness of the proposals will be evaluated, etc.). By future order, the Commission will schedule a hearing or an informal conference (*e.g.*, a "roundtable") in Docket No. 91A-481EG at which issues relating to the collaborative process will be discussed (*e.g.*, an evaluation of the collaborative process, whether the process should be continued, whether the process should be modified, etc.).

The timely filed petitions for intervention by the Colorado Office of Energy Conservation, the Land and Water Fund of the Rockies, Colorado Interstate Gas Company, Climax Molybdenum Company, the Colorado Business Alliance Against Unfair Utility Practices, and the CF&I, L.P. were all granted at the prehearing conference. Coors Brewing Company filed an untimely petition for intervention on March 22, 1993. No party objected to this request for intervention, and we approved it along with the other petitions to intervene.

On April 7, 1993, Financial Energy Management, Inc. ("FEMI"), filed a petition to intervene out of time and for shortened response time. Public Service Company of Colorado filed its objection to the untimely intervention on April 12, 1993. Now being duly advised in the matter, we deny the request to intervene out of time.

Rule 64(c)(3) of the Commission's Rules of Practice and Procedure, 4 CCR 723-1, requires that a petition for untimely intervention states good cause for failure to timely intervene. In its petition, FEMI has failed to state good cause for late intervention in either of the above-captioned dockets. FEMI, in its petition, admits that it was previously aware of Docket No. 91A-481EG, but chose not to intervene, in part, because it believed other parties would address its concerns. No reason is given for failure to timely intervene in Docket No. 93A-099EG. We conclude that the petition does not state good cause for untimely intervention. Furthermore, hearings in Docket No. 93A-099EG are presently scheduled for April 16, 1993. FEMI seeks to inject new issues into the imminent hearing, and as such, raises substantial questions regarding procedural fairness to the parties. For this additional reason, we conclude that FEMI's intervention at this point in time is improper.

THEREFORE THE COMMISSION ORDERS THAT:

1. Docket Nos. 91A-481EG and 93A-099EG are hereby severed. The hearing presently set for April 16, 1993, shall be limited to consideration of issues relevant to Docket No. 93A-099EG. By future order in Docket No. 91A-481EG, the Commission shall set a date for consideration of issues relevant to the Collaborative Process.

2. The above-referenced petitions for intervention, except the one filed by Financial Energy Management, Inc., are hereby granted.

3. The petition for intervention out of time by Financial Energy Management, Inc., is denied. The request for shortened response time to the petition is granted.

This Order is effective on its Mailed Date.

ADOPTED IN OPEN MEETING April 14, 1993.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT E. TEMMER

CHRISTINE E. M. ALVAREZ

Commissioners

COMMISSIONER VINCENT MAJKOWSKI CONCURRING IN PART AND DISSENTING IN PART.

COMMISSIONER VINCENT MAJKOWSKI CONCURRING IN PART AND DISSENTING IN PART:

I concur in the ruling on Financial Energy Management, Inc.'s late-filed petition for intervention. Otherwise, I dissent to the majority's rulings herein.

SEAL

ATTEST: A TRUE COPY

Bruce N. Smith
Executive Secretary

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

VINCENT MAJKOWSKI

Commissioner