(Decision No. C94-83)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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IN THE MATTER OF THE INTEGRATED RESOURCE PLAN OF PUBLIC SERVICE COMPANY OF COLORADO, 1225 17TH STREET, DENVER, COLORADO 80202.	DOCKET NO. 93A-098E
THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO PARTICIPATE TO OWN AND OPERATE A GENERATING STATION AS A GAS FIRED COGENERATION FACILITY.	DOCKET NO. 93A-605E ORDER

Mailed Date: January 27, 1994
Adopted Date: January 4, 1994

STATEMENT

BY THE COMMISSION:

These matters came before the Colorado Public Utilities Commission ("Commission") at a prehearing conference on January 4, 1994, for consideration of: (1) a procedural schedule for the above captioned dockets; (2) the Land and Water Fund of the Rocky Mountain States' ("LAW Fund") Motion to Consolidate Docket Nos. 93A-563E, 93A-564E, 93A-605G, and 93A-098E; and (3) petitions to intervene filed by: (a) University Hospital; (b) University of Colorado Health Sciences Center; (c) the Office of Energy Conservation ("OEC"); (d) VESGAS Company ("VESGAS"); (e) CF&I Steel, L.P.; (f) the City of Boulder ("Boulder"); (g) Colorado Independent Energy Association; and (h) Affiliated Sponsors of Non-Utility Supply-Side Resource Option in either or both of the above-captioned dockets.

A. Petitions to Intervene

No objections were filed or stated and adequate grounds were shown. Therefore, all petitions will be granted. The following entities will be granted leave to intervene in Docket Nos. 93A-098E and 93A-605G: CF&I Steel, L.P.; Boulder; OEC; University Hospital; University of Colorado Health Sciences Center; VESGAS; Colorado Independent Energy Association; and Affiliated Sponsors of Non-Utility Supply-Side Resource Option.

B. Motion To Consolidate

The LAW Fund requests that the Commission consolidate Public Service Company of Colorado's ("Public Service" or "Company") Integrated Resource Planning ("IRP") docket (Docket No. 93A-098E) with three pending applications by Public Service for certificates of public convenience and necessity ("CPCNs") in Docket Nos. 93A-563E, 93A-564E, and 93A-605G. The LAW Fund argues that consolidation of these four dockets is appropriate because they have common questions of fact and law, and that the consolidation will conserve the parties' litigation resources.

The motion is opposed by the Commission Staff on a number of grounds. Specifically, Staff believes that in distinction to the IRP's more general inquiry into the Company's resources, the CPCN process focuses on specific resource projects. The Staff argues that by including specific CPCN applications in the IRP process, the IRP process will be driven more by the specific application than by an objective overview of resource needs. Staff asserts that the appropriate sequence should be the resolution of the IRP docket and then consideration of the CPCNs in light of the IRP plan. Staff also argues that the legal standards in the IRP process are different from a CPCN process.

University Hospital and the Health Sciences Center urge the Commission to combine the cogeneration CPCN application (Docket No. 93A-605G) with the IRP process because it is extremely important that the application be resolved before May 31, 1994. Bond underwriters for construction at the Hospital and Health Sciences Center require a decision on whether the cogeneration project will go forward by May 31, 1994.

The Commission believes that, if at all possible, the IRP process should be completed before the Commission considers any CPCN for the reasons set forth by the Staff. However, and in distinction from the other two CPCN applications, the cogeneration application becomes a lost opportunity if it is not decided prior to May 31, 1994. Therefore, the Commission will consolidate the IRP docket and the cogeneration CPCN docket. The two remaining CPCN dockets (Docket Nos. 93A-563E and 93A-564E) will be consolidated with each other, but will not be consolidated with the IRP docket.

C. Procedural Schedule

Creating a procedural schedule that accommodates the numerous parties and related dockets has proven an extremely difficult task. The newly enacted § 40-6-109.5, C.R.S. (1993), requires that the three CPCN dockets proceed on a schedule that is not necessarily compatible with the disposition of these and the related IRP dockets. In addition, Public Service has important deadlines that it would like to meet in pursuing the CPCN dockets. In particular, the Company indicated that it requires a decision by May 31, 1994,

on its Fort St. Vrain CPCN application (Docket No. 93A-564E) in order to maintain its place in the queue for shop space for construction of certain large components of the proposed facilities. Its Arlington wind power CPCN application (Docket No. 93A-563E) also requires a decision by May 31, 1994, so that the Company can finalize negotiations should the application be approved.

The Commission concludes that the IRP process must be completed before it will consider the Fort St. Vrain and Arlington projects. The Fort St. Vrain project is an enormous addition to the Company's supply resource, and the issue of repowering Fort St. Vrain has proven to be highly contested in past Commission proceedings. While the debate has centered around the plant's operation as a nuclear facility, and the proposal now under consideration is to operate it as a gas fired generator, the Commission anticipates that there will be significant scrutiny of this project by the parties and the Commission. And as pointed out by Staff, the general overview of the IRP process may be skewed if the Commission is required in that process to focus its attention on the specific merits of the Fort St. Vrain application.

Having reviewed the available dates, as well as having considered the practical ability of the parties to prepare for these numerous dockets, the Commission will adopt the procedural schedule set forth below. While this schedule will not resolve the Fort St. Vrain application before May 31, 1994, it is nevertheless an expedited and ambitious schedule. Moreover, the IRP schedule is such that the Commission will issue an initial decision before May 31, 1994. This initial decision should give the Company a good indication of how the Commission will deal with the Fort St. Vrain application as well as the Arlington project. Finally, the schedule will result in a decision in the Fort St. Vrain application in mid-July, only 45 days after the May 31, 1994, date requested by the Company.

Therefore, given these considerations, the Commission will adopt the following schedule for the Company's IRP Docket No. 93A-098E and cogeneration Docket No. 93A-605G:

1.	January 7, 1994	Public Service files testimony/ exhibits for the IRP and CPCN application.
2.	February 1, 1994	Public Service files supplemental testimony/exhibits regarding engineering for the cogeneration project.
3.	March 4, 1994	Intervenors' testimony/exhibits due on Public Service's IRP.

4.	March 16, 1994	Intervenors' testimony/exhibits on supplemental Public Service testimony filed February 1, 1994.
5.	March 28, 1994	Public Service's rebuttal testimony on Intervenor's rebuttal case.
6.	April 11-22, 1994	Hearing on IRP/cogeneration application.
7.	May 2, 1994	Statements of Position and parties' proposed decisions due.
8.	March 30, 1994	Trial Data Certificates due.
9.	April 1, 1994	Prehearing Conference a 1:30 p.m. in a Commission Hearing Room in Denver. Out-of-town parties may contact Lloyd Petersen at 303/894-2000 extension 305 by 3 p.m. by March 31, 1994, to arrange telephone conferencing.
10.	May 16, 1994	Commission Initial Decision due.

D. Discovery

Several parties raised concerns over the response time for discovery. The Commission agrees that, in order to meet the adopted schedule, the traditional discovery response times are inappropriate. Public Service argues that the ten-day response time under the Commission's Emergency Rules is too short given the numerous discovery requests that it has already received. Therefore, the discovery response time will be modified as follows: Public Service shall serve responses within 20 days for discovery served on the Company on or before March 4, 1994. Intervenors shall serve responses to discovery within ten days for discovery requests served on them after March 4, 1994. Finally, Public Service shall respond to discovery requests within ten days for requests served on it after March 28, 1994. Requests for different treatment shall be made by motion.

THEREFORE THE COMMISSION ORDERS THAT:

1. Docket Nos. 93A-098E and 93A-605G are consolidated. Parties that have intervened in either docket and are considered parties in the consolidated dockets.

2. The petitions to intervene filed by CF&I Steel, L.P., City of Boulder, Office of Energy Conservation, University Hospital, University of Colorado Health Science Center, VESGAS Com-

pany, Colorado Independent Energy Association, Affiliated Sponsors of Non-Utility Supply-Side Resource Option are granted.

3. The procedural schedule set forth above is adopted. The Trial Data Certificate shall include:

1. Statement of Position. A concise and brief statement of all claims or positions asserted by that party.

2. Undisputed Facts. A plain, concise statement of all facts, if any, which the party filing the statement contends are, or should be, undisputed. (The Commission often rules on these questions at prehearing conferences).

3. Disputed Issues. A plain, concise statement of the issues the party claims, or concedes, to be in dispute.

4. Points of Law. Brief and concise statements of all points of law which are to be relied upon by that party, citing pertinent statutes, ordinances, regulations, standards, cases, or other authority. (Legal argument is not requested in the Trial Data Certificate's prehearing statement.)

5. Stipulations. A listing of any stipulations requested, or offered, to facilitate the disposition of the case.

6. Witnesses. The name, address, and telephone number of all witnesses whom the party will call at trial, together with:

- A brief summary of each witness's anticipated testimony, with reference to the prefiled testimony of the witness.

- An estimate of the length of time each witness will need, specifying on what portion of the case each witness will testify.

7. Exhibits. A list, with brief description, of any physical or documentary evidence which the party may offer into evidence at trial. Arguments regarding

the admissibility of evidence will be heard and, to the extent possible, may be ruled upon at the prehearing conference.

8. Pre-trial Motions. A list of pre-trial motions pending before the Commission or anticipated to be filed by the parties, or both. To the extent possible, the motions will be ruled upon at the pre-hearing conference.

9. Other Matters. Any unusual aspects about the Docket, and any other matter that the party would like to bring to the attention of the Commission.

4. The prehearing conference will be held:

DATE: April 1, 1994

TIME: 1:30 p.m.

PLACE: Commission Hearing Room
Office Level 2 (OL2)
Logan Tower
1580 Logan Street
Denver, Colorado

5. The hearing will be held:

DATE: April 11 through 22, 1994

TIME: 9:00 a.m.

PLACE: Commission Hearing Room
Office Level 2 (OL2)
Logan Tower
1580 Logan Street
Denver, Colorado

6. The parties shall confer among themselves and decide the order of witnesses by day. The order of witnesses by day of hearing shall conform to the pre-filed schedule.

7. The Commission will strictly control cross-examination of witnesses by other parties and will take other measures to assure a fair and efficient hearing.

8. Normally, each hearing day shall commence at 9:00 a.m. and shall conclude between 4:30 p.m. and 5:00 p.m. The hearing will commence precisely on time; breaks will be strictly limited; and the hearing will resume promptly after the break.

9. The parties shall meet with the court reporter each morning before the hearings at 8:30 a.m. to mark all exhibits. The Commission will not tolerate the use of hearing time to mark exhibits.

10. If the parties desire a daily copy of the transcript, they shall confer among themselves to make arrangements with the reporters, and shall provide one copy to the Commissioners.

11. Responses to discovery requests are due as follows: (1) Public Service Company of Colorado shall file responses within 20 days for discovery issued prior to March 4, 1994; (2) Intervenors shall file responses to discovery within ten days for discovery served after March 4, 1994; and (3) Public Service shall respond within ten days to discovery requests served after March 28, 1994.

This Order is effective on its Mailed Date.

ADOPTED IN PREHEARING CONFERENCE January 4, 1994.

SEAL

ATTEST: A TRUE COPY

Bruce N. Smith
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT E. TEMMER

CHRISTINE E. M. ALVAREZ

Commissioners

COMMISSIONER VINCENT MAJKOWSKI ABSENT.

NT:srs