BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

Proceeding to Adopt Rules for Electric Utility Resource Planning	)	
	)	Case No. EX-92-299
4 CSR 240-22.010 et seq.	)	

INITIAL COMMENTS OF UNION ELECTRIC COMPANY

July 31, 1992

Joseph H. Raybuck
Attorney for
Union Electric Company
1901 Chouteau Avenue
P. O. Box 149 (M/C 1310)
St. Louis, MO 63166
(314) 554-2976

TABLE OF CONTENTS

I. INTRODUCTION 1

A. THE COMPANY GENERALLY SUPPORTS THE PROPOSED RULES . 1

B. THE COMPANY HAS ALREADY BEEN ENGAGING IN MANY RESOURCE PLANNING ACTIVITIES WHICH WOULD BE REQUIRED BY THE PROPOSED RULES 3

II. UE'S OBJECTIONS TO THE PROPOSED RULES 6

A. POLICY OBJECTIVES (4 CSR 240-22.010) AND FILING SCHEDULE AND REQUIREMENTS (4 CSR 240-22.080) . . . 6

1. The Proposed Rules Should be Amended to Allow for the Commission to Approve a Utility's Resource Acquisition Strategy 6

2. The Proposal Allowing for the Utility to Request "Nontraditional Accounting Procedures" (4 CSR 240-22.080(2)) must be Modified to Ensure that it is Consistent with the Policy Objective and Requirement that a Utility Consider and Analyze Demand-side Resources "on an equivalent basis" with Supply-side resources (4 CSR 240-22.010(2)(A)) 21

3. The Proposed Rules Place too much Emphasis on using the Minimization of Revenue Requirements as the "Primary" Criterion for "Choosing" the Preferred Resource Plan, and They do not Allow Sufficient Flexibility to Examine Other Criteria which are Necessary to meet the Fundamental Objective of the Proposed Planning Process 27

B. LOAD ANALYSIS AND FORECASTING (4 CSR 240-22.030) . 31

1. (1)(B)2. - Load Data Detail - Major Class Demands 31

2. (1)(C)2. - Load Component Detail - Weather Effects 32

3. (1)(C)2.B. - Load Component Detail - Components of Load 33

4. (2)(A) - Analysis of Number of Units - Choice of Driver Variables 34

BEFORE THE PUBLIC SERVICE COMMISSION OF THE
STATE OF MISSOURI

Proceeding to Adopt Rules for Electric Utility Resource Planning 4 CSR 240-22.010 et seq.	)	Case No. EX-92-299

INITIAL COMMENTS OF UNION ELECTRIC COMPANY

Comes Now Union Electric Company (UE or Company) and submits its initial comments on the proposed rules for Electric Utility Resource Planning.

I. INTRODUCTION

A. THE COMPANY GENERALLY SUPPORTS THE PROPOSED RULES. [1]

Although the Company objects to certain aspects of the proposed rules, in general UE supports them.

The Company recognizes that resource planning is an essential activity for electric utilities in order to provide reliable service to all of its customers at just and reasonable rates on a long term basis. Therefore, it is appropriate and represents good policy for the Commission to adopt rules which define in a general and flexible way what constitutes acceptable resource planning.

---

[1] Any questions at the hearing by the Commissioners or by the Hearing Examiner on this section of the Company's comments should be directed to Gary L. Rainwater, General Manager of Corporate Planning for UE.

Any questions of a legal nature on any section of these comments should be directed to the undersigned attorney.

The Company also acknowledges that the Commission has the statutory authority to adopt such rules because its authority includes "general supervision" over electric utilities under Section 393.140(1) RSMo. 1986.

Further, UE submits that it is not only appropriate but also necessary for the Commission to establish ground rules so that utilities will know in advance what the Commission's expectations and objectives are in the area of resource planning. In this way a utility will know how its resource plan will ultimately be judged. One of the Company's main disagreements with the proposed rules is that they do not go far enough in this regard. This is because they do not call for the Commission to formally approve for each utility a "resource acquisition strategy", as that term is defined in 4 CSR 240-22.020(46). This will be discussed below. (See Section II.A.1.)

Finally, the Company believes that for the most part the proposed rules represent a reasonable compromise reached by interested parties in the informal stage of this rulemaking. In particular, UE believes that the numerous workshops which were held were very useful in eliminating many areas of misunderstanding and disagreement. The Company therefore appreciates the opportunity to have participated in these sessions. Although the workshops did not eliminate all contested issues, UE believes that they were successful in eliminating many of them.

B. THE COMPANY HAS ALREADY BEEN ENGAGING IN MANY RESOURCE PLANNING ACTIVITIES WHICH WOULD BE REQUIRED BY THE PROPOSED RULES. [2]

UE has already been complying with much--but not all--of what the proposed rules would require. In particular, the Company has developed several "Energy Resource Plans" (ERPs). Each of these plans is somewhat similar to a "resource acquisition strategy" defined in the proposed rules.

For example, the resource plan which the Company developed in 1989 started with data from the Company's most recent Load Forecast. This would generally be required by the Load Analysis and Forecasting section of the proposed rules (4 CSR 240-22.030).

Next, the Company analyzed both Supply-side and Demand-side resources to determine which were potential candidates for providing energy services to customers. The purpose here was to "screen" these resources down to a manageable level. This is contemplated by the Supply-Side Resource Analysis section (4 CSR

---

[2] Questions on this section should be directed to the following persons in the Company's Corporate Planning Department:

(1) Gilbert E. Elliott, Supervising Engineer of Corporate Analysis regarding the Company's overall planning process, and particularly the stages of Supply-side Resource Analysis, Integration, and final plan selection;

(2) Daniel F. Cole, Supervising Engineer of Regulatory Planning, regarding Load Analysis and Forecasting; and

(3) Stephen M. Kidwell, Supervising Engineer of Demand-side Planning, regarding Demand-side Resource Analysis.

240-22.040) and the Demand-Side Resource Analysis section (4 CSR 240-22.050).

Those resources which survived the screening process were then "integrated" and included in various combinations in alternate plans. This is called for in the Integrated Resource Analysis section (4 CSR 240-22.060). The objective here was to develop the plan which minimized costs to the utility and, hence, to its customers. In other words, the objective at integration was to arrive at the plan which was "least-cost" to ratepayers in terms of the utility's revenue requirements. Consequently, the alternate plans were ranked on the basis of the costs that UE would incur to carry out each plan.

Finally, the Company reviewed these alternate plans to determine how well they satisfied other objectives. These included equity, reliability, flexibility, and protection of the environment. For example, UE examined the extent to which each alternative plan (1) would be equitable to all customer classes in terms of rates; (2) would reliably provide electric service to customers over a twenty year planning horizon; and (3) would minimize adverse impacts on the environment. UE then performed, in effect, a balancing act to determine whether the least-cost plan best satisfied all applicable objectives. If some higher cost plan provided for a better balance, then it was incumbent upon UE to consider selecting that plan as a better one. Some have referred to such a more expensive plan as a "best cost" plan.

To take an absurd example, the ultimate least-cost plan for ratepayers would call for the utility to shut down its power plants so as not to incur the costs of operating them. This plan obviously would not provide reliable service to customers. Therefore, the utility would have to select some more expensive plan to satisfy the reliability objective.

This balancing of monetary and non-monetary objectives is discussed in the Policy Objectives section (4 CSR 240-22.010).

Notwithstanding the above, there are numerous requirements in the proposed rules with which the Company is not currently in compliance. To do so would require UE to incur additional costs beyond what it is already incurring.

Ideally, the Company would like to engage in all of the activities required by the proposed rules. However, as a practical matter the Company still has concerns as to whether these additional costs would produce a commensurate improvement in the planning process, and thus commensurate benefits to ratepayers. These concerns are in part set forth below, along with aspects of the proposed rules with which UE disagrees.

II. UE'S OBJECTIONS TO THE PROPOSED RULES

A. POLICY OBJECTIVES (4 CSR 240-22.010) AND FILING SCHEDULE AND REQUIREMENTS (4 CSR 240-22.080)

1. The Proposed Rules Should be Amended to Allow for the Commission to Approve a Utility's Resource Acquisition Strategy. [3]

The proposed rules are deficient in that they do not provide for Commission approval of a utility's "resource acquisition strategy". This is defined as "a preferred resource plan, an implementation plan, and a set of contingency options for responding to events or circumstances that would render the preferred resource plan obsolete." (4 CSR 240-22.020(46)) The proposed rules are deficient in this respect because they represent bad policy and because they are unfair to the utility.

The proposed rules only provide for the Commission to issue an order which

> contains findings that the electric utility's filing pursuant to this rule either does or does not demonstrate compliance with the requirements of this chapter of rules, and that the utility's resource acquisition strategy either does or does not meet the planning objectives stated in 4 CSR 240-22.010(2)(A) - (C), and which addresses any utility requests pursuant to section (2) for authorization or reauthorization of nontraditional accounting procedures for demand-side resource costs.

---

[3] Questions on this section should be directed to Mr. Rainwater.

(4 CSR 240-22.080(13))

Further, the "Policy Objectives" section expressly states that

> Compliance with these rules shall not be construed to result in commission approval of the utility's resource plans, resource acquisition strategies or investment decisions.

(4 CSR 240-22.010(1))

Consequently, the proposed rules would only provide for a determination by the Commission as to whether or not the filing complies with the rules' requirements and whether or not the filing meets its planning objectives. Although the proposed rules would provide for some Commission approval as to the form of a utility's filing, they do not go far enough because they do not provide for approval of the substance of that filing--namely, the proposed resource acquisition strategy. They would only allow for approval of the procedure used in developing the plan; namely, whether the utility followed all the steps required by the proposed rules.

This attempt to separate substance from procedure is a mistake both in terms of policy and fairness. For example, on several occasions during the workshops, the Commission Staff admitted that it would consider some questions of substance in its review of a utility's filing. In particular, the Staff indicated that it might question and challenge some of the utility's inputs or assumptions if the Staff considered them to be unusual, or out of line in some respect. Thus, in effect, the Staff acknowledged that it would review the substance of the utility's filing for the

purpose of determining its reasonableness. Under such conditions the utility would be left in a vulnerable and uncertain position. For example, the Staff might challenge the reasonableness of the utility's load forecast, which in turn would challenge the utility's decision as to when new resources were needed. The Staff could thus indirectly attack the results of the filing by questioning the procedure which produced those results. This confirms that it is a mistake to separate substance from procedure. The two go hand in hand.

The failure to provide for strategy approval represents bad policy because it invites hindsight attacks years after the Commission and interested parties were presented with the information available at the time as to whether the resources contained in the strategy were reasonable ones for the utility to implement. A utility's decisions should instead be judged based on the information available to it when the decisions were made. They should not be judged based on information available later with the benefit of hindsight. Re Union Electric Company, 27 Mo.PSC (N.S.) 183, 192-4 (1985).

The proposed rules would require electric utilities to file substantial amounts of information every three years describing and justifying a proposed resource acquisition strategy. This information will be available to Staff, the Office of the Public Counsel, and any intervenor. Because the Commission will have this information available to it, and the assessments of it by the above parties, the Commission will have the opportunity to

review the utility's proposed decisions on a contemporaneous basis. It will therefore be better able to judge the reasonableness and prudence of implementing those decisions now, rather than years later when the information is no longer fresh and when expected conditions change.

This approach is fully consistent with the concept of "rolling prudence reviews" which has found increasing acceptance in the regulatory community. [4] Such contemporaneous review represents good policy here because it requires the Commission to judge both the substance and the procedure when the information is presented, and not years later.

Further, if Commission approval of a utility's resource acquisition strategy is to have any meaning, it should constitute a rebuttable presumption as to the reasonableness and prudence of the decisions to implement the resources contained in the strategy. This will reduce the ability of a party to attack the set of resources proposed by the utility in the resource plan proceeding years later with the benefit of additional information which had not been available to the utility in the earlier proceeding. Without such a presumption of reasonableness the utility will be subject to litigating the matter a second time.

---

[4] For example, see "Prudence Reviews: New Approaches are Needed", Public Utilities Fortnightly (July 15, 1992), by William A. Badger, former NARUC President and Commissioner of the Maryland Public Service Commission.

See also "Prudence and Power Procurement: Will We Preclude Utility Ownership?", The Electricity Journal (October, 1991), by William Steinmeier, former Chairman of the Missouri Public Service Commission.

UE acknowledges that the determination of reasonableness and prudence can not, and should not, be a conclusive one because some exceptions may be appropriate. Thus, the Company is proposing only that a presumption of prudence attach to an approved strategy. A party would therefore have the opportunity to try to rebut this presumption in a later proceeding. For example, a party could try to show that the utility withheld certain information from the Commission, or that it neglected to obtain other information, which if made known to the Commission could have resulted in the Commission determining that some other resource acquisition strategy was more appropriate. However, the initial burden of proof as to reasonableness in such a later proceeding should rest on the challenging party and not on the utility. Absent such fraud or negligence on the part of the utility, it should not be subject to litigating the matter a second time through a hindsight review. Otherwise, strategy approval would be stripped of any meaning or value.

Further, UE acknowledges that strategy approval would not constitute a guarantee of recovering the costs of implementing the resources included in the strategy. This issue of "managerial prudence"--how the utility managed the resource once the decision had been made to implement it--would still be reviewable in a later proceeding such as a rate case. The strategy approval concept only goes to the issue of "decisional prudence"--that is, to the decision to implement a resource.

These are essentially the ground rules that UE is operating under in Illinois, one of UE's other jurisdictions which requires the filing of an integrated resource plan every 3 years. For example, in a proceeding to adopt a least-cost plan for Central Illinois Light Company, Order of December 13, 1990 in Ill.C.C. Docket No. 90-0041, at pp. 26-27, the Illinois Commerce Commission stated as follows:

> The Commission accepts Staff's position that approval and adoption of a least cost plan does not replace the prudence review of expenses incurred in implementing that plan. By adopting CILCO's Plan, the Commission has in effect determined that CILCO's decisions to make the investment in supply and demand side programs contained in the Plan are prudent. In future cost recovery proceedings, the Company will not be required to relitigate the prudency of the decision to implement the investments required in the Plan adopted by the Commission.

(Emphasis added; copy of Order available on request.)

UE submits that these ground rules are reasonable ones, and should be incorporated into the proposed rules.

In addition to Illinois, public service commissions in other states formally approve their utilities' resource plans. This is the case in California, Florida, Georgia, Hawaii, Iowa, Nevada, New Jersey, North Dakota, South Carolina, Washington, and Wisconsin. Integrated Resource Planning in the States: 1992 Source Book, published by the Edison Electric Institute, August, 1992. [5]

---

[5] This is currently in draft form. Mr. David Dworzak, Senior Regulatory Analyst at EEI (ph. no. 202-508-5684) has advised that a final version will be available in the middle of August. He further advised that no substantive changes will be made to the draft; only editorial changes will be made. Thus, the final

The following is an example of how without strategy approval a utility might be subject to relitigating the reasonableness of a resource decision. As mentioned above, the planning process involves satisfying objectives which are often in conflict with each other. For instance, the objective of minimizing utility costs (or revenue requirements) may conflict with the objective of providing reliable service, or minimizing rates to customers.

How a utility should balance the objectives and accept tradeoffs to arrive at its proposed resource acquisition strategy is likely to depend upon one's perspective. Where the perspectives are in conflict, there may be a dispute and a request to the Commission to resolve it.

Thus, residential customers may prefer a strategy which meets one favored objective (e.g. offers energy efficiency programs which will benefit them), and non-residential customers may prefer a different strategy which accomplishes a competing objective (e.g. has no energy efficiency programs, and as a consequence has lower rates for non-residential customers). The Commission could resolve the dispute over how to balance these competing objectives by accepting the utility's proposed strategy, by modifying it, or by rejecting it altogether. If the Commission did not resolve the

---

version of the report will not change the states listed above regarding whether they approve a utility's resource plan.

UE is willing to provide a copy of the draft version of this report to parties upon request. The Company is also willing to provide a copy of the final version when it is available.

dispute, it would likely carry over to a later proceeding. Consequently, there would be a cloud over the reasonableness and prudence of the decision to implement the resources contained in the strategy proposed by the utility as striking the best balance for all concerned. This uncertainty would be eliminated by ground rules stating that the Commission shall approve a strategy for the utility at the outset, rather than years after the strategy had been adopted.

The absence of strategy approval would also create a disincentive to utility implementation of demand-side programs. For example, when a utility installs a combustion turbine, it is reasonably sure that the turbine will provide "x" kilowatts at certain hours of the year. No such assurances exist with a demand-side program. The cost of the program, the customer participation, and the customers' demand reductions are all estimates. This is precisely why the testing of demand-side programs through pilots is so critical. However, even when the pilot programs are successful the utility can not be assured that full scale implementation of the programs will also be successful.

Demand-side programs are a form of marketing. Even the most successful utility and non-utility marketing efforts are never 100% successful. Simply stated, some demand-side programs will fail. Without some presumption of prudence (based on current information) as to the decision to implement a demand-side program, a utility will be reluctant to do so. Strategy approval would remove this reluctance, or disincentive.

UE therefore submits that strategy approval makes for good policy because it adheres to the accepted principle that a utility's decisions should be judged based on the information available at the time they are made, and because it minimizes the utility's exposure to relitigating its resource selections at a later time when a hindsight review would be irresistible to any disgruntled party. It also is consistent with the policy objective that demand-side programs be considered "on an equivalent basis" with supply-side programs. (4 CSR 240-22.010(2)(A))

Also, a process without strategy approval is unfairly one-sided in that the utility is required to provide reams of information to the Commission to justify its proposed resource acquisition strategy, but the Commission is not required to give any assurance in return as to the reasonableness or prudence of the proposed strategy and the individual resources which comprise it. (e.g. a Combustion turbine, a residential DSM program, or a purchase power contract) Consequently, the result is to provide all of the benefits of resource planning to the customer while requiring the utility to bear all of the risks.

UE submits that the Commission has the legal authority to approve a utility's resource acquisition strategy, to approve it with modifications, or to disapprove it entirely. If the Commission has the authority under the proposed rules to approve or disapprove the procedure used to develop the proposed resource acquisition strategy, how can the Commission not have the authority to approve or disapprove the substance of that strategy?

The Commission's general and broad authority is evident from several statutory sections. For example, as previously noted, the Commission has "general supervision" over electric utilities. Section 393.140(1) RSMo. 1986. Also, the Commission is "vested with....all powers necessary or proper to enable it to carry out fully and effectually all purposes of this chapter." Section 386.040 RSMo. 1986. Certainly, one of the central purposes is for the Commission to ensure that the utility's future resource plans will result in just and reasonable rates. Section 393.130 RSMo. 1986. Further, the Commission has the "jurisdiction, supervision, powers and duties" which extend "To such other and further extent, and to all such other and additional matters and things, and in such further respects as may herein appear, either expressly or impliedly." Section 386.250(7) RSMo. 1986. These and other statutory sections imply "broad discretion" to the Commission. State ex rel. Laclede Gas Company v. Public Service Commission of Missouri, 535 S.W.2d 561, 567 (Mo. App. 1976).

Based on such broad discretion, UE submits that the Commission has the authority to approve or disapprove all or part of a utility's proposed strategy, and, in the process, has the authority to review that strategy for a determination of prudence as to the supply-side and demand-side resources contained in it. For all of the reasons set forth above, the Commission should exercise such authority.

Accordingly, the following changes should be made to 4 CSR 240-22.010(1) (For all of UE's comments, the lined through language is to be deleted, and the shaded language is to be added):

> The Commission's policy goal in promulgating this chapter of rules is to set minimum standards to govern the scope and objectives of the resource planning process that is required of electric utilities subject to its jurisdiction, and to provide for certain approvals of the process and resulting strategies and plans in order to ensure that the public interest is adequately served. ~~Compliance with these rules shall not be construed to result in commission approval of the utility's resource plans, resource acquisition strategies or investment decisions.~~

Second, the PURPOSE paragraph and sections (4), (5), (6), (8), (9), (13), and (14) of 4 CSR 240-22.080 must be changed as follows:

> PURPOSE: This rule specifies the requirements for electric utility filings to demonstrate compliance with the provisions of this chapter of rules, and it also provides for the commission to approve, approve with modifications, or disapprove the utility's proposed resource acquisition strategy. ~~The purpose of this compliance review required by this chapter of rules is not commission approval of the substantive findings, determination or analyses contained in the filing. The~~

~~purpose of the compliance review required by this chapter is to determine whether the utility's resource acquisition strategy meets the planning objectives stated in 4 CSR 240-22.010(2)A) -- (C).~~

.....

(4) The commission will establish a docket for the purpose of receiving the compliance filing of each affected electric utility ~~and for the purpose of determining whether the utility's proposed resource acquisition strategy should be approved, approved with modifications, or disapproved~~. The commission will issue an order that establishes an intervention deadline, sets an early prehearing conference and provides for notice.

(5) The staff shall review each compliance filing required by this rule and shall file a report not later than one hundred twenty (120) days after each utility's scheduled filing date that ~~identifies any deficiencies in the electric utility's compliance with the provisions of this chapter of rules, any major deficiencies in the methodologies or analyses required to be performed by this chapter of rules, and any other deficiencies which the staff in its limited review determines would cause the electric utility's resource acquisition strategy to fail to meet the planning objective identified in 4 CSR 240-22.010(2)(A) -- (C)~~ ~~recommends that the commission approve the utility's proposed resource acquisition~~

~~strategy, approve it with specified modifications, or disapprove it~~.

(6) Also within one hundred twenty (120) days after an electric utility's compliance filing pursuant to this rule, the office of public counsel and any intervenor may file a report or comments ~~based on a limited review that identify any deficiencies in the electric utility's compliance with the provisions of this chapter of rules, any deficiencies in the methodologies or analyses required to be performed by this chapter of rules, and any other deficiencies which the public counsel or intervenor believes would cause the utility's resource acquisition strategy to fail to meet the planning objectives identified in 4 CSR 240-22.010(A)(2)(A) – (C)~~ recommending that the commission approve the utility's proposed resource acquisition strategy, approve it with modifications, or disapprove it.

.....

(8) If the Staff, public counsel, or any intervenor ~~finds deficiencies~~ disputes or disagrees with any aspect of the utility's proposed resource acquisition strategy, it shall work with the electric utility and the other parties to reach, within forty-five (45) days of the date that the report or comments were submitted, a joint agreement on a plan to ~~remedy the identified deficiencies~~ resolve the disputed areas. If full agreement cannot be

reached, this should be reported to the commission through a joint filing as soon as possible, but no later than forty-five (45) days after the date on which the report or comments were submitted. The joint filing should set out in a brief narrative description those areas on which agreement cannot be reached.

(9) If full agreement on ~~remedying deficiencies~~ resolving disputed areas of the utility's proposed resource acquisition strategy is not reached, then within sixty (60) days from the date on which the staff, public counsel or any intervenor submitted a report or comments relating to the electric utility's compliance filing, the electric utility may file a response and the staff, public counsel and any intervenor may file comments in response to each other. The commission will issue an order which indicates on what items, if any, a hearing will be held and which establishes a procedural schedule.

.....

(13) The commission will issue an order which approves, approves with modifications, or disapproves the utility's proposed resource acquisition strategy ~~contains findings that the electric utility's filing that the electric utility's filing pursuant to this rule either does or does not demonstrate compliance with the requirements of this chapter of rules, and that the utility's resource acquisition strategy either does or does not meet the~~

~~planning objectives stated in 4 CSR 240-22.010(1) (A) – (C),~~ and which addresses any utility requests pursuant to section (2) for authorization or reauthorization of nontraditional accounting procedures for demand-side resource costs. Should the commission's order either approve with modifications, or disapprove the proposed resource acquisition strategy, the utility shall submit a conforming resource acquisition strategy for hearing and approval in accordance with the requirements of the order.

Finally, a new 4 CSR 240-22.080(14) would be necessary as follows:

(14) Commission approval of a resource acquisition strategy shall constitute a rebuttable presumption of the prudence of the decisions to invest in the supply-side and demand-side resources included in the strategy.

2. The Proposal Allowing for the Utility to Request "Nontraditional Accounting Procedures" (4 CSR 240-22.080(2)) must be Modified to Ensure that it is Consistent with the Policy Objective and Requirement that a Utility Consider and Analyze Demand-side Resources "on an equivalent basis" with Supply-side resources (4 CSR 240-22.010(2)(A)). [6]

The proposed rules would allow for a utility to include in its "compliance filing" a request for nontraditional accounting procedures for the recovery of costs for demand-side resources. (4 CSR 240-22.080(2)) UE generally supports this proposal.

UE believes that the implementation of "nontraditional" accounting procedures--assuming no changes to the Commission's statutory authority--would require an Accounting Authority Order. This would allow the utility to establish a regulatory asset consisting of costs that were incurred to evaluate and implement demand-side resources. The utility would thus defer such costs for consideration by the Commission at a later time, presumably in the utility's next rate case. See e.g., Re Union Electric Company, Order of June 23, 1992 in Docket No. EO-92-179; and Re Missouri Public Service Company, Order of December 20, 1991 in Docket No. EO-91-360 (129 PUR4th 381).

---

[6] Questions on this section should be directed to David L. Wucher, Manager of Plant and Regulatory Accounting regarding accounting issues, and to Mr. Cole and Mr. Kidwell regarding demand-side cost recovery issues.

UE assumes that under "traditional" accounting procedures many of the costs incurred by a utility for demand-side resources outside of a test year would generally be expensed and thus not recovered in rates. If the utility is not allowed to recover these costs, it will be less inclined to incur them. This is why "traditional" accounting procedures for demand-side costs are not sufficient to allow the utility to treat demand-side resources "on an equivalent basis" with supply-side resources, as required by 4 CSR 240-22.010(2). Thus, traditional accounting procedures for demand-side costs create financial disincentives for the utility.

UE assumes also that an Accounting Authority Order would be an appropriate mechanism to ensure that demand-side resources are treated on an equivalent basis with supply-side resources, provided that certain conditions are met. Thus, an Accounting Authority Order could ensure that utilities comply with the requirement and policy objective regarding equal treatment for such resources. Costs incurred for supply-side resources have traditionally been capitalized, and thus the utility has been allowed to recover all prudently incurred costs including a reasonable return thereon. An equal opportunity should be given to costs for demand-side resources.

An Accounting Authority Order for demand-side resources should indicate that the Commission intends to allow the utility to recover all prudently incurred costs. Unless the utility receiving such an Order can show its independent accountants that future rate recovery of prudently incurred costs is probable, the utility may

have to cease deferring these costs and write off the balance of any such costs that had been accrued. Otherwise, the regulatory asset authorized by the Order may be a worthless one.

However, the proposed rules would not currently address this potential write-off problem. In fact, they would encourage skepticism as to the value of the regulatory asset containing these deferred demand-side costs. This comes from the sentence in 4 CSR 240-22.080(2) providing that "Commission authorization of any nontraditional accounting procedures does not constitute a finding that the expenditures involved are reasonable or prudent, and should not be construed as approval or acceptance of any item in any account for the purpose of fixing rates." This sentence, without supplementation, will negate the value of an Accounting Authority Order.

Consequently, the proposed rules must be supplemented with language indicating that the Commission intends to allow for future rate recovery of prudently incurred costs which are deferred pursuant to the nontraditional accounting procedures. This will mitigate the skepticism with which the utility's independent accountants, and the financial community in general, will regard the recovery of such costs.

This additional language is fully consistent with the Commission's recent decision issuing an Accounting Authority Order to UE in Docket No. EO-92-179 (Order of June 23, 1992, cited above). This allowed UE to establish a regulatory asset for the deferral of post retirement benefit expenses other than pensions

(PBOPs) booked to Uniform System of Accounts No. 186, Miscellaneous Deferred Debits. The Commission Staff supported UE's application for the Accounting Authority Order. The Staff further recommended that the Commission "should express a general intent to allow future rate recovery of prudently incurred PBOP costs that are booked as a regulatory asset pursuant to the order." (Order at p. 4) The Commission did so. (Id. at pp. 5-6)

Consequently, the proposed rules should indicate the same general intent which the Commission set forth recently in Docket No. EO-92-179 to allow for the recovery of prudently incurred demand-side costs deferred and charged to Account No. 186 pursuant to any Commission authorization for a nontraditional accounting procedure.

Finally, UE disagrees with the need for paragraph (B)4 of 4 CSR 240-22.080(2). This would require that any request for authorization of a nontraditional accounting procedure include "A quantitative comparison of the utility's estimated earnings over the three (3)-year implementation period with and without the proposed nontraditional procedures and any associated ratemaking treatment to be sought." This requirement should be deleted for several reasons.

First of all, any information as to estimated earnings over a three year period with and without the requested accounting authorization would be very speculative. For example, it is well understood that an electric utility's earnings are seriously affected by the weather. A hot summer will usually produce

earnings higher than a cool one. Any projections as to normal weather may compensate somewhat for the deviations from the norm, but there still are numerous other factors which may make such projections of little help (such as changes in the economic cycle, in state or federal laws, to name but a few).

Second, any estimate as to projected earnings are extremely sensitive in nature, and the dissemination of these projections to some portion of the public (e.g. parties to the utilities compliance filing) may violate regulations of the Securities and Exchange Commission. Thus, any requirement that the utility disseminate such information will be very burdensome, at the very least, and possibly unlawful. See, e.g., Rule 10b-5 of the Securities and Exchange Commission (17 C.F.R. § 240.10b-5).

In any event, the focus should not be the effect of the accounting authorization on the utility's estimated earnings. Instead, the focus should be on whether the accounting authorization is needed to remove any disincentives for demand-side resources so that the utility can treat them on an equivalent basis with supply-side resources. Therefore, the proposed requirement for estimated earnings is unnecessary and should be deleted.

Consequently, 4 CSR 240-22.080(2) should be changed as follows:

> The electric utility's compliance filing may also include a request for nontraditional accounting procedures and information regarding any associated ratemaking treatment to be sought by the utility for demand-side resource

costs. If the utility desires to make any such request, it must be made in the utility's compliance filing pursuant to this rule and not at some subsequent time. If the utility desires to continue any previously authorized nontraditional implementation period, it must request reauthorization in each subsequent filing pursuant to this rule. Commission authorization does not constitute a finding that the expenditures involved are reasonable or prudent, and should not be construed as approval or acceptance of any item in any account for the purpose of fixing rates. However, the Commission intends to allow future rate recovery of all prudently incurred costs which are deferred pursuant to an authorized or reauthorized nontraditional accounting procedure. Any request for initial authorization or reauthorization of these nontraditional accounting procedures must -

(A) Be limited to specific demand-side programs that are included in the utility's implementation plan; and

(B) Include specific proposals that contain at least the following information:

1. An explanation of the specific form and mechanics of implementing the proposed accounting procedure and any associated ratemaking treatment to be sought;

2. A discussion of the rationale and justification of the need for a nontraditional treatment of these costs; and

3. An explanation of how the specific proposal meets this need for nontraditional treatment, ~~; and~~

~~4. A quantitative comparison of the utility's estimated earnings over the three (3) year implementation period with and without the proposed nontraditional accounting procedures and any associated ratemaking treatment to be sought.~~

3. The Proposed Rules Place too much Emphasis on using the Minimization of Revenue Requirements as the "Primary" Criterion for "Choosing" the Preferred Resource Plan, and They do not Allow Sufficient Flexibility to Examine Other Criteria which are Necessary to meet the Fundamental Objective of the Proposed Planning Process. [7]

Subsections (B) and (C) of 4 CSR 240-22.010(2) describe different criteria which utilities must use to select a resource plan. The "minimization of the present worth of long-run utility costs" is proposed as the "primary" criterion. The utility then must also consider other "secondary" criteria or considerations which are critical to meeting the fundamental objective of the resource planning process.

---

[7] Questions on this section should be directed to Mr. Elliott.

This fundamental objective is for an electric utility "to provide the public with energy services that are safe, reliable and efficient, at just and reasonable rates, in a manner that adequately serves the public interest." (4 CSR 240-22.010(2)) UE supports this objective because it is a balanced one and does not give priority to one component of the objective--namely, minimizing costs--over any other component.

The use of the term "primary" is not fully consistent with this fundamental objective. This is because there are several possible interpretations of the word "primary". Consequently, there is ambiguity in this proposed requirement.

There are four definitions for "primary" which have relevance here. They are as follows:

> 1 a: first in order of time or development: PRIMITIVE
>
> 2 a: of first rank, importance, or value: PRINCIPAL
>
> 2 b: BASIC, FUNDAMENTAL
>
> 3 c: preparatory to something else in a continuing process

Webster's Ninth New Collegiate Dictionary, at p. 934 (1984).

Thus, the definition of "primary" as used in subsection (B) could either mean first in order of time or development, or of first rank or importance. A party could therefore reasonably contend that "primary" refers to the criterion of first importance in "choosing", or selecting, the preferred resource plan. Certainly, a different interpretation could be applied here. For example, another could contend that "primary" here referred to no

more than the initial task in developing the plan, that is, the first step in the order of development.

The interpretation of "primary" as principal or most important in subsection (B) would conflict with the definition of the fundamental objective of the planning process, and hence must be rejected. That is because such an interpretation would give priority or preeminence to the criterion of minimizing costs over other components of the fundamental objective--namely, providing energy services which are "safe, reliable, and efficient, at just and reasonable rates, and in a manner that adequately serves the public interest".

The same problem occurs with the word "choosing" in subsection (B). This is because "choosing" reinforces the idea that the "primary" criterion is what drives and restricts the selection of the preferred plan. This also is at odds with the fundamental objective of the process of selecting a preferred plan.

Finally, there is an ambiguity in the word "secondary" similar to that in "primary". Among the several meanings of "secondary" are the following:

1 a of second rank, importance, or value; and

2 d not first in order of development.

Webster's Ninth New Collegiate Dictionary, at p. 1060. Thus, a party could reasonably interpret secondary to mean that the considerations listed in subsection (C) are of lesser importance than the one set forth in subsection (B). Such an interpretation would also conflict with the balanced definition of the fundamental

objective. That definition does not give any consideration secondary status.

To avoid any potential for ambiguity, and to be consistent with the definition of the fundamental objective of the planning process, the words "primary" and "secondary" should be deleted and the words "initial" and "other" should be inserted in their place, respectively. These latter words properly convey a procedural meaning. They do not convey any meaning as to the relative importance of each consideration. Thus, they do not conflict with the definition of the "fundamental objective". Also, the word "choosing" in subsection (B) should be deleted and "developing" should be inserted in its place to avoid any suggestion that one consideration (minimization of revenue requirements) more than any of the others determines which plan the utility must select.

These changes will ensure that the fundamental objective is adhered to, and is not biased in any way towards one component such as minimizing costs. The changes would be as follows:

> (B) The utility shall use minimization of the present worth of long-run utility costs as the ~~primary~~ initial selection criterion in ~~choosing~~ developing the preferred resource plan; and
>
> (C) The utility shall explicitly identify and, where possible, quantitatively analyze any ~~secondary~~ other criteria or considerations which are critical to meeting the fundamental objective of the resource planning

process, but which may constrain or limit the minimization of the present worth of expected utility costs. The utility shall document the process and rationale use by decision makers to assess the tradeoffs and determine the appropriate balance between minimization of expected utility costs and these other considerations in selecting the preferred resource plan and developing contingency options. These considerations shall include, but are not necessarily limited to -

1. Mitigation of risks associated with critical uncertain factors that will affect the actual costs associated with alternative resource plans;

2. Mitigation of risks associated with new or more stringent environmental laws or regulations that may be imposed at some point within the planning horizon; and

3. Mitigation of rate increases associated with alternative resource plans.

B. LOAD ANALYSIS AND FORECASTING (4 CSR 240-22.030) [8]

1. (1)(B)2. - Load Data Detail - Major Class Demands

Subsection (1)(B) would require a utility to establish an historical load data base consisting of various types of information on actual patterns of energy usage in its service

[8] Questions on this section should be directed to Mr. Cole.

territory. Paragraph (1)(B)2. would require a utility to develop estimates for each major class "actual and weather-normalized demands at the time of monthly peaks".

This requirement is ambiguous in that "at the time of monthly peaks" could be interpreted to mean at the time of the monthly major class peak, or at the time of the monthly system peak. These two peaks may not be the same. The peak of a given class may not be simultaneous to, or coincident with, the peak of the entire system consisting of all of the classes.

UE submits that the more relevant information occurs at the time of the monthly system peak. Consequently, to remove any ambiguity, the following change should be made:

> For each major class, actual and weather-normalized demands at the time of system monthly peaks;

2. (1)(C)2. - Load Component Detail - Weather Effects

Paragraph (1)(C)2. would require a utility to "develop and implement a procedure to routinely measure and regularly update estimates of the effect of both actual and normal weather on class and system electric loads."

The phrase "the effect of both actual and normal weather" would require the utility to disaggregate actual loads into weather and non-weather related loads, when such information may not be necessary. Moreover, some processes used for weather normalization may not readily provide for such disaggregation. A more appropriate requirement is the analysis of the effect of weather as

determined by the difference between loads or sales under actual versus normal weather.

Consequently, the change would be as follows:

The utility shall develop and implement a procedure to routinely measure and regularly update estimates of the effect of ~~both actual and normal~~ weather on class and system electric loads.

3. (1)(C)2.B. - Load Component Detail - Components of Load

This subparagraph provides that "For at least the base year of the forecast, the utility shall estimate the cooling, heating, and nonweather-sensitive components of the weather-normalized major class loads."

However, paragraph (3)(A)3 states that the disaggregated cooling, heating, and nonweather-sensitive loads shall be designated as the end-use for a class, <u>if</u> other end-use information has not been acquired for that class <u>and if</u> the utility determines the heating or cooling components of load for that class are significant. Subparagraph (1)(C)2.B. would require the analysis for <u>every</u> class, not just those where cooling, heating, and nonweather-sensitive loads are the defined end-uses.

Consequently, this subparagraph should be deleted in its entirety, as Paragraph (3)(A)3. more appropriately defines when such analysis should be performed. Also, the next subsection designation should be changed from (C) to (B).

4. (2)(A) - Analysis of Number of Units - Choice of Driver Variables

This subsection would require that the utility "identify appropriate driver variables as predictors of the number of units for each major class or subclass" and that it also identify "The critical factors that influence the driver variables".

The Company acknowledges that identification of driver variables is a necessary input to the forecasting process. However, the requirement to identify "critical factors" lacks definition. The term could imply the use of some quantitative input to the development of driver variables, when, in practice, quantitative analysis may not be possible. Internal analysis or outside forecasting services utilized by the utility may rely more on major assumptions than on "factors" as the basis for driver variable development.

Thus, the wording should be changed as follows:

> Choice of Driver Variables. The utility shall identify appropriate driver variables as predictors of the number of units for each major class or subclass. The critical ~~factors~~ assumptions that influence the driver variables shall also be identified.

5. (2)(C) - Analysis of Number of Units - Subclass Shares

This subsection would require the utility to identify the factors which affect "subclass shares" of major class units when the utility has modeled the relationship between the number of units and driver variables at the major class level. It also requires the utility to explain how those factors were used to predict the subclass shares.

The current language presumes the utility will attempt to estimate subclass shares of major class units, when such information may not be readily available. The fact that the utility has developed relationships at the major class level could be an indication that it is either impossible or unnecessary to analyze unit relationships at the subclass level. In such cases a prediction of subclass shares of total units for the class should not be required. However, it is appropriate to require the utility in such situation to consider how changing subclass shares may impact a major class forecast.

Consequently, this section should be changed as follows:

Where the utility has modeled the relationship between the number of units and the driver variables for a major class but not for subclasses within that major class, it shall ~~identify the factors which affect~~ consider how a change in ~~the~~ subclass shares of major class units, ~~and shall explain how these factor were used to predict the~~

~~subclass shares of the total number of units for the major class~~ could impact the major class forecast.

6. (5) - **Base-case Load Forecast**

This section currently provides in the concluding sentence that "The load impacts of implemented demand-side programs shall be incorporated in the base-case load forecast and the load impacts of proposed demand-side programs should not be included in the base-case forecast."

The apparent purpose is to contrast the treatment of implemented demand-side programs with the treatment of proposed programs. The former must be incorporated into the base-case load forecast, but the latter "should" not be incorporated.

UE submits that the impacts of proposed programs must not be incorporated into the forecast, and that language to this effect is necessary. Consequently, the changes would be as follows:

> The utility's base-case load forecast shall be based on projections of the major economic and demographic driver variables that utility decision makers believe to be most likely. All components of the base-case forecast shall be based on the assumption of normal weather conditions. The load impacts of implemented demand-side programs shall be incorporated in the base-case load forecast ~~and~~ but the load impacts of proposed demand-side programs

~~should~~ [redacted] not be included in the base-case forecast.

7. (5)(B)2.A. - Base-case Forecast - Driver Variables

This subparagraph would require utilities to develop a "use per unit" forecast of energy and peak demands. In doing so, the utility would specify the "driver variables" for such a forecast. Further, the utility would be required to "document how the forecast of use per unit has taken into account the effects of real prices of electricity, real prices of competitive energy sources, real incomes and any other relevant economic and demographic factors." (emphasis added)

UE agrees that real prices and real income should be examined to see whether they are driver variables for a given forecast. However, subparagraph (5)(B)2.B in effect would always define them as driver variables, whether they were or were not in a given case.

It would be more appropriate to require only that such factors be considered to see whether they should be included as driver variables.

Therefore, the subparagraph should be changed as follows:

The forecasts of the driver variables for the use per unit shall be specified. The utility shall document how the forecast of use per unit has ~~taken into account~~ [redacted] the effects of real prices of electricity, real

prices of competitive energy sources, real incomes and any other relevant economic and demographic factors.

8. (5)(B)2.C. - Base-case Load Forecast - Stock of Energy Using Capital Goods

This subparagraph would currently require the following:

> For each end use for which the utility has developed measures of the stock of energy using capital goods, it shall forecast those measures and document the relationship between the forecasts of the measures to the forecasts of end-use energy and demands at time of the summer and winter system peaks. The values of the driver variables used to generate forecasts of the measures of the stock of energy using capital goods shall be specified and clearly documented.

The phrase "For each end use for which the utility has developed measures of the stock of energy using capital goods" is ambiguous because the utility may have developed such measures for a class (say for demand-side planning analysis), but determined that end-use forecasting for that class was not cost-effective. Therefore, this requirement should only apply in instances where the utility determined that end-use forecasting methods are appropriate for a given class.

Additionally, forecasted demands could come from day-type load shape analysis and energy usage forecasts, rather than from demand relationships to measures of energy using capital goods. The wording in this paragraph could improperly preclude such analysis because it refers to "demands at the time of summer and winter peaks." To avoid this problem, the quoted phrase should be deleted.

Consequently, this subsection should be changed as follows:

> The stock of energy using capital goods. For each end use for which the utility has developed measures of the stock of energy using capital goods, ~~and where the utility has determined that end-use forecasting methods are appropriate,~~ it shall forecast those measures and document the relationship between the forecasts of the measures to the forecasts of end-use energy ~~and demands at time of the summer and winter system peaks~~. The values of the driver variables used to generate forecasts of the measures of the stock of energy using capital goods shall be specified and clearly documented.

C. SUPPLY-SIDE RESOURCE ANALYSIS (4 CSR 240-22.040)

1. The Fuel Price Forecast Requirements of Section (8) must be Altered Because the Proposed Language would be Very Burdensome and is not Likely to Produce Cost-beneficial Information. [9]

Section (8) of 4 CSR 240-22.040 requires a utility to provide in its filing cost estimates of various "important uncertain factors related to supply resources". One of these factors is fuel price forecasts.

The Company acknowledges that fuel price forecasts represent such important uncertain factors. However, a portion of the requested information set forth in subparagraphs (A) 1. A. through G. would be very burdensome for the utility to collect as applied to numerous suppliers. Also, some of this information may be proprietary and confidential, or otherwise not readily available..

Subparagraphs (A) 1. A. - G. would require information as to various producers and suppliers of applicable fuels. Such information would be very burdensome, less readily available, and less valuable, as compared to information about various markets for the applicable fuels. For this reason, UE has focused on particular markets in order to take advantage of competitive forces.

---

[9] Questions on this section should be directed to Udo A. Heinze, Manager of the Fuel Department for the Company.

For example, subparagraph (A)1.A. would require the utility to consider the "present reserves, discovery rates and usage rates of the fuel". This would be very burdensome because it could apply to hundreds of suppliers. Further, the Company does not believe that this information as to particular suppliers is likely to be of great value. For example, the present reserves of an individual supplier would change with a sale or purchase by another supplier. It could also change by the acquisition of additional reserves from some other entity such as the federal government or private land holder. Thus, such information on a particular supplier could become obsolete very quickly. Also, such information may not accurately define the entire resource base.

On the other hand, information about markets would be less volatile. For example, the Powder River Basin of Wyoming holds approximately 63 billion tons of coal, and at present usage rates will last 350 years. This same information as to individual suppliers would be more difficult to get--if it was even available--and may be of little value due to sales and purchases among suppliers, as discussed above.

As another example, subparagraph (A)1.B. would require the utility to consider the "profitability and financial condition of producers". This would also be burdensome and of questionable value. In some cases, financial information about the profitability of individual suppliers may simply not be ascertainable from the annual report of the corporate parent.

Subparagraphs (A)1.C. and (A)1.D. would also be burdensome to comply with, and the information may also be of questionable value.

The Company believes that a more reasonable and effective requirement is to have utilities consider information about markets and not about individual suppliers. Such information would be more easily and readily obtainable, and would be more useful also.

Consequently, paragraph (8)(A)1. of 4 CSR 240-22.040 should be modified as follows:

(8) Before developing alternative resource plans and performing the integrated resource analysis, the utility shall develop ranges of values and probabilities for several important uncertain factors related to supply resources. These values can also be used to refine or verify information developed pursuant to section (2) of this rule. These cost estimates shall include at least the following elements and shall be based on the indicated methods or sources of information:

(A) Fuel price forecasts over the planning horizon for the appropriate type and grade of primary fuel, and for any alternative fuel that may be ~~practical~~ probable as a contingency option.

1. Fuel price forecasts shall be obtained from a consulting firm with specific expertise in detailed fuel supply and price analysis or developed by the utility if it has expert knowledge and experience

with the fuel under consideration. Each forecast shall consider at least the following factors as applicable to each fuel under consideration:

A. ~~Present reserves, discovery rates and usage rates of the fuel and forecasts of future trends of these factors~~ Description of the price forecast assumptions used and their source;

B. ~~Profitability and financial condition of producers~~ Estimates of the availability in applicable markets of the primary and alternate fuels included in the analysis, and discussion of the supplier makeup of such markets;

C. Potential effect of environmental factors, competition and government regulations on ~~producers~~ applicable fuel markets, including the potential for changes in severance taxes;

D. ~~Capacity, profitability and expansion potential of present and potential fuel transportation options~~ Discussion of the viability of the fuel transporters required to transport and deliver the fuels from markets identified in B;

E. Potential effects of government regulations, competition and environmental legislation on fuel transporters;

F. In the case of uranium fuel, potential effects of competition and government regulations on future

costs of enrichment services and cleanup of production facilities; and

G. Potential for governmental restrictions on the use of the fuel for electricity production.

2. The Reference to "Nonzero Probability" in the Definition of "Probable Environmental Cost" must be Altered to "Significant Probability" in Order to Limit the Analysis to a Manageable one. [10]

"Probable environmental cost" is defined as the expected cost of complying with new environmental regulations that the utility believes will have a "nonzero probability" of being imposed during the twenty year planning horizon. (4 CSR 240-22.020(45)) The utility must apply this definition in the screening of supply-side resources. (4 CSR 240-22.040(2))

This reference to "nonzero" appears to mean what it literally says it means: anything not zero; that is, any new environmental regulation which has some probability--however small--of being imposed.

Almost anything can have a "nonzero probability" attached to it, even if its likelihood is extremely remote. (e.g. .0000001%) This is what causes the problem: a requirement that utilities consider any potential regulation which does not have a

---

[10] Questions on this section should be directed to Mr. Elliott.

zero probability of being put into effect makes the analysis virtually unlimited and therefore unmanageable.

For example, as part of its analysis of supply-side resources, the utility would be required to identify "a list of environmental pollutants for which there is, in the judgment of the utility decision makers, a nonzero probability that additional laws or regulations will be imposed at some point within the planning horizon." (4 CSR 240-22.040(2)(B)1) The utility would then have to provide additional calculations, evaluations, and subjective probability assessments for each of these pollutants. This could be very burdensome as there are potentially hundreds of pollutants with at least some probability--however small--of becoming the subject of new or additional regulations requiring compliance. See, for example, Title III, Section 301 of the Clean Air Act Amendments of 1990 establishing a list of over one hundred "hazardous air pollutants".

Therefore, to place some reasonable and manageable limitation on the required analysis, the word "nonzero" should be deleted. The word "significant" should be inserted in its place as follows in 4 CSR 240-22.020(45):

> Probable environmental cost means the expected cost to the utility of complying with new or additional environmental laws, regulations, taxes or other costs that utility decision makers judge to have a ~~nonzero~~ significant probability of being imposed at some point within the planning horizon.

D. DEMAND-SIDE RESOURCE ANALYSIS (4 CSR 240-22.050)

1. The Definition of "Load Building Programs" in 4 CSR 240-22.050(10) must be Changed to be Consistent with the Definition of this Term in 4 CSR 240-22.020(29). [11]

Section (10) of 4 CSR 240-22.050 provides that DSM programs "shall be classified so as to permit a clear distinction between these costs and the costs of load building programs..." However, the concluding phrase of that sentence proceeds to define load building in a manner different from the definition in 4 CSR 240-22.020(29).

For purposes of consistency, 4 CSR 240-22.050(10) should be changed as follows by deleting the defining phrase after the term "load building programs":

> Demand-side programs shall be designed and administered, and demand-side programs shall be classified so as to permit a clear distinction between these costs and the costs of load building programs ~~to promote increased sales, attract new customers, or induce customers to switch to electricity from other forms of energy supply for the provision of end-use energy services~~. The costs of demand-side activities that also serve other functions shall be allocated between the functions served.

---

[11] Questions on this section should be directed to Mr. Kidwell.

III. CONCLUSION

For all of the reasons set forth above, Union Electric Company requests that the Commission incorporate these comments into the proposed rules.

Respectfully submitted,

Joseph H. Raybuck
Attorney for
Union Electric Company
1901 Chouteau Avenue
P.O. Box 149 (M/C 1310)
St. Louis, MO 63166
(314) 554-2976

CERTIFICATE OF SERVICE

I, Joseph H. Raybuck, hereby certify that I mailed a copy of the Initial Comments of Union Electric Company to all parties on the attached service list on July 31, 1992.

Joseph H. Raybuck