

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 07A-420E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR AUTHORITY TO IMPLEMENT AN ENHANCED DEMAND SIDE MANAGEMENT PROGRAM AND TO REVISE ITS DEMAND-SIDE MANAGEMENT COST ADJUSTMENT MECHANISM TO INCLUDE CURRENT COST RECOVERY AND INCENTIVES.

ORDER GRANTING APPLICATION IN PART

Mailed Date: June 5, 2008
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I. BY THE COMMISSION

A. Introduction

1. On October 31, 2007, Public Service Company of Colorado (Public Service) filed its Application for Authorization to Implement an Enhanced Demand Side Management (DSM) Program and to Revise its Demand Side Management Cost Adjustment Mechanism to Include Current Cost Recovery and Incentives (Application). Public Service requests approval to implement an enhanced DSM program and to revise its demand-side management cost adjustment mechanism (DSMCA) to include current cost recovery and incentives designed to reward Public Service for successfully implementing cost-effective DSM programs and measures. Public Service submits its application pursuant to House Bill 01-1038 (HB 07-1037), codified in relevant part at §§ 40-1-102(5), (6) and (7), as well as 40-3.2-104, C.R.S., and Commission rule 4 *Code of Colorado Regulations* (CCR) 723-3-3002 of the Commission’s Rules Regulating Electric Utilities.

2. Now, being fully advised in the matter, we grant the Application in part consistent with the discussion below.

B. Background

1. Application

3. HB 07-1037, a Bill *Concerning Measures to Promote Energy Efficiency, and Making an Appropriation Therefore*, was passed by the Colorado General Assembly and signed into law by Governor Ritter in 2007, and codified in relevant part at §§ 40-1-102(5), (6) and (7), C.R.S., as well as §§ 40-3.2-101 and 104, C.R.S. That bill establishes that:

... cost-effective natural gas and electricity demand-side management programs will save money for consumers and utilities and protect Colorado's environment. The general assembly further finds, determines, and declares that providing funding mechanisms to encourage Colorado's public utilities to reduce emissions or air pollutants and to increase energy efficiency are matters of statewide concern and that that public interest is served by providing such funding mechanisms. Such efforts will result in an improvement in the quality of life and health of Colorado citizens and an increase in the attractiveness of Colorado as a place to live and conduct business. § 40-3.2-101, C.R.S.

4. Section 40-3.2-104, C.R.S. further charges the Commission to:

...establish energy savings and peak demand reduction goals to be achieved by an investor-owned electric utility, taking into account the utility's cost-effective DSM potential, the need for electricity resources, the benefits of DSM investments, and other factors as determined by the commission. The energy savings and peak demand reduction goals shall be at least five percent of the utility's retail system peak demand measured in megawatts in the base year and at least five percent of the utility's retail energy sales measured in megawatt-hours in the base year. The base year shall be 2006. The goals shall be met in 2018, counting savings in 2018 from DSM measures installed starting in 2006. The commission may establish interim goals and may revise the goals as it deems appropriate. § 40-3.2-104(2).

5. In addition to these requirements, the Commission is to permit electric utilities to "implement cost-effective electricity DSM programs to reduce the need for additional resources that would otherwise be met through a competitive acquisition process." § 40-3.2-104(3). The Commission is to further ensure that utilities "develop and implement DSM programs that give

all classes of customers an opportunity to participate and ... give due consideration to the impact of DSM programs on non-participants and low-income customers.” § 40-3.2-104(4). Additionally, the Commission is to allow for an “opportunity for a utility’s investments in cost-effective DSM programs to be more profitable to the utility than any other utility investment that is not already subject to special incentives.” § 40-3.2-104(5).

6. In order to comply with subsection (5), the Commission is to consider, without limitation, the following incentive mechanisms:

- (a) allow a rate of return on DSM investments that is higher than the utility’s rate of return on other investments;
- (b) allow the utility to accelerate the depreciation or amortization period for DSM incentives;
- (c) allow the utility to retain a portion of the net economic benefits associated with a DSM program for its shareholders;
- (d) allow the utility to collect the costs of DSM programs through a cost adjustment clause; and
- (e) other incentive mechanisms the Commission deems appropriate.

7. As part of its original Application, Public Service proposed to use its best efforts to acquire a cumulative level of 694 megawatts (MW) of peak demand reduction and 2,351 gigawatt hours (GWh) of energy savings, including achievements associated with its existing DSM programs, in the period January 1, 2009 through December 31, 2020. Public Service claims this proposal reflects its commitment to obtain, on average, 58 MW of peak demand reduction and 196 GWh of energy savings per year from cost-effective DSM programs.¹ This commitment is approximately twice the level of annual energy savings Public Service committed

¹ This includes 10 MW in incremental peak demand reduction Public Service expects to achieve each year through its expanded Interruptible Service Option Credit Program (ISOC).

to as part of a comprehensive settlement agreement entered into in its 2003 Least Cost Plan proceeding in Docket Nos. 04A-214E, 215E and 216E.² Overall, Public Service estimated that the cost of its enhanced DSM program would be approximately \$738 million over the period 2009 through 2020.³

8. Public Service indicated in its application that it also proposed to make biennial filings, beginning July 1, 2008, to obtain Commission approval of specific DSM programs, annual energy savings and peak demand reduction goals, and annual budgets for the following two years. Those biennial filings are to include the results of cost-effectiveness modeling to show that its proposed portfolio of DSM initiatives for each of the following two years will meet the definition of cost-effectiveness as set forth in § 40-1-102(5).⁴

9. As long as Public Service's entire DSM initiatives portfolio each year reflects a benefit/cost ratio of at least 1.0 the company seeks authorization to offer DSM programs targeted to low-income consumers, to offer pilot programs that meet certain specified criteria, to pursue indirect programs such as customer education and market transformation initiatives, and to pursue start-up DSM programs even if such individual programs reflect a benefit/cost ratio that is below 1.0.

² In that settlement agreement, Public Service agreed to use best efforts to acquire, on average, 40 MW of demand reduction and 100 GWh of energy savings per year from cost-effective DSM programs over the period beginning January 1, 2006 and ending December 31, 2013. By the beginning of 2014 Public Service was to have achieved a cumulative level of 320 MW of total demand reduction and 800 GWh of annual energy savings. The settlement agreement further provided that those demand reductions and energy savings would be achieved at a maximum total cost of \$196 million. The settlement agreement also authorized Public Service to recover its costs associated with the DSM program through the current DSMCA, except that the amortization period applied to those costs that Public Service was accustomed to capitalizing under the current recovery mechanism was extended from five to eight years. The settlement agreement was approved by the Commission in Decision No. C05-0049.

³ In 2006 dollars. According to Public Service, this cost includes Saver's Switch®, but not the costs associated with an expanded ISOC program.

⁴ In applying the cost-effectiveness test, Public Service proposed to place the same value on avoided emissions as the Commission approves for use in Public Service's evaluation of supply-side resources for purposes of its supply-side resource planning and acquisition process.

10. Regarding cost recovery and incentive mechanisms, Public Service proposed to expense 100 percent of the costs it incurs for DSM programs beginning January 1, 2009. Those costs would be forecast for each calendar year and submitted to the Commission on July 1 of the year prior to the year in which the costs are expected to be incurred, as part of an advice letter filing to revise the DSMCA effective the following January 1. The rider would be subject to true-up based on actual costs incurred and revenues collected through the rider and any over- or under-recovery would be subject to a carrying charge equal to Public Service's weighted average after-tax cost of capital.

11. Regarding incentives, Public Service initially proposed an incentive based on a percentage of the net economic benefits from its annual DSM achievements. The net economic benefits would be calculated on the same basis as it calculates the net benefits for purposes of assessing the cost effectiveness of its DSM programs at the outset. Public Service proposed a sliding scale based on the energy savings achieved as a percentage of its approved energy savings goal for each year of the program. For example, if it achieves less than 50 percent of its approved energy savings goal for the year, or 100 GWh, whichever is greater, Public Service would earn no incentive. If it achieves energy savings from 50 percent to 74 percent, it would retain 10 percent of the net economic benefits. If Public Service achieves from 75 percent to 99 percent of its approved energy savings goal, then it would retain 15 percent of the net economic benefits. If it achieves 100 percent or greater, then it would retain 20 percent of the net economic benefits. Public Service proposed to recover its share of the net economic benefits from customers over a twelve month period beginning July 1 of the year following the year in which the incentive has been awarded.

12. Public Service also filed a copy of the proposed new DSMCA tariff, under which it proposed to file an advice letter each July 1 to put into effect on the following January 1, a DSMCA to recover its forecast of the DSM and ISOC program costs it expects to incur during the calendar year in which the rider is in effect. On April 1 of each year, Public Service proposed to file a second advice letter to adjust the DSMCA, effective July 1, to recover over twelve months, in addition to the current year's DSM and ISOC costs, any change in the annual amortization expenses or other costs associated with pre-2009 DSM initiatives. The second advice letter would also recover any incentive associated with the net economic benefits achieved during the prior year of the new DSM program, as well as any true-up to reflect the over or under recovery of the prior year's DSM and ISOC program costs and associated carrying costs.

2. Procedural Background

13. In response to Public Service's Application, interventions were filed by several parties. Pursuant to Commission Decision No. C08-0085, we granted the interventions of Wal-Mart Stores, Inc. (Wal-Mart); Kroger, Inc. (Kroger); the City and County of Denver (Denver); the City and County of Boulder (Boulder); Mr. John Baeverstad; CF&I Steel and Climax Molybdenum Company (CF&I and Climax); Colorado Energy Consumers (CEC); Energy Efficiency Business Coalition (EEBC); Southwest Energy Project (SWEET); the Colorado Independent Energy Association (CIEA); Ratepayers United of Colorado (RUC); Ms. Nancy LaPlaca; and Energy Outreach Colorado (EOC). We also granted the late intervention of the Governor's Energy Office (GEO) and Consumer Powerline (CPLN). Commission Staff (Staff) and the Colorado Office of Consumer Counsel (OCC) both intervened as of right.

14. We held several pre-hearing conferences in this matter in order to establish the scope of the docket and provide parties with the expectations of the Commissioners for the progress of the case. In Decision No. C08-0109, among other things, we set the scope of this docket. We indicated that we expected this docket to produce a range of potential DSM amounts rather than a single point result. ¶14. We further indicated that each point along that range would represent a possible volume level of DSM with an associated cost. *Id.* The lower data point of the range might reflect the statutory minimum contemplated by HB07-1037, while the maximum could be all economically feasible DSM or some other suitable maximum. *Id.* Additionally, each identified point along the range was to have an associated cost, so that those values can be incorporated in the economic modeling in Phase II of the ERP. *Id.* We contemplated comparing points in a range of DSM resources against points in a range of supply-side options so that the optimum level of resource could be determined.

15. In Decision No. C08-0180, we further clarified the scope of the docket. We indicated that nearly all the comments addressed the design, magnitude and cost-effectiveness of DSM and corresponding financial incentives, all of which represented an aspect of how the statutes are to be applied here. As such, we found those issues to be within the scope of this docket and encouraged all parties to consider and address those issues within pre-filed testimony and through witnesses during the hearing.

16. By Decision No. C08-0184, we set a Public Comment Hearing for April 14, 2005 at 5:00 p.m. at 550 15th Street, Denver, Colorado.. Forty-two members of the public offered comment and several submitted documents which were made a part of the record here.

17. In answer testimony, the intervenors offered responses to Public Service's energy savings and peak demand reduction goals. As indicated *supra*, Public Service proposed 695 MW

of peak demand reduction and 2,348 GWh of energy savings from 2009 to 2020. This represents an 8.64 percent reduction of 2006 retail energy sales and about 150 percent of the minimum 5 percent reduction in demand required by statute.

18. Staff countered the utility's proposal with an energy savings goal that maintains electric usage (kWh) per retail customer at 2009 levels by 2020. Staff also advocated to adopt a demand reduction goal for Public Service of 694 MW for the period 2009 through 2020 and adopt a range for the DSMCA rate rider of two percent to four percent of a retail customer's typical bill. Staff noted that the DSM plan proposed by Public Service yields benefits of \$1,301.8 million beyond the statutory minimum, creating a net present value NPV of benefits of \$449 million. Staff also noted that, as long as Public Services enhanced DSM proposal passes the cost-effectiveness test, it will assist in achieving carbon reduction goals, encourage reduced energy usage and avoid supply needs.

19. Other intervenors, such as the OCC, SWEEP, EEBC and RUC, responded that the proposed energy savings and peak demand reduction goals proposed by Public Service were too low. All advocated that the Commission adopt energy savings and peak demand reduction goals for the 2007 Electric Resource Plan that were substantially higher than the goals proposed by Public Service. For example, the OCC proposed reducing both sales and demand by one percent per year. SWEEP proposed a savings of 200 to 300 GWh per year, starting in 2010. SWEEP also proposed a peak demand savings goal ranging from 48.5 MW per year to 72.5 MW per year, including 12.5 MW per year for the Saver's Switch program.

20. EEBC maintained that Public Service should revise its goals upward, based upon a new market assessment, and, in the interim, use the DSM results from other states and national

studies as guides for goal setting. EEBC goes on to argue that, based on Public Service's proposal, one percent seems achievable, and the target should be above one percent.

21. RUC argued that Public Service should provide an analysis of how revenue requirements and rates will change with different DSM levels. Such an analysis, according to RUC, might well result in a goal of 400 to 500 GWh per year or more. RUC indicates that it is not requesting a specific alternative goal and does not support any ceiling; rather, it is only asking for the analytical studies so that a rational decision can be made.

22. Regarding the calculation and modeling of the cost-effectiveness of the proposed DSM program, Public Service proposed to use the same value on avoided emissions as the Commission approves for use in Public Service's evaluation of supply-side resources for purposes of its supply-side resource planning and acquisition process. The only non-energy benefit Public Service proposed to consider as part of its cost/benefit calculation is customers' savings in operations and maintenance (O&M) costs, such as reduced expenditures for electricity or water, resulting from installed DSM measures.

23. In response, Staff argues that the only non-energy benefits that the Commission should adopt are the avoided emissions and avoided customer costs (O&M costs) as proposed by Public Service. Staff notes that non-energy benefits are difficult, if not impossible, to measure accurately.

24. SWEEP recommends establishing values for CO₂ and NO_x in dollars per ton of avoided cost, and adopt these values either in this docket or the ERP docket. SWEEP generally agrees with Public Service here, except on the issue of non-energy benefits. SWEEP recommends including specific non-energy benefits on a program-by-program basis when they are clearly occurring and calculating them would be non-controversial.

25. EEBC argues that additional benefits of DSM should be included, such as comfort, health and safety, equipment durability, reduced financial stress, psychological benefits, improved resale value, higher worker productivity, reduced noise and water savings to mention a few. EEBC also advocates including macroeconomic benefits such as effects on employment, increased economic activity, and reduced costs of fossil fuel development, transportation and combustion, as well as reduced social service costs.

26. EOC challenges Public Service's contentions that low-income programs are not likely to be cost-effective. EOC also argues that non-energy benefits, such as those unique to low-income DSM programs need to be fully factored into any cost-effectiveness calculations.

27. Ms. LaPlaca argues that Public Services application does not address non-energy benefits. In calculating the cost/benefit ratio, Ms. LaPlaca points out that § 40-1-102(5)(b) requires non-energy benefits to be included as determined by the Commission.

28. Intervenors also responded to Public Service's proposals for cost recovery that results in DSM being a desirable utility investment; Public Service's reporting requirements on its DSM programs; low-income, pilot and start-up programs and related costs; proposed levels of expenditure associated with proposed energy and demand reduction goals; expensing versus amortizing DSM costs and related issues; DSM market potential, including Public Service's ability to provide more DSM and barriers to increased DSM; DSM program design, including market transformation programs; indirect impact programs; budget and savings goals by customer class and segments; DSM program administration, including policies for program deliver, pre-approval of programs and goals, state-wide administration, utility administration, and the role of DSM bidding; Public Service DSM program evaluation and monitoring, including net to gross treatment, caps on spending, metering standards, and timing of evaluations; opt-out

provisions for industrial customers; and rate design and other strategies to reduce demand. These issues are discussed in more detail below.

29. While Public Service did indicate that many of the intervenors were reasonably receptive to its positions in this proceeding, it notes that there are still fundamental disagreements and misunderstandings regarding the financial impacts of utility-sponsored DSM on Public Service's shareholders. Another source of confusion, according to Public Service, is the mixing of its overall financial position with the incremental impacts of DSM on its bottom line. According to Public Service, these misunderstandings result in proposals for financial incentives that are inadequate and sever the link between the public benefit of DSM programs and the utility's financial incentive. Public Service also takes some exception to the expansion of the non-energy benefits to be included in the DSM benefit-cost screening. While Public Service does not object to expansion on financial grounds, some of the non-energy benefits identified for inclusion are, according to Public Service, dubious in principle or difficult to quantify.

30. In its rebuttal testimony Public Service adopts Staff's financial incentives which consist of the direct recovery of lost margins attributable to utility-sponsored DSM and a financial incentive based on a percentage of net economic benefits. This percentage , would increase as Public Service achieved a greater percentage of its DSM goals. Public Service finds that Staff's proposed incentive satisfies its criteria for an effective financial incentive. This issue is discussed in more detail below.

31. A hearing in this case began on April 21, 2008 and concluded on April 25, 2008. Twenty-four witnesses offered testimony and were subject to cross-examination. The issues identified above were thoroughly discussed during the hearing and , numerous exhibits were entered into the record. The parties filed statements of position on May 5, 2008.

32. We held deliberations on this matter on May 22 and 23, 2008. Our decisions from those deliberations are discussed in detail below.

II. ANALYSIS AND FINDINGS

A. DSM Goals

1. Background

33. In Decision No. C08-0109 we stated that “we expect that the DSM docket will produce a range of potential DSM amounts rather than a single point result. Each point along the range will represent a possible volume level of DSM with an associated cost.”⁵

34. Public Service, Staff, OCC, EEBC, RUC and SWEEP each proposed either specific DSM volumes or ranges of DSM volumes that Public Service should strive to achieve. These proposals range from about 200 GWh to 400 GWh. per year of savings.

35. Kroger and Wal-Mart each proposed that the volume of DSM should be limited to the amount that complies with the minimum set forth in § 40-3.2-104 (2).

36. In Decision No. C08-0312, we allowed all intervening parties to submit supplemental answer testimony addressing the range of potential DSM amounts. EEBC filed supplemental testimony proposing a long-term target for DSM savings of 1.25 percent of energy sales per year (approximately 350 GWh) as a “place holder” in the ERP until a new market assessment is completed. RUC proposed price points at which volume levels for demand response programs could be increased.

37. There are several timeframes at issue in this docket concerning DSM goals from 2009 forward. The statutory timeframe⁶ extends to 2018. Public Service has proposed a DSM

⁵ Paragraph 14 of the Decision.

⁶ § 40-3.2-104(2), C.R.S.

planning period extending to 2020, which is the timetable that all other parties used when proposing DSM goals beyond the statutory minimum. The Electric Resource Planning (ERP) period⁷, into which DSM volumes from this proceeding will be factored, extends through 2015. Finally, Public Service states that it intends to file a biennial DSM plan covering 2009-2010. Consequently, we need to establish DSM goals for this period as well.

38. The record in this proceeding identifies three primary criteria that will determine the range of DSM that Public Service should pursue: cost-effectiveness; market potential and the applicant's administrative feasibility.

39. Several parties, including Public Service, Staff, OCC and SWEEP, contend that DSM is the most cost-effective resource that Public Service can pursue to meet system needs. No party disputes this contention. The record does not precisely determine the point at which DSM is no longer the most cost-effective resource. Yet, the "aspirational" DSM goals put forth by Public Service in its rebuttal testimony⁸ were accepted without contest as being well within the bounds of cost-effectiveness under the Total Resource Cost (TRC) test.⁹ Further, based upon Exhibit No. 49 from the hearing, it appears that Public Service could pursue DSM volumes exceeding the aspirational goals by as much as 50 percent without the risk of not being cost-effective. In conclusion, we find that all of the DSM goals and ranges proposed by parties are within the bounds of cost-effectiveness.

40. Public Service presented a market potential study completed in 2006 by KEMA quantifying the DSM potential among the utility's customers, by class. While acknowledging

⁷ Docket No. 07A-447E

⁸ Sundin Rebuttal Testimony, Exhibit DLS-3

⁹ Hearing Exhibits 43 and 44 present TRC values for this level of DSM ranging from 1.25 to 1.72, depending upon the associated administration and marketing budgets.

some limitations in the study, Public Service presents it as a valid resource upon which to make DSM planning decisions. Public Service proposes, through its “Enhanced DSM plan,” DSM goals that aim at achieving 50 percent of the economic potential identified in the KEMA study. EEBC, SWEEP and RUC presented concerns regarding the completeness of the KEMA study, particularly with respect to the residential customer class. Public Service witness Coito, representing KEMA, testified that the margin of error within the market potential data will increase over time, possibly to a range of error of 20-25 percent in ten years.¹⁰

41. Public Service also testified that up to 20 percent of the market potential is “naturally occurring,” defined as DSM activities that customers would undertake even without DSM incentives. SWEEP testified that naturally occurring DSM is offset by new technologies entering the market, and cited the Xcel Minnesota experience as an example of being able to consistently achieve significant goals over several years while naturally occurring DSM continues to occur.

42. While we agree that the KEMA study does not fully address all residential potential, we find that the KEMA study data is generally sound for making near-term DSM goal-setting decisions, especially for the first DSM biennial period (2009-2010).

43. Public Service presented as its most recent and relevant DSM experience the Least-Cost Planning (LCP) Settlement Agreement¹¹ and Xcel’s Minnesota (Northern States Power - NSP) DSM program management. Public Service testified that the same management staff overseeing the Minnesota DSM program will oversee the Colorado DSM program. The NSP experience includes several years of designing DSM programs, implementing programs and

¹⁰ Hearing Transcript Vol. 2, p. 136, lines 2-7.

¹¹ Docket Nos. 04A-214E, 04A-215E and 04A-216E.

achieving performance goals.¹² As discussed by witness Sundin,¹³ the composition of the NSP and Public Service customer populations are substantially different, with NSP having a higher proportion of commercial and industrial customers. As such, we find that Xcel's DSM experience in Minnesota concerning program design, implementation and goal achievement is a relevant context for assessing their administrative potential in Colorado, as long as the relatively smaller commercial and industrial customer classes needs base is factored into DSM goal setting.

44. The LCP experience concerning DSM is relevant to determining Public Service's administrative potential for achieving DSM goals, while acknowledging that this performance is occurring where a financial incentive is not being provided. According to Sundin Exhibit DLS-3, Public Service achieved energy savings in 2006 equal to 0.17% of sales, 2007 energy savings equal to 0.47% of sales and projects savings for 2008 equal to 0.43% of sales. We find that this recent experience of administering DSM in the Public Service territory offers a basis upon which to establish DSM performance goals for the succeeding several years.

45. Public Service witness Sundin also argued for increasing DSM programs in a "sustainable" manner, in terms of the underlying infrastructure and administrative support.¹⁴ We concur that DSM should be implemented in the Public Service territory in a manner that builds upon the recent LCP success and is sustainable for achieving consistently higher DSM goals throughout the statutory timeframe.

46. As we stated in Decision No. C08-0109, "(w)e contemplate comparing points in a range of DSM resources against points in a range of supply-side options so that the optimum

¹² Geller Answer Testimony, Exhibit HSG-4.

¹³ Hearing Transcript Vol. 2, p. 45, line 13 – p. 46, line 5

¹⁴ Hearing Transcript, Vol. 1, p. 35, line 13 – p. 35, line 22

level of resources can be determined.”¹⁵ The ERP modeling will not be completed until after the time that Public Service proposes to file its first biennial DSM plan. This means that we are determining specific DSM goals for 2009-2010, without the benefit of the ERP modeling. For the balance of the ERP period, we are defining a range of likely DSM performance. For the purposes of goal setting through the statutory period (and out to 2020), we are establishing the midpoint of this range as the minimum DSM we expect Public Service to deliver in each year. We convey these values to the ERP docket to be factored into the Phase II modeling with the understanding that the ERP modeling may adjust the upper end of the range. We are establishing the midpoint as a firm minimum amount of DSM to be achieved in each year.¹⁶ The low end of the range represents eighty percent of the goal, which represents the point above which Public Service will begin to receive a performance incentive. Our intention that Public Service at least achieves the midpoint, and preferably exceeds it, is reflected in our incentive decisions, outlined later in this Order.

47. For the first biennial DSM period, we find that goals at or near those proposed by Public Service in their “Enhanced DSM Plan” balance administrative feasibility and market potential. We find that the minimum energy goal for 2009 shall be 150 GWh as proposed by Public Service, which represents 0.53 percent of sales. For 2010, we factor in positive changes in the market potential and increased DSM experience and determine that the minimum energy goal shall be 10 percent above the amount proposed by Public Service, or 220 GWh, which represents 0.76 percent of sales.

¹⁵ Paragraph 14 in the Decision.

¹⁶ We are confident that the range of DSM values resulting from this docket are the most cost effective resource and will be affirmed as such via the ERP. Yet, we are deferring a final determination of the upper end of the DSM range to the ERP.

48. In rebuttal testimony, Public Service Ms. Sundin offered “aspirational” DSM goals for 2011 through 2020 equal to 1 percent of sales. During cross-examination Ms. Sundin equated this goal to achieving 0.74 percent of the economic potential identified in the 2005 KEMA study.

49. Minnesota state statutes that established energy efficiency goals were made part of the record in this docket.¹⁷ The Minnesota goal is to reduce electric sales by 1.5 percent¹⁸, with at least 1 percent of that occurring via electric utilities¹⁹. According to the record, Xcel has been administering DSM programs in Minnesota since at least 1995²⁰ and is consistently achieving DSM goals in the range of 0.8-0.9 percent of sales. As noted earlier, Public Service has a shorter history of DSM administration in Colorado and is recently achieving DSM goals equal to about 0.4 percent of sales. Staff testified that the projected growth in electric sales for Public Service through 2020 is 2.3 percent per year.²¹

50. We are directed by § 40-3.2-104(2) to “establish energy savings and peak demand reduction goals...taking into account the utility’s cost-effective DSM potential, the need for electricity resources, the benefits of DSM investments, and other factors as determined by the Commission.” This same statute provides that “the goals shall be met in 2018, counting savings in 2018 from DSM measures installed starting in 2006.” We find that a reasonable range for DSM performance is to achieve a reduction in energy sales equal to half of the projected growth, or 1.15 percent of sales, by 2018. This equals an energy savings goal in 2018 of 388 GWh.²² We

¹⁷ Hearing Transcript, Vol. 2, p. 18, lines 19-23

¹⁸ Geller Answer Testimony, Exhibit HSG-5, p. 4 of 11

¹⁹ Hearing Transcript, Vol. 1, p. 236-237

²⁰ Geller Answer Testimony, Exhibit HSG-4

²¹ Davis Answer Testimony, Exhibit RED-5

²² 1.15% of 33,704,511 MWh, the quantity listed in Sundin Rebuttal Testimony Exhibit DLS-3 as the Forecast Annual Retail Sales

define this DSM volume as the mid-point of the range of acceptable goals for purposes of defining a DSM range. We find that an appropriate performance range, as supported by the record in this docket, is from a minimum sales reduction through DSM of at least 0.92 percent of sales (80 percent of 1.15 percent of sales), to as much as 1.5 percent of sales (130 percent of 1.15 percent of sales). This represents the boundaries of the anticipated DSM range in 2018.

51. We find that the mid-point²³ of the DSM performance range for the period between 2009 and 2020 shall be established to yield increasing performance each year, as set forth below:

Year	% of Sales Reduced	GWh Saved in Year
2009	0.53	150
2010	0.76	220
2011	0.80	235
2012	0.85	254
2013	0.90	274
2014	0.95	295
2015	1.00	316
2016	1.05	339
2017	1.10	363
2018	1.15	388
2019	1.20	413
2020	1.20	422
TOTAL:		3,669 GWh

52. A range represented by 80 to 130 percent of the annual energy values set forth in the above chart is DSM performance data that shall be conveyed from this docket to the ERP docket and its associated modeling. While we are sensitive to the role that ERP modeling plays in ultimately developing a comprehensive resource plan, we are equally sensitive to the need to

²³ “Mid-point” is defined as 100% of the goal, within a range from 80% to 130% of the goal.

signal to Public Service a long-term direction for DSM. While the ERP may propose higher DSM goals, we do not anticipate lowering the DSM goals beyond the midpoint of this range.

53. Kroger and Wal-Mart proposed that the DSM goal should be set at an amount equal to the statutory minimum (5 percent of 2006 retail energy sales by 2018). For the period 2009 through 2018 these parties present this as 135-136 GWh/year, for a total of 1,350 – 1,360 GWh for the entire period.

54. We find that, for ERP modeling purposes, we will include the statutory minimum values for comparison with other DSM scenarios. On the other hand, we observe that § 40-3.2-104 sets this as a minimum, not a DSM goal, and directs us to establish goals. The statutory minimum represents only a small expansion of the LCP settlement agreement goals. We find that this is not an adequate DSM level and that the record supports significantly higher levels of DSM.

2. Demand Goals

55. Section 40-3.2-104(2) requires us to set demand goals for electric DSM, as well as energy goals. Public Service proposes demand goals as part of its “Enhanced Case Scenario (Recommended)” and its “1.0% Annual Retail Sales Reduction Scenario.”²⁴ OCC advocates for a DSM demand goal of reducing demand by one percent per year.²⁵ SWEEP suggests a DSM demand goal range of 61 – 85 MW of peak demand reduction per year, which includes 12.5 MW of peak demand reduction resulting from the Saver’s Switch program. We note that the goals presented by SWEEP do not include values for the Interruptible Service Option Credit (ISOC) program.²⁶

²⁴ Sundin Rebuttal Testimony, Exhibit DLS-3

²⁵ Schechter Answer Testimony, p. 25

²⁶ Geller Answer Testimony, p. 10-11

56. Staff advocates that the Commission focus on energy goals under the rationale that “the primary link between CO2 emissions and electricity production is the burning of fossil fuels,”²⁷ the mitigation of which is best addressed through energy goals, rather than demand goals.

57. In Decision No. C08-0369 concerning the Ft. St. Vrain CPCN docket, we directed Public Service “to file, as part of its next electric DSM Plan Application, a plan for expanding [the Saver’s Switch] program significantly beyond levels of currently projected growth.”²⁸ We thus defer to that future docket a decision on demand goals associated with the Saver’s Switch Program.

58. Public Service currently has an ISOC tariff pending before the Commission in Docket No. 07S- 521E which includes ISOC goals within the scope of that docket. We defer to that docket the setting of ISOC goals, and to the ERP docket for incorporating ISOC within resource planning scenarios.

59. After excluding Saver’s Switch and ISOC from the discussion of demand savings, we concur with Staff that the primary emphasis of DSM goal setting is energy savings. We find that it is appropriate to establish DSM demand savings goals for the 2009-2010 DSM plan as well as a range of likely demand values for inclusion in ERP modeling.

²⁷ Davis Answer Testimony, p. 37

²⁸ Paragraph 65 of the Decision.

60. In Exhibit DLS-3, Public Service presents demand goals associated with DSM programs excluding Saver's Switch and ISOC, listed as "Demand Savings EE." For the Enhanced Case Scenario, its goal is 639 MW (2006-2020), associated with 2,646 GWh of energy savings. For the 1.0% Annual Retail Sales Reduction Scenario, the demand savings projection is 992 MW, associated with 3,855 GWh of energy savings.

61. Public Service proposed in its Enhanced DSM Plan demand savings goals for 2009 and 2010 (associated with DSM programs and not including Saver's Switch and ISOC) of 36 MW and 48 MW, respectively. Consistent with the energy goals we established in paragraph 51, we find that the 2009 demand goal of 36 MW proposed by Public Service is reasonable and should be incorporated into the biennial plan filed later this year. For 2010, we find that the demand goal shall be set at 110 percent of the goal proposed by Public Service, which equals 53 MW, consistent with the 2010 energy savings goal set forth in paragraph 47.

62. For the purpose of conveying DSM parameters for the ERP modeling, we find that the demand-to-energy ratios represented by the data in Public Service Exhibit DLS-3 can reasonably be applied to the DSM energy range set forth in paragraph 51. Applying the demand-energy ratios in the two scenarios to the 3,669 GWh quantity set forth as the 2020 DSM energy target yields a demand savings range of 886 – 994 MW. For the period 2009-2015, the cumulative of the GWh values in paragraph 51 is 1,744 GWh. Applying these same ratios to that GWh value yields a demand savings range of 421 to 449 MW. We hold that this range of demand savings values shall be used in the ERP docket for modeling.

63. Public Service also presents in its testimony three distinct DSM data points concerning volumes and associated costs. Public Service present a "statutory minimum" scenario, quantified as 1,382 GWh of savings, achieved at a cost of \$314.1 million (2006 \$). It

also presents the “Enhanced” DSM scenario, quantified as 2,351 GWh of savings, with a cost of \$738.1 million (2006 \$), and the “1% Reduction” scenario quantified as 3,855 GWh at a cost of \$1,871.7 million (2006\$).²⁹

64. We find that Public Service is the only party in this case that can reasonably provide DSM cost data and associated DSM volumes as we called for in Decision No. C08-0109. As a result, we find that the three data points presented in paragraph 63 provide the basis for determining a possible DSM “supply curve” as called for in Decision No. C08-0109. We therefore find that this supply curve data shall be entered into the ERP modeling, along with the anticipated range of DSM volumes outlined in paragraph 51.

65. Public Service testified that the DSM values represented by its proposed Enhanced DSM plan are factored into its proposed Electric Resource Plan at full value. In other words, the levels of DSM savings (energy and demand) represented in the Enhanced Plan are fully achievable and thus dependable for resource planning. Public Service further testified that establishing goals beyond the Enhanced Plan levels have an associated risk, in terms of not being fully reliable for system planning.

66. We find that, for the purposes of ERP modeling through 2015, DSM values that exceed the Enhanced Plan values shall have their associated costs adjusted in the modeling to reflect the risk that this portion of the DSM may not be achieved. This adjustment will take the form of monetizing the additional reserve requirement necessary to assure system reliability. We further find that as the gap between the Enhanced Plan and what is set forth as the range in

²⁹ The 1% Reduction scenario has two different associated budgets, plus a third option presented via SWEEP (Hearing Exhibit 44). The budget presented here is the middle of the three options.

paragraph 51 increases, this uncertainty is mitigated by increasing DSM performance capabilities occurring over time, and shall be factored into the DSM-related reserve modeling.

3. Cost-Effectiveness Calculation and Non-Energy Benefits

67. Section 40-1-102(5)(b), sets forth a definition for the “benefit-cost ratio” to be applied to DSM programs. This definition outlines the costs and benefits to be included in the calculation, including the inclusion of “nonenergy benefits as determined by the Commission.”³⁰

68. Public Service proposes that the non-energy benefits be limited to customer avoided operating and maintenance costs.

69. Staff testified that non-energy benefits are difficult, if not impossible, to measure accurately. It further contends that efforts to internalize the value of non-energy benefits entail equity issues, in terms of the proper allocating of benefits and costs. Staff advocates that avoided emissions be the only non-energy benefit to be included, and advocated using the ERP values.

70. SWEEP recommended that the Commission establish coefficients for valuing avoided emissions, specifically carbon dioxide and nitrous oxide, to be used by all regulated utilities. It proposes that such values could be determined either in this docket or the ERP. SWEEP agrees with the general approach put forth by Public Service, other than the inclusion of non-energy benefits. SWEEP advocates that specific non-energy benefits be included on a program-by-program basis, reflecting situations where such benefits are clearly occurring and are possible to calculate or estimate without great controversy.

71. EEBC advocates that a broader range of non-energy benefits be included in the cost-effectiveness calculation. It specifically presented these additional benefits for

³⁰ 40-1-102(5)(b)(III), C.R.S.

consideration: comfort, health, safety, equipment durability/lower maintenance; reduced financial stress; psychological benefits; improved comfort/safety during power outages; improved resale value and ability to resell; higher worker productivity; secondary energy and demand savings due to more efficient appliances yielding less heat load and thus less air conditioning demand; reduced social service costs; reduced noise and water savings. EEBC also presented macroeconomic benefits such as increased employment, increased economic activity; and increased technology development. It cited NYSERDA as a source for quantifying such non-energy benefits and factoring into DSM cost-effectiveness analysis.

72. In its Statement of Position, EEBC modified its position, supporting the use of an “addier” within the benefits calculation to represent the non-energy benefits. EEBC advocated for an adder in the range of 10 to 20 percent, added to the other quantified benefits.

73. Public Service’s rebuttal testimony noted that some states use an “environmental adder” to address non-energy benefits, boosting avoided cost values by 5 to 10 percent. Public Service also contends that the inclusion of non-energy benefits is less of a factor in the setting of DSM goals than the market potential, and that including non-energy benefits into the market assessment would have added less than five percent to the estimate of economic potential.

74. Ms. LaPlaca argues that Public Service did not address non-energy benefits adequately in its application, and that the Company’s decision not to include appropriate benefits is without merit. Ms. LaPlaca presented a U.S. Department of Energy study that reviews how non-energy benefits (“externalities”) are addressed by the 50 states, and offered four approaches for their inclusion: (1) qualitative consideration; (2) weighting or ranking; (3) monetizing their value, based upon costs associated with control or resulting damages; and (4) a percentage adder.

LaPlaca also advocated for the inclusion of water savings as a specific non-energy benefit, and requested that the costs of health care resulting from emissions be included as well.

75. RUC took the position that certain societal benefits need to be included in the TRC calculation, such as Colorado's economic health; the benefits of fuel diversity within the electric system; job creation; improved profitability and shareholder value; and increased worker profitability. It also advocated for full inclusion of the benefits of cost-effectively addressing greenhouse gas emissions and air and water quality improvements.

76. We agree with Staff that it is difficult, if not impossible, to accurately quantify non-energy benefits. On the other hand, we note that non-energy benefits are specifically mentioned in the statute for a reason, and that their value needs to be acknowledged within DSM planning.

77. We find the NYSERDA data regarding such quantification is interesting, but that it yields values that exceed the bounds of reasonableness. We concur with the logic exemplified by EEBC's move in its position away from the NYSERDA data to the use of a percentage adder as a means to incorporate non-energy benefits.

78. Consequently, we find that the percentage adder approach is supported by the record and that an adder value of 10 percent shall be used within the TRC calculation to represent the non-energy benefits resulting from DSM. This percentage is to be applied to the sum of the other quantifiable benefits, and is to be used when calculating TRC values for specific DSM programs and the overall portfolio.

79. While the adder is to be used in screening DSM programs, we find that the percentage adder is to be excluded when calculating the net economic benefits, as advocated by SWEEP.

80. We agree with the specific inclusion of avoided emissions and customer operations and maintenance costs avoided within the benefits calculation, as presented by Public Service and supported by others.

81. We also agree with allowing for the option of including specific non-energy benefits, on a program-by-program basis, when such are clearly occurring and can be easily calculated, as advocated by SWEEP.

4. Market Potential Study

82. Public Service argued, in its direct and rebuttal testimony, that the KEMA “Colorado DSM Market Potential Assessment” should be considered a valid and reliable study for the purposes of establishing DSM goals. The assessment, and Public Service’s testimony, presented the issue of quantifying the “economic potential” within the Public Service territory, defined as “the technical potential of those energy-efficiency measures that are cost-effective when compared to supply side alternative”.³¹ Public Service’s proposed “Enhanced DSM Plan” goal is an effort to achieve fifty percent of the identified economic potential.

83. EEBC, SWEEP and RUC testified as to specific limitations within the KEMA study, particularly concerning portions of the residential market that they contend were omitted from the assessment. EEBC called for a new study to be conducted. SWEEP suggested that it be used for the time being, but be viewed as a preliminary, lower-end assessment of the potential energy efficiency resource in the PSCo service territory, recognizing that it is overly conservative in a number of respects.³²

³¹ Sundin Direct Testimony, Exhibit DLS-1, p. E-1

³² Geller Answer Testimony, p. 5

84. We note that the primary issue with the KEMA study is whether it can serve as an adequate resource for establishing DSM goals, especially for the first biennial period. Our conclusion is that the KEMA study, while it may have limitations in its assessment of the residential market potential, provides reasonable data that we can rely upon for establishing DSM goals. As noted in the record and in our discussion of DSM goals, the reliability of this data degrades over time, reflecting the dynamic nature of the marketplace, and we have factored that into our DSM goal setting.

85. Regarding the comprehensive update of the market assessment on a timetable to inform the next ERP filing in 2011, we find that Public Service shall maintain the schedule as proposed.

86. We direct Public Service to engage representatives of the energy efficiency industry, such as those represented by EEBC, in the design of the next comprehensive study, as well as with interim studies.

87. We also direct Public Service to engage one or more market research consultants to conduct targeted assessment or updates, as listed below, for use in developing the second and subsequent biennial DSM plan:

- Residential appliance saturation; customer awareness and energy efficiency behaviors;³³
- Update of portions of the current KEMA study simultaneous with offering DSM programs into specific markets; in other words, seek out opportunities to reduce the cost of implementing an assessment by “piggybacking” upon DSM programs as a means of accessing customers for survey purposes
- Update the residential market potential assessment to assess “plug load” savings, the potential for approaching existing housing “as a system” as advocated by EEBC and quantifying the potential within the new housing market

³³ See Coito Rebuttal Testimony, p. 14

- Assess techniques for quantifying market transformation potential and for quantifying the impact of DSM market transformation strategies.

5. DSM Incentives

a. Background

88. Section 40-3.2-104(5) provides that: “[t]he Commission shall allow an opportunity for a utility’s investments in cost-effective DSM programs to be more profitable to the utility than any other utility investment that is not already subject to special incentives.”

89. Currently Public Service is implementing DSM programs pursuant to a settlement agreement in the Least-Cost Planning Dockets, Docket Nos. 04A-214E, 04A-215E, and 04A-216E, approved by the Commission in Decision No. C05-0049. Pursuant to the terms of that agreement, Public Service is to achieve 800 GWh of energy savings and 320 MW of demand reductions from 2006 through 2013. Under the terms of its existing DSMCA rider mechanism, Public Service amortizes the majority of its annual DSM expenditures. As directed under the 2003 LCP Comprehensive Settlement, investments in DSM are amortized over an eight year period. Costs that are not amortized are simply expensed for recovery. In addition to collections through the DSMCA, a portion of DSM program expenditures, specifically the internal labor of employees who work on the DSM programs, are recovered in base rates.

90. Public Service testified that the purpose of the DSM incentives is to remove disincentives and to bring forth what benefits the public the most.³⁴ Public Service further testified that the objectives to be achieved via the DSM incentives are (1) timely recovery of expenses, thus minimizing risk; (2) offsetting revenue and earnings erosion; and (3) rewarding utility performance, via sharing the net economic benefits resulting from the DSM.³⁵ Public

³⁴ Hearing Transcript, Vol. 1, p. 38, lines 14-18

³⁵ Brocket Direct Testimony, p. 3

Service, Staff, OCC, SWEEP and RUC maintained that a performance incentive should be used, that it should be tied to attainment of DSM energy goals and be calculated as a percentage of the net economic benefits resulting from the DSM. CEC did not file testimony but supported this general approach to a performance-based incentive in its Statement of Position. Kroger argued that “extraordinary rewards” are not necessary to achieve compliance with the law.

91. EEBC took the position that the incentive bonus not be tied to a single factor, such as net economic benefits. EEBC proposed that a variety of factors beyond net economic benefits be considered when calculating a performance bonus, including achieved energy savings, achieved demand savings and program expenditures.

92. Staff proposed that a “lost margin” value be calculated for each year of DSM performance, and that Public Service be authorized to recover this amount from ratepayers. Public Service identified, via direct testimony, the potential for “earnings erosion” as a result of DSM and proposed to address this disincentive through the performance incentive. Staff however, was concerned that such an approach “could prove to be too generous or not generous enough because it does not directly account for “lost margins” that could result from the Company’s DSM programs.”³⁶ In its rebuttal testimony, Public Service modified its position, endorsing the lost margin recovery concept put forth by Staff, with modifications.

93. OCC and SWEEP advised against incorporating a lost margin recovery component within the DSM incentives. OCC challenged the ability to accurately calculate lost margins resulting from DSM. SWEEP presented information from the American Council for an Energy Efficient Economy (ACEEE) contending that lost margin recovery has been tried in other

³⁶ Davis Answer Testimony, p. 76

states and subsequently discontinued due to the difficulties of parties to reach agreement on the lost margin calculations.

94. Public Service argued for changing from capitalizing and rate basing most of the DSM costs, as set forth in the LCP agreement, to expensing DSM costs starting in 2009. It also advocated for forecasting the annual DSM expenses and recovering them concurrently with their occurrence. Public Service also sought a reduction in the “regulatory lag” between incurring expenses and their recovery and contended that this approach is consistent with the legislative intent to encourage the pursuit of DSM and remove financial disincentives.

95. SWEEP, EEBC, Wal-Mart and CEC³⁷ agreed with Public Service’s proposed approach.

96. Staff maintained that a portion of DSM costs should be recovered via base rates. OCC recommended recovery of all DSM costs via base rates, with a higher rate of return (10-25 points above the authorized rate of return) for these costs.

97. Staff agreed in part with Public Service’s proposal, as it applies to DSM-specific expenses. Staff took the position that costs associated with general overhead, internal labor and indirect impact programs should be reflected in base rates.

98. OCC expressed a preference that DSM costs be recovered via base rates, and that the requirement that DSM be more profitable than other investments be addressed by permitting a relatively higher rate of return on these costs. OCC also recommended that, if DSM costs are recovered via the DSMCA, that the recovery be done historically, in contrast to prospectively.

³⁷ CEC did not file testimony; this position was expressed in their Statement of Position.

Staff advocated that, if cost recovery takes the form of expenses collected in the DSMCA, that the maximum incentive be reduced from ten percent of net economic benefits to 7.5 percent.

99. Kroger and RUC argued for a continuation of the LCP settlement terms regarding cost recovery. Kroger recommended that the LCP terms be modified to authorize a higher rate of return in order to meet the profitability requirement of the statute.

100. EEBC, CEC, SWEEP and Wal-Mart expressed support for Public Service's proposed approach to cost recovery.

101. Concerning a cap on the total incentives offered to Public Service, it did not offer a recommendation and most parties were silent on this matter. CEC, EEBC and SWEEP argued for a cap set at 25 percent of expenditures. In oral testimony, the Commission's Gas DSM Rules were cited as a possible source of policy guidance in this docket. Those rules set a cap on incentives as "twenty percent of net economic benefits or twenty-five percent of expenditures, whichever is less."³⁸

b. Findings

102. We agree that a DSM incentive is actually comprised of several components, each of which has a financial impact upon Public Service. We identify the following discrete incentive components: (a) addressing the fact that DSM, as a business venture, runs counter to Public Service's current business practices; (b) creating a recovery mechanism for DSM costs, and setting the associated terms of this mechanism; and (c) determining the type and magnitude of a performance incentive to be used to reward attainment of DSM goals.

³⁸ Rule 4754(i)

103. Each component of the resulting incentive “package” has an impact on Public Service’s ability to make its DSM investments more profitable than any other investment that does not have a special incentive, as set forth in § 40-3.2-104(5). We find that the Commission should establish an incentive package that provides sufficient incentive to meet the statutory requirements and signal to Public Service our expectation that it aggressively pursue all cost-effective DSM, while also tempering the incentive package so that it does not raise rates more than necessary to achieve the desired results.

104. As a preliminary matter, we note that we are establishing incentives in a case where there is no Commission precedent to instruct as to the appropriate level. We realize that the incentive package adopted here may not achieve the precise desired objective. We concur with OCC’s position that the incentives should be reassessed after a short period of time.³⁹ Therefore, we find that the components of the incentive are to be reevaluated in 2010, during the examination of Public Service’s second biennial DSM plan.

105. We find that it is not appropriate, and likely not even feasible, to define in this docket the “lost margins” resulting from DSM. OCC makes a convincing argument that we may not be able to determine the value of lost margins, or even whether they are actually occurring. Further, SWEEP makes a compelling point that we should heed the experience of other state commissions who have tried to address lost margins then moved on to other approaches to DSM financial compensation.

106. Public Service witness Stoffel testified that the Company’s proposal, in terms of the revised incentive package, is unlikely to be any more than “a couple of pennies per

³⁹ OCC recommended a reassessment after three years.

share...from our operations in Colorado.”⁴⁰ We find this to be an appropriate context, conceptually, to address the financial disincentive that DSM currently represents to Public Service. We find that DSM should yield a positive impact on Public Service’s earnings per share.⁴¹ As a result, we find that Public Service is authorized to charge an amount equal to \$2 million in after-tax revenue annually, (approximately \$3.2 million gross), for each year that it implements an approved DSM plan. This amount is to be recovered over the 12 month period following the year in which DSM plan is implemented, and is to be recovered via the DSMCA.

107. This upfront “disincentive offset” is not to be considered lost margin recovery. Rather, it is, in effect, an annual bonus for each year that Public Service pursues Commission-approved DSM goals. It represents the immediate potential of DSM to yield a positive financial impact upon Public Service. Further, it is provided in acknowledgement that Public Service is being directed to divert from its traditional business practices by actively promoting reduced consumption of its product.

108. We find that in any year that Public Service does not achieve at least 80 percent of that year’s DSM energy goal, the \$2 million (after-tax) disincentive offset is subject to downward adjustment with respect to subsequent years. That is, actual annual performance will impact the continued provision of this upfront disincentive offset.

109. Most parties propose a performance incentive that connects annual attainment of DSM (energy) goals with a bonus stated as a portion of the net economic benefits. We find this general approach to be the most appropriate way to signal to Public Service the DSM outcomes we expect and to reward Public Service for its DSM accomplishments.

⁴⁰ Hearing Transcript, Vol. 1, p. 69, lines 18-21

⁴¹ We are aware that there are no shares of Public Service stock, but that Public Service represents a portion of the total Xcel stock.

110. While we recognize the merits of a non-linear incentive mechanism, as proposed by OCC, Staff, Boulder and CEC, we find that greater emphasis should be placed on tying a larger share of the performance incentive to performance that surpasses the annual goal. The Commission will explicitly provide incentives for Public Service to exceed the annual minimum DSM goals. This complements our approach that sets the DSM goals at modest levels, particularly in the early years, relative to the various options supported by the record. Stated directly, we establish modest goals and concurrently establish incentives that reward surpassing the goals.

111. We also find, similar to the Gas DSM Rules,⁴² that the utility should begin to receive an incentive as it nears the annual goal, specifically once it surpasses 80 percent of the goal.

112. The performance incentive shall be as follows:

- For each one percent of DSM goal attainment beyond 80 percent, Public Service shall earn an additional 0.2 percent of net economic benefits, up to a level of 10 percent of benefits at 130 percent of goal attainment.
- For each one percent of DSM goal attainment beyond 130 percent, Public Service shall earn an additional 0.1 percent of net economic benefits, up to earning 12 percent of benefits at 150 percent of goal attainment.
- This performance incentive, together with the “signing bonus” discussed earlier will be limited by an overall cap on the incentive, discussed below.

113. Staff, SWEEP and CEC reasoned that the incentives provided to Public Service should be adjusted to acknowledge DSM commitments that the utility already made in the LCP settlement. These parties argued that to do otherwise would, in effect, further reward Public

⁴² Docket 07R-371G

Service beyond the rewards it is already receiving for the LCP DSM goals (800 GWh and 320 MW, cumulative, over 8 years).

114. We find that there is merit for adjusting the performance incentive so as not to doubly reward Public Service for the LCP DSM performance. We also find that the LCP performance goals are being substantially overshadowed by the DSM performance levels resulting from this docket, especially in the later years of the LCP settlement. In regards to the next two years of the LCP settlement, the DSM goal for 2009 of 150 GWh is 50 percent above the average LCP goal of 100 GWh. The 2010 DSM goal of 220 GWh is 120 percent above the LCP average goal. Consequently, with the exception of 2009, we find that the performance incentive set forth in paragraph 112 is providing incentive for performance levels well beyond the LCP commitments. Therefore, we adjust the performance incentive mechanism only for 2009 to acknowledge the LCP commitments. In 2009, the sharing of net economic benefits will begin at 100 percent of goal attainment (rather than 80 percent), at which point Public Service can earn 4 percent of the net benefits, and continue as set forth in paragraph 112

115. Public Service, Staff, SWEEP, EEBC, EOC, Ms. LaPlaca and RUC argue for different inclusions and exclusions in the definition of benefits, pertaining to the TRC test and ultimately affecting the calculation of net economic benefits. We discuss this in greater detail below. For the purposes of calculating net economic benefits in order to determine the performance incentive, the focus should be on those benefits accruing directly to the utility system supported by the ratepayers. In other words, when calculating net economic benefits for purpose of calculating the performance incentive, “benefits” will be as defined in sections (I) and (II) in 40-1-102,(5)(b), C.R.S.

116. Staff took the position that payment of the incentive should occur over the two years following the DSM performance year. Public Service, in its Statement of Position⁴³, expressed support for Staff's two-installment approach to paying the bonus. We find that this approach has merit, particularly to allow for post-performance analysis to occur and for this analysis to be factored into the calculation of the net economic benefits underlying the bonus calculation.

117. CEC raised an issue during the hearing⁴⁴ concerning the inclusion of incentive payments in the final TRC calculation, specifically as a component of the total costs. We find that, for the purposes of complete and accurate communication regarding the total costs and benefits of DSM, all corresponding incentive payments are to be included in the final TRC calculation. At the time of the annual report following a DSM performance year, the incentive amounts will be "proposed" amounts versus "final" amounts. We direct Public Service to include the proposed incentive amounts in the TRC calculation presented in their annual report.

118. We find that it is reasonable to allow for expensing of the DSM costs and recovery via the DSMCA on a prospective basis. We view this as a component of an overall incentive package, contributing to the objective of making DSM a profitable component of Public Service and encouraging them to modify their business practices so as to fully incorporate DSM.

119. As a component of cost recovery, Public Service also proposed that interest on any over or under recovery be symmetrical and set at the average weighted cost of capital. Staff advocated for no carrying charge, and also advocated that prospective recovery shifts any risk to

⁴³ Page 26 of the Public Service Statement of Position

⁴⁴ Hearing Transcript Vol. 2, p. 164-166

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consumers and virtually eliminates any regulatory lag in cost recovery, thus making a carrying charge excessive. Staff offered an alternative position that, if interest is authorized, it be applied to the deferred balance of the DSMCA asymmetrically, i.e., only to over-recoveries, and that the rate used will be the customer deposit rate as prescribed in 4 CCR 723-3-3403(n)(II). Staff states that the cost of capital approach is not appropriate since DSM costs are being treated as expenses. OCC also advocated for asymmetrical interest and concurred with Public Service's proposed use of average weighted cost of capital.

120. We agree with the alternative position advocated by Staff and find that interest shall be applied asymmetrically and at the customer deposit rate.

121. Regarding a cap on the overall incentive available, we concur with SWEEP that a cap is merited. We are establishing significant new policies in this decision, policies that attempt to steer Public Service in a new direction concerning its business priorities and practices. We are also seeking to provide the right level of incentives to encourage the actions set forth concerning DSM goals. We are cognizant that several variables are at play in these incentives, such as Public Service's ability to exceed the goals and the related TRC values. The experience gained in 2009 will allow us to assess that concern, and make adjustments as necessary in the second biennial plan filing, as discussed in paragraph 104. In the meantime, so as to not inadvertently provide an excessive incentive, we find that the total incentives received by Public Service ("disincentive offset" plus performance incentive) shall not exceed twenty percent of Public Service's total annual expenditures on DSM for the year.

6. Low-Income DSM, Pilot Programs, Start-Up Programs, Education and Market Transformation

c. Discussion

122. Public Service requested authorization to offer DSM programs targeted at low-income customers that had a TRC value below 1.0 as long as the entire portfolio of DSM programs was cost effective, with a TRC above 1.0. The Company also committed to include low-income DSM programs, pilot programs and indirect impact programs (such as customer education and market transformation), within its DSM portfolio and to make low-income DSM programs as cost effective as possible. Public Service contended that statutes now in effect such as § 40-3-106(1)(d) empowers the Commission to approve offering low-income DSM programs that do not pass the TRC test.

123. Public Service also requested authorization to offer Pilot Programs that meet certain specified criteria, to pursue indirect programs, such as customer education and market transformation initiatives and to pursue start-up DSM programs, even if such individual programs reflect a benefit/cost ratio that is below 1.0.⁴⁵ Public Service proposed that the criteria for a pilot program be temporary in nature, available to only a subset of customers, and of limited cost.⁴⁶ Further, Public Service proposed that pilot programs would only be used when a technology or delivery approach is unproven.

124. Staff recommended that the Commission defer explicit approval of low-income programs, pilot programs and start-up programs until the biennial plan filing by Public Service, so that they can be examined within the context of the overall proposed DSM portfolio.

⁴⁵ Public Service Application, p. 9

⁴⁶ Sundin Direct Testimony, p. 21-22

125. Staff also called upon the Commission to instruct Public Service to take on additional responsibility regarding customer education as it pertains to DSM. Staff argued that a sustained effort is required to make such education effective, and that the focus needs to be on the benefits of DSM. This issue was also raised during the hearing, particularly in the context of the whether the DSMCA appropriately communicates information about DSM benefits and costs to ratepayers.

126. OCC argued that equity issues exist concerning the low-income and DSM programs because they may not be reasonably capable of participating in standard DSM offerings for financial, delivery or other reasons. They called for such considerations to be factored into DSM program development.

127. Boulder expressed support for the Company's efforts to expand services to low-income customers, conveying that this population is simultaneously has the greatest need for DSM assistance and has the least ability to participate.

128. SWEEP expressed support for Public Service's proposal to incorporate low-income DSM programs and pilot programs into the overall portfolio even if such programs have a TRC value below 1.0. SWEEP also advocated for including low-income programs in the overall calculation of net economic benefits, as part of determining the incentive bonus.

129. EOC expressed support of Public Service's plan to offer low-income DSM programs. It expressed concerns that Public Service does not yet know what programs it will be offering, and challenged the Company's premise that low-income programs cannot be cost-effective. EOC argued that it may not be necessary to authorize the inclusion of low-income programs below a TRC of 1.0, contending that such programs can be cost-effective. It advocated for not using the Commission's authority under SB 07-022 in this situation. EOC also argued

that SB 07-022 should be applied only to low-income programs and services, not as a justification for DSM programs such as pilot programs.

130. EOC called for resolution in this proceeding of the details of Public Service's low-income DSM programs, specifically which programs, anticipated participation levels and associated budgets. EOC argued that otherwise there is insufficient information in this proceeding for the Commission to give due consideration to the impact of DSM programs on nonparticipants and on low-income customers.⁴⁷ EOC called for an offsetting of the anticipated financial impact of DSM upon all low income customers by requiring that the budget for low-income DSM programs be at least equal to this impact. EOC also expressed concerns that there are financial disincentives associated with providing DSM services to the low-income and that these should be addressed.

131. RUC contended that low-income customers have more barriers to participation, and advocated that such barriers should be a basis for excluding the low-income from paying for DSM. RUC also argued for the inclusion of a loan program targeted at low-income customers, repaid via the utility bill, and recommended that low-income customers participating in such DSM efforts should pay the DSMCA.

d. Findings

132. We find that low-income customers should be given special attention and commitment by Public Service in their DSM planning and design. We do not find it appropriate to establish specific funding or participation levels in this docket. We anticipate that the facts and information supporting such decisions will be brought forth by Public Service and other

⁴⁷ 40-3.2-104(4).

parties in the DSM biennial plan proceeding. However, we want to be clear that we expect a substantial commitment to low-income DSM, both electric and gas, in the biennial plan. The low-income customer population has unique needs and challenges in regards to DSM. Not only will we be giving close scrutiny to this aspect of the biennial plan, we will connect performance incentives (such as the “signing bonus”) to the Company’s efforts and performance in this customer segment.

133. We direct Public Service to coordinate its low-income program design with the Colorado nonprofit and governmental organizations that serve the energy needs of the low-income, such as EOC and GEO. We further direct Public Service to solicit input from such entities concerning entities with whom Public Service should consult for expertise in the design of low-income DSM programs.

134. We direct Public Service to address, through its testimony in the biennial DSM plan filing, the “best practices” of other utilities regarding low-income DSM program design and implementation. Specifically, we direct Public Service to address in its filing how program planning and design reflects low-income DSM best practices, such as the best practice resources presented by EOC and RUC in this docket, as well as others.

135. We further direct Public Service to pursue all cost-effective low-income DSM, but to not forego DSM programs simply because they do not pass a 1.0 TRC test. Some of this may be partially addressed by the combining of electric and gas DSM efforts, as we understand is the Company’s intentions in the first biennial plan filing. We also encourage coordinating low-income DSM with existing service delivery infrastructures, as has been the practice with the Energy Saving Partners (ESP) program.

136. For those low-income DSM programs that do not yield a 1.0 or greater TRC value, we direct Public Service to apply a modified utility cost test calculation and communicate the results via the biennial plan testimony. Specifically, we direct Public Service to seek out situations where the utility-provided low-income DSM expenses can take advantage of service delivery and overhead resources that already exist in the marketplace through public funding. In such situations, a “modified utility cost test” is to be applied. This will assess the total benefits resulting from such partnerships against the utility costs (versus total costs), under the rationale that the existing publicly funded infrastructure is a “public good” already in place and paid for, analogous to the roads and bridges used to reach a customer’s home.

137. We direct Public Service, in the testimony accompanying the DSM biennial plan filed later this year, to present a spectrum of possible low-income DSM programs following these three tiers:

- a) Proposed programs that pass the modified TRC as applied to the entire DSM portfolio;
- b) Proposed programs that pass the modified utility cost test, as discussed in paragraph 135, and
- c) Proposed programs that don’t pass either of the above tests, yet, should still be considered.

138. We will then consider in that future proceeding how to address the programs in group 3, above, in terms of whether the TRC of the overall portfolio can sustain these programs or whether to use the authority provided to us pursuant to § 40-3.2-104 (4).

139. In applying the TRC to low-income DSM programs, the benefits included in the calculation shall be increased by twenty percent, to reflect the higher level of non-energy benefits that are likely to accrue from DSM services to low-income customers. We also direct Public

Service to update its quantification of low-income related non-energy benefits prior to the filing of their second DSM plan.

140. We concur with EOC that there may be financial disincentives associated with serving low-income customers, particularly in regards to the calculation of a performance incentive that is tied to net economic benefits. We understand that the approval of low-income programs with a TRC value below 1.0 reduces the total net economic benefits of the DSM portfolio. To address this concern we find that the costs and benefits associated with any low-income DSM program that is approved and has a TRC below 1.0 may be excluded from the calculation of net economic benefits. Further, the energy and demand savings may be applied toward the calculation of overall energy and demand savings, for purposes of determining progress toward annual goals.

141. Concerning “indirect impact programs” (customer education, market transformation and pilot programs), we find that these components are beneficial in developing a comprehensive DSM portfolio and order that these be included in Public Service’s DSM plan. We agree that these components do not need individually to pass a TRC test, however, they do need to be incorporated into the overall costs used to calculate the TRC of the DSM portfolio. While we did consider setting a cap on the total amount of DSM expenditures dedicated to market transformation, we find that setting such a cap is not appropriate. Rather, we direct Public Service to include in each biennial DSM plan filing a proposed amount of the budget dedicated to market transformation activities, along with an explanation of the proposed activities and anticipated results. Further, we find that market transformation efforts can be a significant part of a long-range DSM strategy; nonetheless, the inability to ascertain a specific TRC for such efforts can adversely affect the financial incentive calculation. As a result, we find

that market transformation efforts, once approved by the Commission, shall have a presumptive TRC of 1.0 so as to not yield this adverse affect.

142. Regarding customer education about DSM, we find that there is a great potential for an imbalance in the information that ratepayers will receive concerning DSM, as it pertains to the costs and the benefits. Continuing to list the DSMCA as a specific line item on the utility bill serves to educate ratepayers about DSM costs. However, the DSMCA cost does not adequately tell the whole story about DSM. The costs reflected in the DSMCA are not net of the savings accruing to customers, in the form of avoided costs, resulting from DSM. Thus, we find that this part of the message should be more actively and completely communicated to all ratepayers, so that ratepayers understand: (1) that DSM is a resource; (2) that DSM is a more cost-effective resource than building new generation resources; and (3) that the DSM costs incurred today are an investment that defers incurring higher costs for new generation equipment.

143. We direct Public Service to address, through its testimony filed with its first biennial DSM plan, a strategy for improving public knowledge concerning the benefits of DSM, as discussed above, including key messages and communication channels. We acknowledge that it is not appropriate to place this education responsibility solely upon Public Service. Thus, we direct Public Service to include in its proposed strategy those parties it has identified (and started to contact) to serve as partners in the education strategy. We suggest the following entities be considered as potential partners: The Commission and itsStaff; GEO; OCC; chambers of commerce; other business/industry trade associations.

144. Regarding pilot programs, we concur with the criteria set forth by Public Service as to when such programs should be initiated.

7. Impact of DSM on Non-Participants

145. Section 40-3.2-104(4) directs the Commission to “give due consideration to the impact of DSM programs on nonparticipants and on low-income customers.” We have discussed low-income customers in a separate section, including our concerns and expectations regarding DSM services targeting the low-income. We will further address the impact of DSM upon low-income customers in the docket resulting from Public Service’s biennial DSM plan filing.

146. We find that the first way to address the impact of DSM on non-participants is to minimize the occurrence of non-participants. By this we mean that all customers need to be provided a reasonable opportunity to participate in DSM, as advocated by several parties. We will be applying this criterion to our review of proposed DSM plans.

147. We are also aware that the issue of impact on non-participants is more complex than just the level of the DSMCA, whether expressed as an absolute value or percentage of the total bill. We find that the “impact” should be viewed from a more macro perspective, such as the perspective that the ERP analysis will provide. Specifically, we anticipate that the ERP modeling will provide an assessment of the financial impact of DSM upon ratepayers that factors in the full benefits of DSM as well as the costs. Consequently, we defer a complete assessment of the impact on non-participants until the ERP analysis is completed and until specific DSM costs are known through a DSM plan filing.

8. Self-Direct DSM Programs and “Opt-Out” Provisions

e. Background

148. Public Service testified that “we expect to offer a Self-Direct program to our industrial and other large customers. Public Service’s industrial customers have expressed an interest in having the Company offer a self-directed DSM program that would provide rebates

for large customers who receive pre-approval for an energy efficiency project.”⁴⁸ Public Service also stated that it will work with its industrial and other large customers to develop program guidelines, addressing such criteria as the size of the customer, minimum and maximum payback periods for projects and appropriate rebate levels. Public Service further testified that a Self-Direct program would be included in their first DSM filing.

149. Kroger advocated that a customer’s aggregate load, across all facilities, be considered when determining eligibility criteria for a Self-Direct program.

150. Wal-Mart sought an “opt-out” provision within the DSM programs for “customers who are actively pursuing or recently pursued energy efficiency or DSM measures at levels that correspond with quantified goals as determined by the Commission and in accordance with legislatively mandated reductions.” Wal-Mart recommended the following criteria: aggregate annual consumption being at least 50 million kWh, or that the customer certifies that an energy audit or comparable analysis has been conducted and that the aggregated annual consumption is at least one million kWh.⁴⁹ Alternatively, Wal-Mart expressed support for the Self-Direct program proposal put forth by Public Service, following the same eligibility criteria as presented above.

151. Staff argued that specific approval of a self-direct program, including eligibility criteria, be deferred until the DSM plan filing. Concerning the Wal-Mart opt-out proposal, Staff testified that this marks a significant change to the DSMCA tariff that would affect the scope of DSM programs Public Service would offer to its largest customers and could also influence the timing and budgeting for programs aimed at larger customers. Staff further argued that these

⁴⁸ Sundin Direct Testimony, p. 22

⁴⁹ Chriss Answer Testimony, p. 16

issues are beyond the scope of this proceeding and require closer examination. Staff maintained that an opt-out provision should be administered via a tariff versus a DSM program. Staff also recommended that if the Commission was interested in an opt-out provision it should order Public Service to file a model tariff.

152. OCC and SWEEP testified, in response to the Wal-Mart proposal, that an opt-out would allow customers to receive the system benefits of DSM without paying for those benefits, which is not in the interest of all customers. OCC and SWEEP took the position that an opt-out provision is not equitable and that no customers should be allowed to opt out. The two parties further challenged the rationale put forth by Wal-Mart in support of an opt-out provision, such as Wal-Mart's contention that DSM programs are "one-size fits all." OCC and SWEEP contended that customers such as Wal-Mart have numerous opportunities to participate in DSM, and that they have participated in the past. SWEEP expressed a concern about allowing customers to participate in DSM and then opt-out in the future. OCC and SWEEP also expressed concerns regarding the implementation of a self-direct program, particularly equity-related concerns, and recommended deferring specific program approval until the DSM plan application docket.

153. Boulder expressed support for including commercial customers within a self-direct program.

154. In rebuttal testimony, Public Service stated that an opt-out provision makes it more difficult to assess whether maximum efficiency improvements are being achieved, and raised equity concerns similar to those raised by OCC and SWEEP, particularly since opt-out is not an option made available to residential customers. We also questioned Wal-Mart witness Mr. Chriss regarding these issues. Public Service advocated that a self-direct program, as they proposed, is preferable to an opt-out provision.

155. Wal-Mart also expressed concerns about the sharing of operations and maintenance (O & M) data with Public Service, contending that this data is proprietary and its public dissemination may have adverse affects upon their business.

f. Findings

156. We direct Public Service to meet with representatives of the industrial customers as part of planning its proposed Self-Direct DSM program.

157. We further direct Public Service to review the pros and cons of expanding the eligibility criteria concerning a Self-Direct program so as to include large commercial customers⁵⁰ and to present a proposal within its testimony in the first biennial DSM plan filing. We find that the docket resulting from that plan filing is the appropriate proceeding within which to decide upon the specific attributes of a Self-Direct program.

158. We find that Self Direct DSM programs shall have a TRC value at least equal to the TRC value for the overall DSM portfolio.

159. O & M data is vital to Public Service properly analyzing potential self-direct projects. We therefore direct Public Service to continue gathering customer O & M data, as necessary for evaluating self-direct projects proposed by customers. Additionally, Public Service shall provide an option to customers to have such data kept confidential, and, if distributed for regulatory purposes, it is to be done in a similar manner as other confidential data is handled by the Commission.

160. In regards to the opt-out proposal, we find that such an option creates an unacceptable disparity in the distribution of DSM costs and benefits throughout the utility system

⁵⁰ As issue regarding commercial customers is the quantity, in kWh, that should be used as a threshold for participation. This could pertain to one site or an aggregation of sites under common ownership.

and that the record does not support the inclusion of such an option. Therefore, an opt-out provision shall not be included in Public Service's DSM plans.

9. DSM "Best Practices"

161. Throughout the written testimony and hearings various parties made reference to the DSM practices of other states as well as "best practices" reviews of DSM programs. Staff testimony presented the *National Action Plan for Energy Efficiency*⁵¹ which presents various states and utilities as examples of leaders in DSM. RUC testimony⁵² presented the results of a DSM best practices review conducted by the American Council for an Energy Efficient Economy (ACEEE). EEBC presented the DSM efforts of the New York State Energy Research and Development Authority (NYSERDA), Wal-Mart presented a decision of the California Public Utilities Commission as a leading example of DSM policy. Also, Public Service and SWEEP reference the DSM policies and practices in Minnesota as an example that can assist in DSM planning.

162. We find that several states and utilities have preceded Colorado and Public Service in the pursuit of integrating cost-effective DSM into utility business practices. These examples can assist Colorado and Public Service to accelerate its development of a robust portfolio of DSM programs and attainment of significant DSM goals. We direct Public Service to address through testimony accompanying its DSM biennial plan application, how DSM "best practices" have been reviewed and factored into its planning and design decisions. We also direct Public Service to include in that same testimony, recommendations concerning

⁵¹ Davis Answer Testimony, Exhibit RED-3

⁵² Miles Answer Testimony, p. 7

benchmarks against which Public Service will measure itself, toward the objective of being “best in class” among utility DSM programs.

163. SWEEP proposed “GWh/yr/\$1 million” as an additional performance measurement. We find that such an indicator has merit, since it measures the efficacy of the DSM programs in achieving the DSM goals. We are aware that the DSM portfolio will be evaluated via the TRC test, and that this will serve to assess the cost-effectiveness of the DSM efforts. Thus, we do not require the inclusion of this additional performance metric at this time. We make note of it here for future consideration as well for possible inclusion in annual reporting by Public Service to the Commission on its DSM programs.

10. Third Party Administration of DSM

164. OCC recommended that “[i]f a utility seems to ‘requires’ (sic) an excessive bonus,...that the Commission consider whether more demand side resources could be acquired, at a lower cost (including the required bonus), with a combination of utility-administered and third-party administered programs.”⁵³ Public Service maintained that it is uniquely positioned to be the most effective administrator of DSM programs to its customers. SWEEP focused the issue of third party administration, not upon the general oversight functions but upon the delivery of specific DSM services to customers. Public Service testified that it uses third parties in this manner and that this practice will continue.

165. We see no reason at this time to direct Public Service to engage third parties in the administration of DSM programs. However, we affirm the value of using third parties to deliver specific DSM programs to customers, for operating efficiency and cost effectiveness.

⁵³ Schechter Answer Testimony, p. 53

11. DSM Administrative Expenses

166. The issue of setting a limit upon the DSM administrative expenses was raised during the hearing, specifically during examination of RUC witness Dr. Larson by Chairman Binz. We do not find there a need to set specific restrictions upon the administration expenses. Such expenses will be indirectly limited by their inclusion within the overall budget and will affect the resulting TRC calculation for the DSM portfolio.

12. DSM Filing and Reporting to the PUC

167. Public Service proposed to file DSM plans biennially, starting later this year. It also proposed filing DSM plans as a combined electric and gas DSM plan. Exhibit RED-13, which is Public Service's response to a discovery request initiated by Staff, outlined the technical assumptions and avoided cost factors that Public Service intends to include in its biennial plan filing.

168. Section 40-3.2-105, requires the Commission to submit a DSM report to the legislature by April 30 of each year, beginning in 2009. Public Service recommended filing an annual DSM report with the Commission by April 1 of each year. Staff recommended instead that this filing deadline be March 1 in order to allow adequate time for the preparation of the report to the legislature following receipt of the Public Service report.

169. Staff also requested that Public Service be ordered to work with Staff prior to filing its first advice letter in accordance resulting from this docket (the DSMCA filing), in order to develop templates for the supporting documentation and data that will accompany these filings. Staff further requested that this template be filed in this docket as a compliance item.

170. We concur with Public Service's plan to file DSM plans biennially and to combine electric and gas DSM into one filing.

171. We find that the contents of the DSM plan shall include, at a minimum, the following:

- The proposed technical assumptions underlying the DSM plan
- The proposed avoided cost values underlying the DSM plan
- Specific non-energy benefit values being used for specific DSM programs, if applicable (vs. the default values)
- The portfolio of specific programs being proposed, including the customer segment(s) being targeted and anticipated participation rates
- TRC calculations for each program and for the overall portfolio
- Budgets for each program, indirect impact programs, administration and the total portfolio
- Descriptions of the proposed indirect impact programs (market transformation, education, pilot and start-up programs)
- The spectrum of potential low-income programs, as addressed in this Decision
- Other topics to be addressed in testimony, as set forth in this Decision.

172. Regarding the advice letter template, we agree with Staff's recommendations as set forth above. We further direct the parties to develop the format and content of the annual DSM report filings.

173. We find that the annual DSM reports shall be filed with the Commission by April 1 of each year.

13. ISOC Tariff Provisions

174. Public Service included as Exhibit No. 2 in its Application, a proposed tariff for the DSMCA. Included in this proposed tariff were the following statements:

“Additionally, the Company shall be entitled to recover through the DSMCA an incentive equal to 12.5 percent of the ISOC credits paid during the prior year.”

“Interruptible Service Option Credit Program Costs (ISOCC). The ISOCC include the credits paid to interruptible program participants, as well as the incremental marketing costs for the program.”

175. This proposed tariff is also included as Exhibit 6 in Public Service witness Brockett’s testimony. This is the extent that the record addresses these two proposed changes concerning ISOC incentives and cost recovery.

176. We find that the record in this proceeding is insufficient to support approving the changes set forth in the proposed tariff, and we thus deny these requested changes to the DSMCA tariff.

III. ORDER

A. The Commission Orders That:

1. The application of Public Service Company of Colorado for Authorization to Implement an Enhanced Demand Side Management (DSM) Program and to Revise its Demand Side Management Cost Adjustment Mechanism to Include Current Cost Recovery and Incentives filed on October 31, 2007 is granted in part consistent with the discussion above.

2. Public Service shall file biennial DSM applications. The applications shall combine electric and gas DSM plans. The first application shall be filed by August 1, 2008, proposing a DSM plan for 2009 and 2010. That filing shall include the contents set forth in paragraph 171 in the discussion above, as well as incorporate the findings and directives concerning Low-Income DSM (paragraphs 134-137), Market Transformation (paragraph 141), a public education strategy (paragraph 143), a potential Self-Direct DSM program (paragraphs 156-158) and benchmarking against DSM “best practices” (paragraph 162).

3. Public Service shall work with Commission Staff to develop templates for DSMCA advice letter filings, prior to filing the first advice letter resulting from this Order.

4. Public Service shall work with Commission Staff to develop the format and content of the annual DSM report, prior to filing the first such report. DSM annual reports shall be due to the Commission by April 1 of each year, starting in 2010.

5. Public Service shall complete a comprehensive update of the DSM market assessment on a timetable that will inform the 2011 ERP filing and in accordance with the discussion above. In the interim, Public Service shall also initiate targeted assessments and updates, completed on a timetable that can inform the second biennial plan filed in 2010, as set forth in paragraph 87. Public Service shall also update their quantification of low-income DSM non-energy benefits on a timetable that will inform the DSM filing in 2010.

6. The 20-day time period provided by § 40-6-114(1), C.R.S., to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the effective date of this Order.

7. This Order is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' DELIBERATIONS MEETING
May 23, 2008.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners