(Decision No. R91-1421-I)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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IN THE MATTER OF THE JOINT APPLICATION OF THE PARTIES TO REVISED SETTLEMENT AGREEMENT II IN DOCKETS NO. 91S-091EG AND 90F-226 FOR COMMISSION CONSIDERATION OF DECOUPLING REVENUES FROM SALES AND ESTABLISHMENT OF REGULATORY INCENTIVES TO ENCOURAGE THE IMPLEMENTATION OF DEMAND-SIDE MANAGEMENT PROGRAMS.	)	DOCKET NO. 91A-480EG ORDER AS A RESULT OF OCTOBER 8, 1991 PREHEARING CONFERENCE AND OCTOBER 15, 1991 SPECIAL OPEN MEETING

Mailed Date: October 28, 1991

STATEMENT, FINDINGS, AND CONCLUSIONS

1. Background August 30, 1991 Prehearing Conference. A prehearing conference in this docket, hereinafter referred to as the "decoupling" docket, was held on August 30, 1991. Commissioners Cook, Nakarado, and Alvarez were present. The Commission asked parties whether sufficient time was allocated for the case, and whether the docket should proceed with a more complete record than was contained in the prefiled testimony of the Office of Energy Conservation (OEC). The Commission asked whether the record should include evidence on cost-effectiveness tests, avoided costs, and related matters. The Commission also was interested in hearing from the parties concerning their positions regarding the impact of the Colorado Supreme Court's decision in Colorado Office of Consumer Counsel v. Mountain States Telephone and Telegraph, __ P.2d ___, Case No. 89 SA 400 (July 15, 1991, as modified September 16, 1991) on the Commission's decision to structure this matter as an adjudicatory proceeding.

The parties stated that it was unnecessary to find evidence on cost-effectiveness tests and avoided costs within the decoupling case (Commission Docket No. 91A-480EG), because these issues would be addressed in the Collaborative Process (Commission Docket No. 91A-481EG) and in the Integrated Resource Planning rulemaking proceeding (Commission Docket No. 91A-642EG). Most parties did not offer their views concerning the pursuit of the decoupling case in light of the recent decision in OCC v. Mountain States, supra. The Commission stated an inclination to include cost-effectiveness tests and avoided costs evidence, and asked the parties to brief them on these issues and on the OCC v. Mountain States, supra., for discussion at a future prehearing conference.

2. **Background September 19, 1991 Interim Order.** On September 19, 1991, the Commmission issued an interim order, Decision No. C91-1247, as a result of the August 30, 1991, prehearing conference. The interim order set a prehearing conference for October 8, 1991, and repeated the request that parties brief the Commission on the issues of cost-effectiveness tests, avoided costs, and adjudicatory versus rulemaking proceedings.

3. **Background Statements of Position.** On September 26, 1991, a Joint Pre-Hearing Statement of Position was timely filed by Public Service Company of Colorado (Public Service), the Multiple Intervenors, the Land and Water Fund of the Rockies (LAW Fund), the Office of Consumer Counsel (OCC), the Staff of the Commission (Staff), the Energy Conservation Association (ECA), the Office of Energy Conservation (OEC), Colorado Interstate Gas Company (CIG), Colorado Rural Electric Association (CREA),

Tri-State Generation and Transmission Association (Tri-State), Climax Molybdenum, and CF&I Steel. Separate statements of position were timely filed by WestPlains Energy (WestPlains), the City and County of Denver, and Colorado-Ute Electric Association, Inc. (Colorado-Ute).

The Joint Motion discussed progress being made in the Collaborative Process and referenced negotiations under way concerning integrated resource planning rulemaking. The Joint Motion concluded that the signatory parties believe the cost-effectiveness and avoided costs issues should be decided in the Integrated Resource Planning rulemaking docket. The Joint Motion also stated that the decoupling docket may proceed as an adjudicated case, with the option to institute rulemaking if necessary. The separate position statements filed by WestPlains, the City and County of Denver, and Colorado-Ute came to similar conclusions.

4. October 9, 1991 Prehearing Conference. The Commission conducted the prehearing conference in this docket on October 8, 1991, as scheduled. Commissioners Nakarado and Alvarez were present. As a preliminary matter, a motion by the Staff, filed October 2, 1991, asking for an enlargement of time within which to file its direct testimony in the docket to and including November 8, 1991, was approved. The enlargement of time to November 8, 1991, was extended to all parties in the case. In addition, the Commission stated the next prehearing conference will be reset from January 10, 1992, to January 9, 1992.

The Commission expressed serious reservations about proceeding with this case in the absence of fundamental supply, demand, avoided

costs, and cost-effectiveness evidence on the record. The Commission stated that the draft policy statement concerning demand side management issues adopted by the Commission as Decision No. C90-1641 on December 5, 1990, in Docket No. 90I-227EG could not be utilized as the legal basis for any decision to be made in specific proceedings before the Commission. This is due to the fact that the proceeding did not lend itself to the development of a record which would be required to order specific actions on issues that rely upon clear cost-effectiveness tests and avoided costs standards and measures. Therefore, the Commission will take every step to ensure that procedural and adequacy of record concerns are addressed in this docket.

The Commission heard argument on the suggestion of delaying the decoupling docket until after the Integrated Resource Planning rulemaking proceeding. The Commission also heard argument about incorporating elements of Integrated Resource Planning into the decoupling docket. Certain parties suggested that if the Commission were to hear evidence on cost-effectiveness tests and avoided costs, the result would be the expansion of the docket beyond the confines of Revised Settlement Agreement II in the Public Service 1991 general rate case Dockets No. 91S-091EG and 90F-226. The Commission stated that the parties are expected to build a record that will provide the basis for a sustainable decision in this docket. The Commission acknowledges that building a complete record may result in the need for additional hearing time. If additional time is required, the Commission will address that issue in future prehearing conferences in this docket.

No parties argued in favor of converting this adjudicated case into a rulemaking proceeding. The Commission will proceed with this case as an adjudicated case as originally agreed to by the parties in Revised Settlement Agreement II, and as approved by the Commission.

At the conclusion of the prehearing conference, the Commission asked the parties to present statements or, preferably, a joint statement, that responds to the question of timing between the decoupling docket and the Integrated Resource Planning rulemaking proceeding. These statements would then be discussed at the special open meeting scheduled for October 15, 1991, on the Collaborative Process.

5. **October 15, 1991 Special Open Meeting.** The October 15, 1991, special open meeting on the Collaborative Process was held as scheduled, with Commissioners Cook and Nakarado in attendance. All parties to the decoupling docket were noticed, and were in attendance. In the course of the meeting, the Commission was informed that the parties were unable to present a consensus statement on the timing issue discussed at the October 8, 1991, prehearing conference. No party filed a statement for Commis- sion consideration, as requested at the October 8, 1991, prehearing conference.

Several parties, including the Staff, OCC, the Multiple Intervenors, and Climax Molybdenum, urged the Commission to delay the decoupling case until completion of the Integrated Resource Planning rulemaking proceeding. Other parties, including Public Service, the OEC, and the LAW Fund, urged the Commission to proceed as scheduled with the

decoupling docket. This latter group of parties assured the Commission that they intend to offer witnesses and evidence that will satisfy the Commission's stated goals of an adequate record. After hearing the position of the parties, the Commission committed to retaining the current schedule contained in the Revised Settlement Agreement II.

6. **Integrated Resource Planning Rulemaking Proceeding.** The Commission encourages the parties to continue negotiations in the Integrated Resource Planning rulemaking, and encourages the parties, if possible, to file the Integrated Resource Plan earlier than the April 1, 1992, filing date contained in the Revised Settlement Agreement II.

7. **Low-Income Assistance Docket.** The Commission encourages Public Service to work closely with the Collaborative Process if the company plans to incorporate demand-side management issues in the company's application on Low-Income Assistance. Since the Collaborative Process is designing comprehensive demand programs for Public Service, including residential programs, the Commission expects the company to seek the advice of the Collaborative Process in designing its Low-Income Assistance application. The Commission expects the company to include the specific issues contained in the Revised Settlement Agreement II, and to file its Low-Income Assistance docket on December 1, 1991.

8. **Requested Evidence.** The Commission now provides the parties with guidance to clarify what additional information it expects to have presented as evidence in this docket. In addition to the testimony filed by the OEC on August 5, 1991, concerning decoupling and

demand side management incentives, the Commission expects the parties to present Public Service-specific foundation evidence on the following:

A. Cost-effectiveness tests data.

B. Avoided costs data.

C. Supply data.

D. Demand data.

E. The inter-relationship between supply and demand in the Colorado electricity market and Public Service.

F. Forecasting data.

8.1. Cost-effectiveness Tests Data. The document, "Standard Practice Manual: Economic Analysis of Demand-Side Management," produced by the California Energy Commission, will be entered into the official file in this docket. [Parties who wish to order the document should call the California Energy Commission at 916-654-5200, and ask for Document No. P400-87-006. The cost is $4.45 per copy.] Definitions for a variety of cost-effectiveness tests are contained in this document. Parties are encouraged to review those tests and inform the Commission what test or tests they believe the Commission should adopt in this docket, and why.

8.2. Avoided Costs. The Commission provides the following preliminary definition, for application in this docket:

> "Avoided Costs" are the costs of supply options which one seeks to avoid by instituting demand programs.

The Commission states that the calculation of avoided costs is essential in this docket, as it is a basic measure of the economic value of demand

programs. Parties are encouraged to respond to this definition, or provide alternatives, if appropriate. Parties are encouraged to suggest an avoided cost or avoided costs that the Commission should employ for a standard or measure to justify decoupling or incentives, if appropriate.

8.3. **Supply data, demand data, and forecasting data.** The Commission has received assurances from Public Service that it will provide this data on October 25, 1991. Public Service filed a letter with the Commission on October 16, 1991, clarifying that the company will submit the following information in the decoupling docket:

A. Resource planning information drawn from the company's 1990 Generation Resource Study conducted by Energy and Management Associates, Inc., and the recent filing made by the company in the Colorado-Ute asset transfer docket before the Commission, Docket No. 91A-589E.

B. A range of estimated future costs of demand side management compared to other resources.

C. Consideration of the company's resource planning information as well as the estimated future cost of demand side management and other resources at low, medium, and high load-growth projections.

D. The information referred to in paragraphs 1, 2, and 3, with and without the acquisition of Colorado-Ute assets by Public Service.

IT IS ORDERED THAT:

1. The Motion by the Staff of the Commission, filed October 2, 1991, for an enlargement of time within which to file its direct testimony in the docket to and including November 8, 1991, is granted. The enlargement of time to November 8, 1991, is extended to all parties in the case.

2. Pre-trial disclosure certificates pursuant to Colorado Rule of Civil Procedure 16 are due on December 16, 1991. The Commission asks parties to prepare these certificates using the following format:

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

B. 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 will resolve these questions at the January 9, 1992, Final Prehearing Conference.

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

D. 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.)

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

F. Witnesses. The name, address, and telephone number of any witness or party whom the party will call at trial, together with a brief summary of such person's anticipated testimony, with reference to the prefiled testimony of such witness. An estimate of the testimony time the witness will need, as well as what portion of the case to which the witness will testify.

G. 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, ruled upon, at the January 9, 1992, Final Prehearing Conference.

H. Pretrial Motions. Pretrial motions pending before the Commission, or anticipated to be filed by the parties, or both.

I. 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. Rebuttal and cross-rebuttal testimony and exhibits are due on January 6, 1992.

5. The January 10, 1992, date for a prehearing conference in this docket is vacated. The prehearing conference is reset to January 9, 1992, at 9:30 a.m. in the Commission Hearing Room.

6. Disclosure certificate supplements are due at the beginning of the prehearing conference on January 9, 1992. Parties shall file the original supplements with the Commission and hand-deliver a copy to all parties at the prehearing conference. If parties are not represented at the prehearing conference, the supplement shall be served as provided in Colorado Public Utilities Commission Rules of Practice and Procedure Rule 7(b), 4 Colorado Code of Regulation 723-1.

7. Formal evidentiary hearings are set for January 27, 1991, through February 6, 1991, at 9:30 a.m. each day.

8. Statements of Position are due on February 21, 1992.

This Decision is effective immediately on its Mailed Date.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ARNOLD H. COOK

GARY L. NAKARADO

CHRISTINE E. M. ALVAREZ

Commissioners

SDR:MW:saw:1662W