Decision No. C23-0523

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22A-0309EG

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF A NUMBER OF STRATEGIC ISSUES RELATING TO ITS ELECTRIC AND GAS DEMAND SIDE MANAGEMENT AND BENEFICIAL ELECTRIFICATION PLAN.

COMMISSION DECISION
ADDRESSING APPLICATIONS FOR REHEARING, REARGUMENT, OR RECONSIDERATION OF DECISION NO. C23-0413

Mailed Date: August 8, 2023
Adopted Date: August 2, 2023

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I. BY THE COMMISSION

A. Statement

1. Through Decision No. C23-0413 (Commission Decision), the Commission addressed the Application of Public Service Company of Colorado (Public Service or the Company) filed on July 1, 2022, which requested the Commission approve the proposals contained in the Company's Demand Side Management (DSM) and Beneficial Electric (BE) Strategic Issues application (Application).

2. Through this Decision, the Commission addresses the applications for rehearing, reargument, or reconsideration (RRR Application) of the Decision filed on July 12, 2023, by each Public Service, Energy Outreach Colorado (EOC), and Staff of the Public Utilities Commission (Staff).

3. Consistent with the discussion below, we either deny or grant, in part and deny, in part, the RRR Applications.

B. Background

4. On July 1, 2022, Public Service filed its Application and Direct Testimony requesting Commission approval of the proposals contained in the Company's DSM and BE strategic issues (SI) Application.

5. The Commission Decision provides full procedural background from the initial Application filing through the issuance of the Decision on June 22, 2023.

6. On July 12, 2023, Staff, EOC, and Public Service filed their RRR Applications. Each party noted that they support many aspects of the Commission Decision, but each also sought material changes to certain findings and directives as discussed below.

C. Performance Incentive Mechanisms

7. The Commission Decision established individual performance incentive mechanisms (PIM) for electric energy efficiency, gas energy efficiency, and beneficial electrification.

8. We ordered that once the Company reaches 80 percent of its goal, it begins to receive the electric energy efficiency PIM at a compensation factor of eight percent, escalating at 0.5 percent for every five percent of achievement, up to 125 percent of the Company's goal.[1]

9. Similarly, for the gas energy efficiency PIM, once the Company reaches 80 percent of its goal, it begins to receive the PIM at a six percent compensation factor, escalating at 0.5 percent for every five percent of achievement, up to 125 percent of the Company's goal.[2]

10. For the beneficial electrification PIM, the starting point at which the Company begins earning the PIM escalates from 50 percent in 2024, 60 percent in 2025, and 70 percent in 2026. The Company can earn $7.50 per dekatherm up to 125 percent of goal, and for every five percent change in achievement, the PIM value shall increase (for higher achievement) or decrease (for lower achievement) by 0.5 percent.[3]

[1] Commission Decision, ¶ 254.
[2] Commission Decision, ¶ 257.
[3] Commission Decision, ¶ 262.

11. The Commission also determined that none of the PIMs ordered by the Commission Decision should include the social cost of emissions (SCE) as part of the PIM calculations, in part because a more global emissions-related PIM is under consideration in other proceedings.[4]

12. We also set for the combined electric energy efficiency, gas energy efficiency, and beneficial electrification programs an overall cap of $18 million for 2024, $22 million for 2025, and $25 million for 2026.[5]

1. RRR Application

13. The Company makes several requests in its RRR Application related to the PIMs established by the Commission Decision.

14. First, Public Service requests that the Commission consider including the SCE in the calculation of the net economic benefits upon which the Company may earn a performance incentive. The Company argues that including the SCE in the PIM net economic benefits calculation will align its financial incentives with the societal interest in greenhouse gas emission reduction and the Commission's programming and policy shift towards prioritizing measures that have a greater impact on emissions. The Company asserts that the Commission should not wait to see how SCE are considered in other proceedings, including the Company's forthcoming clean heat plan and in Proceeding No. 21A-0096E. It argues that the inclusion of SCE in other proceedings is uncertain, and the concerns raised by the Commission about "double-incentives" are avoidable. Further, it argues that the exclusion of SCE from the PIM net benefits calculation in this proceeding means that the Company will continue to be incentivized on the basis of the

[4] Commission Decision, ¶ 255.
[5] Commission Decision, ¶ 267.

quantity of energy saved, without regard for the quality of that energy or their carbon intensity.[6] Public Service also notes that omitting the SCE will reduce the amount of net benefits from which the Company can earn a PIM by approximately 60 percent, which is problematic given that the Commission Decision also reduces the PIM shares and escalation rates, and phases out certain programs that have been historically important in achieving prior savings levels.

15. Regarding the electric energy efficiency PIM, the Company requests the Commission reconsider the PIM design and revise and raise the escalation rate and starting percentage of net benefits (without SCE) so that the Company begins earning 8 percent of net benefits at 80 percent of the goal and that percentage increases by 1.5 percentage points for every 5 percent of energy efficiency goals achieved above the starting 80 percent threshold.[7] Public Service argues that revising the electric energy efficiency PIM is appropriate for several reasons. First, it notes that the Commission is statutorily required to allow the Company the opportunity to have its "investments in cost-effective [electric] DSM programs to be more profitable to the utility than any other utility investment that is not already subject to special incentives."[8] The Company argues that under the PIM structure and goals approved by the Commission Decision, it may only earn an incentive that is half of the $18 million in electric DSM PIM and disincentive offset earned in 2022. It argues that at that rate, the PIM represents a return on investment that is lower than that of other Commission-approved investments. Second, Public Service argues that changing the escalation rate of the PIM approved in the Commission Decision is appropriate because the 0.5 percent increase, compared to the 3 percent requested by the Company, does not appropriately

[6] Public Service RRR Application, p. 6.
[7] Public Service RRR Application, p. 8.
[8] Public Service RRR Application, p. 8, citing § 40-3.2-104(5), C.R.S.

reflect the incremental difficulty of achieving higher levels of energy savings.[9] Public Service states that the Commission Decision's "one-half of a percentage point (0.5%) escalation rate is a mere one sixth of the three percent (3%) that the Company proposed and will not compensate the Company sufficiently to incentivize achieving the highest levels of electric efficiency."[10]

16. Public Service also requests that the Commission reconsider the gas energy efficiency PIM by establishing a starting threshold point for the Company to begin earning a gas efficiency performance incentive at 80 percent of goal that starts at 8 percent of net economic benefits (without SCE) and escalates by 1.5 percent for every 5 percent of goal achieved above the 80 percent threshold.[11] Public Service argues that the Commission changed its requested PIM in unwarranted ways, particularly considering the phase out of the retrofit market rate segment for any incentives for efficient gas water heating by the start of 2024, the elimination from the new-construction, market rate segment any incentives for residential gas-fired space heating, water heating, or air conditioning equipment by the start of 2024, and the phase out the use of the Energy Star New Homes program for any homes that have mixed-fuel by June 30, 2024.[12] The Company anticipates the possibility that the Company may not be able to achieve gas efficiency performance levels sufficient to earn any incentive in 2025 or 2026 under the Decision's structure. Public Service argues that the PIM approved by the Commission Decision signals to the Company that the Commission does not wish to incentivize gas efficiency, including building shell improvements. Public Service thus requests, to reflect the difficulty of the goals and that the net benefits amount will be greatly reduced without SCE, the gas efficiency performance incentive

[9] Public Service RRR Application, pp. 8-10.
[10] *Id*. at 10.
[11] Public Service RRR Application, p. 12.
[12] *Id*. at 13.

level should start at 8 percent of net economic benefits without SCE and escalate by 1.5 percent for every 5 percent of goal achieved above the 80 percent threshold.

17. Finally, Public Service requests that the Commission reconsider the overall PIM caps set by the Commission Decision. The Company agrees with the 2026 PIM cap of $25 million, but argues that the $18 million cap in 2024 and the $22 million cap in 2025 are too low. It states that these caps are 24 percent and 7 percent less respectively than the $23.7 million that the Company earned in total incentives in 2021, when including the electric disincentive offset and acknowledgement of lost gas revenues. Overall, it argues that the Commission's Decision reduces the Company's total incentive at the same time as it increases the DSM performance goals and adds BE performance goals. According to Public Service, the resulting message, whether intended or not, is that energy efficiency and beneficial electrification are not priorities for the Commission and should not be for the Company. The Company requests that the Commission reconsider these overall PIM caps and set a $25 million PIM cap for all years covered by this Strategic Issues proceeding (*i.e.,* 2024-2026).[13]

2. Findings and Conclusions

18. In our Decision in this proceeding, the Commission found it necessary to exclude SCE from the PIM calculation in order to incorporate the results of an ongoing stakeholder process, as defined in the Company's electric resource plan proceeding. Specifically, the Commission found it of value to comprehend the manner in which SCE may be incentivized on a holistic, Company-wide basis. The Commission also agreed with arguments that actual emission reductions should be incentivized, rather than projected emission reductions, when

[13] Public Service RRR Application, p. 20.

possible. While we recognize the complexity of incentivizing emission and cost reduction holistically and effectively in a single PIM structure, to be assessed in a future proceeding, we remain strongly committed to the concept of incentivizing actual, rather than projected, emission reductions. Accordingly, we affirm this aspect of our Decision, and reject the Company's request to reconsider the inclusion of SCE in calculating the PIMs.

19. Regarding the electric energy efficiency PIM and the Company's request to revise the slope by which Public Service's share of net economic benefits increases once the threshold savings level is met, the Commission recognizes that some of the Company's argument have merit, and that the PIM function for this program of activity represents a material decline from prior years.[14] We also find it necessary to better emphasize the goal set by the Commission; the current PIM merely establishes a band around the goal by which the Company can earn an incentive. Accordingly, we grant in part the Company's request for reconsideration, and increase the slope of by 1.5 percent for every additional 5 percent of achievement *once* the electric energy efficiency annual savings goal is met. The Commission finds the incentive mechanism, as revised in this manner, will provide meaningful inducement to Public Service to achieve beyond the Commission-approved savings target.

20. With respect to the gas energy efficiency PIM, the Company argued that the Decision increased savings targets and removed numerous measures from the available portfolio in order to meet such targets. According to Public Service, prior years of gas energy efficiency

[14] While we agree with the Company that the electric energy efficiency PIM structure should be optimized to reflect the incremental difficulty of achieving higher levels of energy savings and that overall a PIM that provides an opportunity to earn more incentives is appropriate, we do not find that such an outcome is dictated by § 40-3.2-104(5), C.R.S. The Company did not explain how, if at all, the electric energy efficiency PIM established by the Commission Decision violated this provision or was not within the Commission's broad authority to set an appropriate incentive level for electric DSM.

implementation would have been materially lower if the terminated measures were excluded at that time, thus illuminating the difficulty of meeting the forward savings targets. To remedy its concern, the Company requests the Commission modify the initial net benefit share from six percent to eight percent and increase the slope from one-half percent increase to one and one-half percent increase for each five percent improvement in achievement. The Commission recognizes that the terminated measures will necessarily increase the difficulty of meeting the savings goals, and that the Company may need to be further incentivized to meet those goals. While we believe starting the Company's share at six percent of net benefits at the 80 percent threshold, as defined in the Decision, strikes the correct balance between customer and Company interests, we find it necessary to increase the slope. As we modified the electric energy efficiency PIM to alter the slope once the savings goals are reached, we adjust the gas energy efficiency PIM to increase in slope by one percent for each five percent increase in achievement once the annual target is reached. Accordingly, we grant in part the Company's application for reconsideration in this manner.

21. With respect to the overall PIM cap, the Commission established in its Decision a total incentive for the electric energy efficiency, gas energy efficiency, and BE programs of $18 million, $22 million, and $25 million for 2024, 2025, and 2026, respectively. The Company contends the 2024 and 2025 values are well below recently received incentive levels and do not reflect the difficulty meeting the savings targets nor the overall public policy implications as recognized in statute or the Commission's own statements. The Commission recognizes that the incentive caps in the Decision may have limited the overall incentive too much, and that allowing for an appropriate overall incentive cap is important to effectuate effective DSM programs, which is a goal shared by the Commission, the Company, and the Legislature. Accordingly, we find it

necessary to grant in part the Company's request and increase the PIM cap for the three programs to $20 million for 2024 and $22.5 million for 2025. As suggested by Public Service, we do not change the $25 million PIM cap for 2026.

D. Cost-Effectiveness for IQ Customers

22. The Commission Decision ordered the Company to require a modified total resource cost test (mTRC) result greater than 1.0 at the project level, even if individual measures proposed for the project have an mTRC below 1.0 for income-qualified (IQ) programs. The Commission found that this was appropriate because the record in this proceeding showed that there is substantially more need than can be served by the Company's annual IQ DSM budget and that there is a vast gap between need and what the Company is able to provide in any given year.[15] We stated that it makes most sense to use limited IQ funds where they will provide the most benefit, as measured by the mTRC, rather than completely ignoring cost-effectiveness and potentially undertaking projects with costs that greatly exceed their benefits.

1. RRR Applications

a. EOC

23. In its RRR Application, EOC requests the Commission reconsider this directive. EOC states that the Colorado Energy Office and the City of Boulder support its RRR request to for reconsideration of Commission Decision para. 143.

24. EOC argues that the mandate to only include projects with an mTRC score above 1.0 is contrary to longstanding legal and policy directives and will result in unintended consequences of reducing opportunities for deep savings to buildings used by the most vulnerable

[15] Commission Decision, ¶ 143.

IQ customers.[16] EOC also points to Commission Rule 4753(i)(1) of the Commission's Rules Regulating Gas Utilities, 4 *Colorado Code of Regulations* (CCR) 723-4, which allows for a utility to propose one or more DSM programs for income-qualified customers or customers in disproportionately impacted communities that yield a modified TRC test value below 1.0. EOC states that this rule has been in place since August 1, 2007, and was not changed in the recent gas rulemaking that completed in March 2023.

25. EOC states that this longstanding policy allowing for limited flexibility for IQ customers makes sense because the public interest in providing these DSM benefits to individual IQ customers is recognized beyond emissions and energy resource savings. EOC argues that the Commission Decision will incent implementing the lowest hanging fruit, and not deep savings, for the most needed upgrades to improve the performance of older buildings.

26. In the alternative, EOC requests the Commission leave the decision whether to approve custom projects that do not achieve a mTRC above 1.0 to individual plan filings, where alternatives to the mTRC may be found to be the appropriate metric.[17] EOC states that many custom IQ projects rely on outside funding separate from ratepayer dollars, including private funds, as well as federal, state, and municipal energy efficiency funding that EOC distributes. EOC argues that if the Commission is not willing to reconsider and delete the directives in Commission Decision para. 143, it could in the alternative take a more inclusive look at cost-effectiveness in future proceedings. However, EOC cautions that if the Commission takes this approach, the Company should not be inadvertently incentivized to approve only those projects that receive substantial outside funding, from federal or state governments, or nonprofits like EOC.

[16] EOC RRR Application, pp. 3-4.

[17] EOC RRR Application, p. 8.

b. Public Service

27. Public Service also asks the Commission to reconsider its directive in Commission Decision para. 143. Public Service argues that this requirement, which requires individual IQ projects to pass the cost effectiveness screen, would have a detrimental impact on some of the Company's most vulnerable customers and undermine the Company's ability to comply with other provisions of the Decision regarding IQ programming. Public Service also points out that this directive is contrary to long-standing Commission precedent, and Rule 4753(i)(1) of the Commission's Rules Regulating Gas Utilities, 4 CCR 723-4.[18]

28. The Company requests that the Commission reconsider this directive because it states that it and EOC have a history of keeping IQ programming cost-effective in the aggregate and a history of delivering quality IQ programming. It argues that this may keep some of the most vulnerable customers from receiving energy efficiency services that could have provided them with multiple types of benefits and that while it acknowledges the need to prioritize projects to prudently spend ratepayer dollars, it believes some flexibility is appropriate when it comes to programming for individual projects.[19]

2. Findings and Conclusions

29. We continue to find that the concerns we expressed in para. 143 of the Decision are well founded, and that these concerns are not placated by the RRR arguments made by EOC or Public Service. Given the vast gulf between the need for IQ DSM services and the available budget to provide them, we find it essential that the funds that are spent are allocated where they will provide the most benefit, and that although imperfect, the mTRC is both the best and most

[18] Public Service RRR Application, pp. 21-22.

[19] *Id*. at 22.

logical tool available to use in making that allocation. We therefore deny the parties' request to retract Decision para. 143.[20]

30. We are, however, receptive to the concept advanced in EOC's RRR to reconsider how third-party contributions to DSM projects (*i.e.*, those provided by governmental agencies or philanthropic organizations) are treated in cost-effectiveness evaluations. The mTRC test currently considers all contributions, regardless of their source, as costs in evaluating the cost-effectiveness of a measure, project or program. In most circumstances this is entirely logical because these contributions come solely from the utility or the participating customer. However, in the case of many of the projects funded by utility IQ funding, additional funds are contributed by EOC, or from other non-profit or governmental sources. Furthermore, the Inflation Reduction Act provides for very significant subsidies of DSM and BE measures, particularly for low- and moderate-income households. In this environment, we question whether the mTRC, in its existing form, is the best metric with which to evaluate cost-effectiveness. Accordingly, we direct the Company and invite all intervening parties to the Company's forthcoming DSM Plan Application to submit testimony regarding the continued appropriateness of excluding the savings associated with third-party contributions from cost-effectiveness calculations.

31. Finally, we reiterate that our intent in requiring that IQ projects be cost-effective is to signal the importance of effectively prioritizing need within IQ programs such that we can maximize benefit both for the most vulnerable customers needing assistance, as well as to ratepayers in general, who are funding the programs. Given the very large number of IQ

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[20] Commissioner Gilman dissents on this aspect of the Decision. At the Commissioners' Weekly Meeting on August 2, 2023, Commissioner Gilman expressed her preference that the cost-effectiveness requirement contained in Commission Decision para. 143 be delayed until a decision is rendered in the Company's next DSM Plan Proceeding.

households in the Company's service territory,[21] and the substantially greater number of customers living in disproportionately impacted communities, we would benefit from greater insight into how the Company, EOC and other service providers plan to prioritize need to identify and allocate funding to the most vulnerable customers, while also ensuring that appropriate emphasis is placed on providing the most cost-effective solutions within that area of work. Accordingly, we direct the Company to provide testimony in support of its forthcoming DSM Plan Application describing various current and possible future approaches to prioritize IQ funding for the most vulnerable households potentially including using arrearage, payment history, disconnect notice, assistance request, and other inputs into the Company's propensity-to-pay models. As such, we invite testimony by both the Company and all intervening parties to the Company's forthcoming DSM Plan Application regarding opportunities and methodologies to improve the Company's current practices in this regard. We suggest that this topic be considered in conjunction with the stakeholder engagement described in paragraph 134 of the Decision, to the degree that this engagement is ongoing.

E. Impacts of Inflation Reduction Act Subsidies on Measure Cost-Effectiveness

32. The Commission Decision orders the Company to provide, for informational purposes, an additional cost-effectiveness analysis in light of the potential effects of the IRA on BE adoption.[22] We also ordered the Company to make the Commission aware, in its next DSM filing, if there are any measures that did not meet the cost-effectiveness threshold which would have met the threshold had the impact of the IRA incentives been included in the calculation.

[21] *See* Hearing Exhibit 110, Attachment MRS-4 to the direct testimony of Mark R. Schoenheider, p. 1.
[22] Commission Decision, ¶ 126.

1. Public Service RRR

33. Public Service requests the Commission reconsider and remove its directive in paragraph 126 of the Commission Decision. In its RRR, Public Service clarifies that it only applies cost-effectiveness tests at the product and portfolio level, and not at the individual measure level. Public Service further argues that the Company has concerns about the clarity and workability of this directive, the efforts it might take to comply, and the uncertainty in the results in attempting to comply. It notes that the specific IRA incentive available for a given customer will vary based on the customer's income, tax liability, and, potentially, the measures the customer decides to install.[23]

2. Findings and Conclusions

34. We deny Public Service's RRR to the extent the Company requests that the Commission reconsider its directive. However, we do take this opportunity to clarify the analysis that the Commission expects the Company to make in its next DSM filing, in light of the concerns raised by the Company in its RRR.

35. We do not expect the Company to provide an exhaustive assessment of the extent to which the IRA impacts cost-effectiveness of different measures. Instead, we order the Company to provide a representative analysis of the effect of IRA incentives for certain BE products and for certain customer groups.

36. The Commission orders the Company to analyze the cost-effectiveness of beneficial electric measures with the following parameters: (1) assume that the program participant has sufficient tax liability to be eligible to receive the maximum 30 percent tax credit provided for

[23] Public Service RRR Application, pp. 20-21.

the measure by the Inflation Reduction Act; and (2) the resulting tax credits should be netted out of measure costs in the requested analysis.

37. We also direct the Company to analyze the cost-effectiveness, including IRA incentives, of the heat pump HVAC, heat pump water heater, heat pump clothes dryer, and electric stove/cooktop for both low- and moderate-income households. For households at or below 80 percent of the Area Median Income (AMI), the Company should analyze cost-effectiveness by subtracting the maximum respective rebates from the technology cost. For households between 80 and 150 percent of the AMI, rebates may be limited by the overall project cost. For this case, we direct the Company to develop a small number of representative scenarios that define potential projects (*e.g.*, an air-source heat pump requiring a panel upgrade; an air-source heat pump plus an electric stove/cooktop requiring a panel upgrade; a heat pump water heater, both with and without a panel upgrade; and a combination air-source heat pump and heat pump water heater with panel upgrade) and assess cost-effectiveness, subtracting out the rebate applicable to each scenario.

F. Discount Rate Used for PIM Calculation

38. In paragraph 115 of the Commission Decision, the Commission ordered the Company to present two cost-effectiveness analysis in future DSM plan applications: one which uses the Company's weighted average cost of capital to discount all future costs and benefits of DSM and one which uses a relevant customer-focused costs and benefits at a 2.5 percent rate.

39. Staff states that it is not clear to Staff which discount rate (either the weighted average cost of capital or 2.5 percent) should be used in calculating the Company's PIMs.[24]

[24] Staff RRR Application, pp. 1-2.

40. We grant Staff's request for clarification on this issue. PIM calculations should use the Company's weighted average cost of capital as the discount rate.

G. Disincentive Offset for Electric DSM

41. In its Direct and Rebuttal case, the Company proposed eliminating the disincentive offset for electric DSM.[25] The Company stated on Rebuttal that no party had opposed the removal of the disincentive offset.[26]

42. In the Decision, the Commission did not specifically address whether the disincentive offset for electric DSM was eliminated by its Decision. While the Commission approved a PIM based in part of the Company's proposed PIM, nothing in the Decision explicitly states whether the disincentive offset was eliminated in conjunction with the Commission's approval of the electric DSM PIM.

43. In its RRR Application, Staff requests clarification on whether the Commission eliminated the Company's Disincentive Offset for electric DSM.[27]

44. We grant Staff's request for clarification on this issue. As part of the Commission's approval of an overall financial incentive package for electric DSM, the Commission eliminated the financial disincentive offset for electric DSM.

[25] Hearing Exhibit 114, Rebuttal Testimony of Steven W. Wishart at 16:1-9.
[26] Hearing Exhibit 114, Rebuttal Testimony of Steven W. Wishart at 16:1-9.
[27] Staff RRR Application, pp. 1-2.

II. ORDER

A. The Commission Orders That:

1. The Application for Rehearing, Reargument, or Reconsideration of Decision No. C23-0413 filed by Public Service Company of Colorado on July 12, 2023 is granted, in part, and denied, in part, consistent with the discussion above.

2. The Application for Rehearing, Reargument, or Reconsideration of Decision No. C23-0413 filed by Staff of the Colorado Public Utilities Commission on July 12, 2023 is granted, consistent with the discussion above.

3. The Application for Rehearing, Reargument, or Reconsideration of Decision No. C23-0413 filed by Energy Outreach Colorado on July 12, 2023 is granted, in part, and denied, in part, consistent with the discussion above.

4. The 20-day period provided for in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration, begins on the first day following the effective date of this Decision.

5. This Decision is effective upon its Mailed Date.

B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING August 2, 2023.

(S E A L)

ATTEST: A TRUE COPY

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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MEGAN M. GILMAN

TOM PLANT

Commissioners