

## FOLLOW UP STAFF QUESTIONS REGARDING ACKNOWLEDGEMENT OR PREAPPROVAL DIRECTED TO MEDA AND/OR MDNR AND TO ANY PARTICIPANT THAT WOULD LIKE TO RESPOND

Both MEDA and MDNR have provided documents that propose that the Commission engage in some conferring of what both call “acknowledgment.” MEDA refers to acknowledgment of the electric utility’s “integrated resource plan,” while MDNR refers to acknowledgment of the electric utility’s “preferred resource plan or resource acquisition strategy.” MDNR seems to use the terms “preferred resource plan” and “resource acquisition strategy” interchangeably, whereas these terms are not interchangeable for MEDA. In addition to acknowledgment, MEDA has proposed an option for the electric utilities to seek “pre-approval.” The Staff indicated at the workshop on October 19-20 that it would consider MEDA’s and MDNR’s “proposals.” In doing so, the Staff posed certain questions for which it stated it would like responses. Because the Staff is intent in considering what MEDA and MDNR have suggested, the Staff is hereby submitting those and other questions to MEDA and MDNR and requesting responses by November 19. If other participants would like to respond and/or comment, the Staff would welcome responses and/or comments.

1. For both MEDA and MDNR: What effect does the Commission conferring “acknowledgement” have, if any, on the burden of proof in a subsequent rate case respecting recovery of any costs associated with the “integrated resource plan,” “preferred resource plan,” “resource acquisition strategy,” or “resource investment”?

I believe MDNR already provided this language, but here it is again and should help to answer the questions.

Insert new paragraph (B) in section (15) of 4 CSR 240-22.080:

If the Commission finds that the filing demonstrates compliance with the requirements of this chapter, the Commission may further acknowledge the utility's resource acquisition strategy in whole or with exceptions. "Acknowledgment" means that the Commission has judged the resource acquisition strategy to be reasonable at the time of acknowledgment. A resource acquisition strategy that is not acknowledged may be returned to the utility with comments. Acknowledgment is not a finding of prudence. Prudence findings are limited to rate cases. In proceedings in which the reasonableness of resource acquisitions is considered, such as rate cases, energy planning cases and regulatory planning procedures, consistency with an acknowledged plan may be used as supporting evidence; furthermore, in these cases, the utility must explain and justify why it took any actions inconsistent with an acknowledged resource acquisition strategy.

In short, an “acknowledgment” is one matter a utility may use to demonstrate reasonableness in a later rate case, but it does not eliminate the burden on the utility to prove prudence or reasonableness.

2. For both MEDA and MDNR: What effect does the Commission conferring “acknowledgement” have, if any, on “decisional prudence”?

Please see response, above, to question no. 1.

3. For both MEDA and MDNR: Does the Commission have to affirmatively “acknowledge” the electric utility’s integrated resource plan in order for the Commission to have been deemed to have “acknowledged” the electric utility’s “integrated resource plan,” “preferred resource plan,” “resource acquisition strategy” or “resource investment”? For example, if the Commission does not elect to indicate its agreement with unresolved (a) concerns or (b) alleged deficiencies propounded by the Staff, Public Counsel, or an intervenor, does that constitute “acknowledgment” by the Commission?

Please see response, above, to question no. 1.

4. For MEDA: What procedure, including schedule, does MEDA suggest be utilized in the new docket that it proposes be established for purposes of an electric utility seeking pre-approval of the utility’s resource acquisition strategy or any sub-component thereof?
5. For MEDA: What effect does the Commission conferring “pre-approval” have, if any, on the burden of proof in a subsequent rate case respecting recovery of any costs associated with the “integrated resource plan,” “preferred resource plan,” “resource acquisition strategy,” or “resource investment”?
6. For MEDA: What effect does the Commission conferring “pre-approval” have, if any, on “decisional prudence”?
7. For MEDA: There is no definition provided by MEDA of the term “pre-approval” in its proposed 4 CSR 240-22.020 Definitions. Please provide a definition of the term “pre-approval” as used by MEDA.
8. For MEDA: Under what circumstances does MEDA envision that a utility would seek pre-approval and request the Commission to open a new docket for that purpose? Under what circumstances would the utility “require additional regulatory certainty”? What threshold should the rule establish to govern when a utility could seek pre-approval?
9. For MEDA: How does the pre-approval of the utility’s resource acquisition strategy in MEDA paragraph 4 CSR 240-22.080(15) differ from the acknowledgement of the utility’s integrated resource plan in MEDA paragraph 4 CSR 240-22.080(12)?
10. For MEDA: Under MEDA’s proposal, does the acknowledgement of the utility’s integrated resource plan occur only if a full agreement is not reached regarding

remedies for all alleged deficiencies? Would that not create an incentive to not reach full agreement?

11. For MDNR: Is it MDNR's intent to use the terms "preferred resource plan" and "resource acquisition strategy" interchangeably?

No, it is not.