

(Decision No. C94-85)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION)
OF PUBLIC SERVICE COMPANY OF)
COLORADO FOR A CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY)
TO PARTICIPATE IN THE ARLINGTON,))
WYOMING WIND PROJECT AND TO OWN)
10.5 MW OF CAPACITY FROM THE)
PROJECT.)

DOCKET NO. 93A-563E

IN THE MATTER OF THE APPLICATION)
OF PUBLIC SERVICE COMPANY OF)
COLORADO FOR A CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY)
TO REPOWER THE FORT ST. VRAIN)
GENERATING STATION AS A GAS)
FIRED COMBINED CYCLE STEAM)
PLANT, AND TO CONSTRUCT REQUIRED)
TRANSMISSION FACILITIES.)

DOCKET NO. 93A-564E

PROCEDURAL ORDER

- - - - -
Mailed Date: January 27, 1994
Adopted Date: January 4, 1994
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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) the Office of Energy Conservation; (b) Arkansas River Power Authority; (c) CF&I Steel, L.P.; (d) Sithe Energies, Inc.; (e) WestPlains Energy; (f) City of Boulder; (g) VESGAS Company; (h) Colorado Independent Energy Association; (i) Affiliated Sponsors of Non-Utility Supply-Side Resource Option; and (j) Colorado Association of Municipal Utilities 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-563E

and 93A-564E: Office of Energy Conservation; Arkansas River Power Authority; CF&I Steel, L.P.; Sithe Energies, Inc.; WestPlains Energy; City of Boulder; VESGAS Company; Colorado Independent Energy Association; Affiliated Sponsors of Non-Utility Supply-Side Resource Option; and Colorado Association of Municipal Utilities.

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 process's more general inquiry into the Company's resources, the CPCN process focuses on specific 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. Consolidation of these two dockets will allow the Commission to more expeditiously resolve the two dockets.

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 concluded that the IRP process must be completed before it will consider the Fort St. Vrain and Arlington project. 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 that 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 an initial 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 Docket Nos. 93A-563E and 93A-564E:

1. January 7, 1994 Public Service files testimony/
exhibits for the two CPCN appli-
cations.

2. May 23, 1994 Intervenor's testimony/exhibits due.
3. June 3, 1994 Trial Data Certificates due.
4. June 6, 1994 Public Service's rebuttal testimony/exhibits due.
5. June 9, 1994 Prehearing conference at 9 a.m. in 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.
6. June 13-17, 1994 Hearings.
7. June 24, 1994 Statements of Position and parties' proposed decisions due.
8. June 30, 1994 Initial Decision due.

THEREFORE THE COMMISSION ORDERS THAT:

1. Docket Nos. 93A-563E and 93A-564E are consolidated. Parties that have intervened in either docket are deemed parties in the consolidated proceeding.

2. The petitions to intervene filed by the Office of Energy Conservation; Arkansas River Power Authority; CF&I Steel, L.P.; Sithe Energies, Inc.; WestPlains Energy; City of Boulder; VESGAS Company; Colorado Independent Energy Association; Affiliated Sponsors of Non-Utility Supply-Side Resource Option; and Colorado Association of Municipal Utilities 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 prehearing 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.

The **prehearing conference** will be held:

DATE: June 9, 1994
TIME: 9:00 a.m.
PLACE: Commission Hearing Room
Office Level 2 (OL2)
Logan Tower
1580 Logan Street
Denver, Colorado

The hearing will be held:

DATE: June 13 through 17, 1994
TIME: 9:00 a.m.
PLACE: Commission Hearing Room
Office Level 2 (OL2)
Logan Tower
1580 Logan Street
Denver, Colorado

4. 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.

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

6. 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.


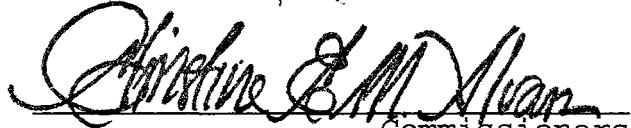
7. The parties shall meet with the court reporter each morning before the hearings at 8:30 a.m. to mark all exhibits. The Commission will not tolerate the use of hearing time to mark exhibits.

8. 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.

This Order is effective on its Mailed Date.

ADOPTED IN PREHEARING CONFERENCE January 4, 1994..

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO



Commissioners

COMMISSIONER VINCENT MAJKOWSKI
ABSENT.

NT:srs