

Service Date: August 22, 1995

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER OF INVESTIGATION)	UTILITY DIVISION
OF SEC. 115 STANDARDS, Energy)	DOCKET NO. 94.9.42
Policy Act of 1992.)	ORDER NO. 5861

FINAL ORDER

Introduction

1. Within Sec. 115 of the Energy Policy Act of 1992 (EPACT), amending Secs. 302 and 303 of the Public Utilities Regulatory Policies Act (PURPA), codified at 15 USC 3202 and 3203, the federal government has provided (subject to state adoption) standards for natural gas utility integrated resource planning (IRP) and demand-side management (DSM). The law requires that state agencies, such as the Montana Public Service Commission (PSC), consider adopting the standards for operations of natural gas utilities. See, generally, 15 USC 3203(a).

2. Gas IRP (federal definition) means planning by the use of any standard, regulation, practice, or policy to undertake a systematic comparison between DSM measures and the supply of gas to minimize life-cycle costs of adequate and reliable utility services to consumers, taking into account necessary features for system operation such as diversity, reliability, dispatchability, and other factors of risk and treating demand and supply for gas consumers on a consistent and integrated basis. DSM (federal definition) includes energy conservation, energy efficiency, and load management techniques. See, 15 USC 3202(9) and (10).

3. For gas IRP the federal standards provide that each utility shall employ gas IRP in order to provide adequate and reliable service at the lowest system cost, updating (the IRP plan) on a regular basis, providing for public participation, providing for a method of validating predicted performance, and requiring state agency approval prior to implementation. 15 USC 3203(b)(3). For gas DSM (investments in conservation and demand management) they provide that the rate charged by a utility (regulated) shall be such that investment and expenditure for energy conservation and

load shifting programs and other DSM measures (consistent with EPACT) are at least as profitable (taking into account income lost due to resulting reduced sales) as prudent investment and expenditure for supplies (acquisition, construction of facilities). 15 USC 3203(b)(4). This same section also suggests that the state agency must link utility net revenues to utility performance in implementing the measures and, for the purposes of recovering fixed costs (including authorized return), ensure that the utility's performance is not affected by reduction in retail sales volumes.

4. The federal law provides that depending on whether adoption of the federal standards is deemed appropriate to carry out the purposes of applicable federal law (EPACT and PURPA), is otherwise appropriate, and is consistent with applicable state law, the state agency shall: adopt the standards (if adopted the agency must consider the impact on small businesses engaged in design, sale, supply, installation, or servicing of energy conservation, energy efficiency, or other demand-side measures and implement the standards so that a utility will not have an unfair competitive advantage over the small business, 15 USC 3203(d)); or not adopt the standards (stating in writing the reasons why, 15 USC 3203(c)). See, 15 USC 3203(a)(2). In addition, pursuant to its general state authority the PSC can propose state standards for gas IRP or DSM, similar to the federal standards or otherwise.

5. In consideration of whether to adopt the federal standards or adopt other standards that might be in the public interest the PSC has publicly noticed and conducted one informal meeting (September 19, 1994), publicly noticed and received written comments (November 4, 1994), and publicly noticed and conducted a formal hearing (May 17, 1995).

Discussion and Analysis

6. In this investigation written comments or written responses to PSC inquiries have been received from: two jurisdictional natural gas utilities, Montana-Dakota Utilities Company (MDU), Montana Power Company (MPC); the state agency charged with representing consumer interests in matters before the PSC, the Montana Consumer Counsel (MCC); the Montana Department of Natural Resources and Conservation (DNRC); and the Montana Coalition Against Unfair Utility Competition (Coalition). Oral comments and responses to PSC inquiries were also

received at hearing. At hearing, in addition to the parties identified above, concerns by heating and plumbing contractors were expressed.

7. DNRC favors adoption of gas IRP and DSM standards. It recommends that the PSC either adopt the federal standards or otherwise explicitly direct how gas utilities conduct IRP (DNRC is reluctant to propose precise language without more discussion). It suggests that IRP results in services to consumers in a cost-effective manner at the lowest cost to society. It suggests that established IRP guidelines and an ongoing opportunity for public participation will establish objectives and direct utility planning efforts in a sound and consistent and thorough fashion and in a public forum allowing exchange of a wide range of information. It suggests that IRP facilitates greater innovation and use of conservation resources. It suggests that IRP applies to gas equally as well as to electric service (although it suggests that the models can be different). It suggests that expected gas avoided costs will be significantly less than electric avoided costs, but it suggests that excessive costs in planning and implementation can be minimized by clear guidelines and keeping regulatory efforts to a minimum. It suggests that the current system of regulation works against efficiency, innovation, and cost minimization, as there are few incentives to find least-cost resources. It suggests that traditional regulation and IRP can work together. It suggests that adoption of the federal standards will have a positive effect on small businesses involved in DSM measures.

8. MCC suggests that the federal standards are vague and would not serve Montana well. It suggests that the stated goal of lowest system cost has several accepted definitions and means of measurement. It suggests that the available cost effective demand side resources for gas are unknown, but probably less than in electric due to the lower avoided cost on a comparable Btu basis, current construction practices may be acquiring most cost effective gas DSM, and supply is generally not company owned and can be acquired on short notice. To MCC there are simply too many unknowns which must be reasonably determined (through a separate proceeding) prior to adoption of standards. It also suggests (or implies) that gas supply costs are fluctuating and subject to periodic review. It suggests that IRP will create additional costs for the utilities, which should be weighed against the benefits (when known). MCC suggests that the PSC not adopt the federal standards. It suggests that the unknowns (particularly costs and benefits) must become known first.

9. MPC's comments parallel those of the MCC in some regards. MPC also suggests that the PSC need not and should not adopt the federal standards or other formal guidelines or rules. It suggests that the costs and burdens of formal guidelines would be without benefit. It does agree that flexible IRP (MPC refers to it as integrated least cost planning) or planning with consideration of common IRP factors is important to gas utility operations. It favors a process that would foster timely meaningful dialogue with non-utility parties and the PSC. It suggests that such forum could minimize confrontation during later regulatory processes, through "pre-consensus."

10. MDU states that it is committed to using IRP and is already following it. It suggests that, in regard to MDU, there would be no practical benefit of the PSC's adoption of a standard. It does not object to a standard, if the standard remains flexible and generic enough to recognize each utility's individual needs. It suggests that IRP's are utility specific. It also suggests that supply costs change rapidly and requirements to implement a specific plan containing specific supplies would be of questionable benefit. On this basis it suggests that plans require "acknowledgment" but not "approval" by the PSC.

11. The Coalition comments that natural gas is a most valuable resource which should be conserved, through IRP and DSM, for its most efficient use. It recommends that the PSC adopt the federal standards and points out that, if adopted, the PSC must consider the impact on small businesses engaged in the design, sale, supply, installation or servicing of conservation, efficiency, or other DSM measures. It suggests that decreased utility sales due to DSM measures might prompt utilities to enter merchandising and servicing areas to regain revenues. It comments that this should not be allowed if any utility operation subsidizes it. It suggests that utilities should institute internal cost reduction measures instead. One or more of the plumbing and heating contractors appearing at hearing supported adoption of the federal standards. Others primarily expressed concerns about unfair competition from public utilities.

12. The PSC is not opposed to gas IRP or DSM. However, it determines that it will not adopt the federal standards for gas IRP or DSM and it further determines that it will not propose the adoption of any other standards for gas IRP or DSM at this time. Although gas IRP and DSM are, theoretically, good concepts and the PSC would hope that utilities continue to consider them in operations and planning, at this time the information available does not support establishing formal

standards. The primary reason is that the expected costs of further PSC investigation, PSC and party development and implementation of standards by rule, utility development and implementation of plans in compliance with those standards, and continued utility compliance and PSC and public monitoring outweigh the benefits that could reasonably be expected at this time.

ORDER

For the reason expressed above, the PSC determines that it will not adopt the EPACT, Sec. 115, federal standards for gas IRP and DSM. IT IS HEREBY SO ORDERED and further ordered that this investigation into adoption of the standards is concluded and the docket is closed. However, this action does not preclude the PSC from commencing anew an investigation or other proceeding on standards for gas IRP and DSM should future circumstances then reasonably demand.

Done and Dated this 17th day of August, 1995, by a vote of 5-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

NANCY MCCAFFREE, Chair

DAVE FISHER, Vice Chair

BOB ANDERSON, Commissioner

DANNY OBERG, Commissioner

BOB ROWE, Commissioner
(Concurring Opinion, Attached)

ATTEST:

Kathlene M. Anderson
Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.

**OPINION OF COMMISSIONER ROWE
DOCKET NO. 94.9.42, ORDER NO. 5861
INVESTIGATION OF SEC. 115 STANDARDS**

I concur in the specific result. Montana should not adopt the proposed federal standard for gas integrated resource planning (IRP).¹ However, the inquiry produced much valuable information which should be put to use, but may be lost if the Commission's decision is incorrectly interpreted to close the door on gas IRP.

The parties generally agree gas IRP is potentially valuable. MPC and MDU state they are already undertaking a form of internal gas IRP. The parties also agree that the benefits of gas IRP are less than the benefits of electric integrated resource planning.² Consequently, a more modest form of IRP is appropriate for natural gas than for electricity.³ There is also at least some agreement about the issues to be resolved before implementing gas IRP.

A simple Commission-sanctioned gas IRP process would be more open, more regularized, and more conducive to participation by the informed public than are the current utility efforts. The result could be better gas utility decision-making, to the benefit of the utilities and their customers.

¹ Because we are not adopting the federal standard, we do not reach the question of the potential effect on small businesses of utility competition. Small business owners raised concerns about some current utility practices which the Commission should consider in an appropriate manner.

² This is primarily the result of the lower avoided cost of natural gas, but is also attributable to a number of other differences between the gas and electric markets (including those identified by MCC) and the kinds of choices involved. At the resource plan level, providing electric services probably involves more decisions and more complex decisions.

³ The Montana electric IRP process is already less complex and less adjudicatory than in many states.

Because MPC and MDU report they already conduct internal IRP processes, these benefits should be obtainable at very little additional cost.

I strongly encourage the parties to continue working together to develop an elementary framework for gas IRP. It would be a shame to see the good work done in this proceeding not bear fruit.

RESPECTFULLY SUBMITTED this 17th day of August, 1995.

BOB ROWE
Commissioner