

High Priority Decision Points for Commission Discussion of Draft Revision to 4 CSR 240-22

Staff			MEDA	Other Stakeholders
Item Description	Rule Section	Comments/Notes	Comments/Notes	Comments/Notes
1 Level of Prescriptiveness Commission Decision 3-2 Staff Position	Entire 4 CSR 240-22 (except for Definitions (22.020))	Level of prescriptiveness is necessary to assure that certain minimum requirements are met consistent with best practices for high quality planning and decision making processes. The approach strikes a balance between being more flexible on what utilities analyze and ensuring that the utilities' analyses and decision making processes are documented and available to stakeholders. Draft 22.080(4) and (5) include provisions for more input from stakeholders concerning planning contemporary issues, analyses and processes.	The draft rule represents the most rigorous standard possible, is too focused on the planning process, restricts creativity, and defines success as the lack of deficiencies. MEDA wants more freedom to choose the planning processes and to focus on fewer but more critical issues and on the adopted resource acquisition strategy. The adopted resource acquisition strategy should be what is judged and not each individual requirement of 4 CSR 240-22.	NRDC suggests accommodating both approaches through the pre-integration analysis filing in 22.080(5). This filing should include a narrative of what the utility believes are the primary matters this particular plan must address in the integration, risk analysis, and strategy phases, and the quantitative measures and qualitative risk factors the utility intends to use. OPC favors the minimum standards in the draft rule to assure completeness and to facilitate more easily finding information and analyses in the filings.
2 Definitions of Deficiency and Concern Commission Decision 5-0 Staff Position	Definitions (22.020)	Deficiency means anything that would cause the electric utility's resource acquisition strategy to fail to meet the requirements identified in Chapter 22. Concern means anything that, while not rising to the level of a deficiency, may prevent the electric utility's resource acquisition strategy from effectively fulfilling the objectives of Chapter 22.	Deficiency - Noncompliance with the requirements of the rules contained in 4 CSR 240-22, the consequence of which is substantial enough that compliance would cause the electric utility to select an alternative resource plan as the electric utility's preferred resource plan. Concern - where the consequence of the noncompliance with 4 CSR 240-22 is not substantial enough to cause the electric utility to select an alternative resource plan as the electric utility's preferred resource plan.	
3 Comparisons of Utility's Preferred Plan to its Business Plan and Requirements for Notification When Different	Schedule and Filing Requirements (22.080(12))	Draft requires that the utility's business plan and its resource acquisition strategy be at all times materially consistent with each other. If the utility determines that the preferred resource plan or resource acquisition strategy are no longer appropriate, a filing in the docket established for the last triennial compliance filing is required to document changes to achieve alignment.	Utilities are concerned that continuous business planning could result in constantly changing differences between business plans and the preferred plan filed (or one communicated to the Commission by letter). Requirements for comparison also appear to open ongoing utility business planning to additional scrutiny that goes beyond the scope of the Commission's authority.	
4 Acknowledgement of Utility Plan as Part of Commission Order Commission Decision 3-2 Staff Position	Schedule and Filing Requirements (22.080(16))	Draft does not include a provision for commission acknowledgement of the utility's resource acquisition strategy. 22.010(1) Compliance with 4 CSR 240-22 shall not be construed to result in commission approval of the utility's resource plans, resource acquisition strategies or investment decisions. 22.080(16) The commission will issue an order which contains its findings regarding at least one of the following options: (A) That the electric utility's filing pursuant to this rule either does or does not demonstrate compliance with the requirements of this chapter, and that the utility's resource acquisition strategy either does or does not meet the requirements stated in 4 CSR-22.	Definition of Acknowledge - The plan seems reasonable to the Commission at the time the acknowledgement is given. Acknowledging a plan is not pre-approval of any resource decision but in rate making proceedings in which the reasonableness of resource acquisitions is considered, the Commission will give considerable weight to utility actions which are consistent with an acknowledged integrated resource plan. Acknowledge shifts the focus of the Commission from the process to the plan.	MDNR suggests the following language: 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. "Acknowledgement" means that the commission has judged the resource acquisition strategy to be reasonable at the time of acknowledgement. A resource acquisition strategy that is not acknowledged may be returned to the utility with comments.

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5 Pre-approval Option for Large Investments	Schedule and Filing Requirements (22.080(16))	Draft 4 CSR-22 does not include a provision for commission pre-approval of a utility's large investments. 22.010(1) Compliance with 4 CSR 240-22 shall not be construed to result in commission approval of the utility's resource plans, resource acquisition strategies or investment decisions. 22.080(16) The commission will issue an order which contains its findings regarding at least one of the following options: (A) <i>That the electric utility's filing pursuant to this rule either does or does not demonstrate compliance with the requirements of this chapter, and that the utility's resource acquisition strategy either does or does not meet the requirements stated in 4 CSR-22.</i> (B) That the commission approves or disapproves the joint filing on the remedies to the plan deficiencies or concerns developed pursuant to section (9) of this rule; (C) That the commission understands that full agreement on remedying deficiencies or concerns is not reached and pursuant to section (10) of this rule, the commission will issue an order which indicates on what items, if any, a hearing(s) will be held and which establishes a procedural schedule; and (D) That the commission establishes a procedural schedule for filings and a hearing(s), if necessary, to remedy deficiencies or concerns as specified by the commission.	MEDA suggested language for a pre-approval process: If the utility requires additional regulatory certainty to implement the resource acquisition strategy, then the utility may request the commission to open a new docket for the purpose of seeking pre-approval of the utility's resource acquisition strategy or any sub-component thereof.	No stakeholder has expressed a desire that pre-approval of large investments be a part of 4 CSR 240-22. OPC is opposed to pre-approval of large investments in 4 CSR 240-22.
6 Certification that Utility Requests are Consistent with its Preferred Plan	Schedule and Filing Requirements (22.080(17))	22.080(12) and (17) work hand-in-glove to assure that the utility resource acquisitions strategy is at all times materially consistent with the utility's business plan and with any requested action filed by the utility that is affected by the utility resource source acquisition strategy. This will help ensure that the preferred resource plans are kept up to date and filed with the commission irrespective of whether the preferred resource plans are acknowledged by the commission.	The proposed rule requires a utility to certify that requested action which involves a requested action that is affected by the electric utility resources, preferred resource plan, or resource acquisition strategy. MEDA has stated that the certification requirement seems to have no effect without a provision for acknowledgement.	
7 Special Contemporary Issues Commission Decision: Commission should determine contemporary issue list	Schedule and Filing Requirements (22.080(4))	It is the responsibility of each utility to keep abreast of evolving electric resource planning issues and to consider and analyze these issues in a timely manner in the triennial compliance filings and annual update reports. Commission staff may [following input from OPC and parties] provide each electric utility with a list of special contemporary issues which the utility shall analyze and document in its next triennial compliance filing or next annual update report.	MEDA is concerned the draft does not involve the utilities in the development of the list of special contemporary issues which the utility is to consider.	

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8 <i>Pre-integration Review of Utility Analysis</i>	<i>Schedule and Filing Requirements (22.080(5))</i>	22.080(5)(B) Within thirty (30) days of the last stakeholder group meeting pursuant to Section (5)(A) of this rule, any stakeholder may provide the utility and other stakeholders with a written statement summarizing any potential deficiencies in or concerns with the utility's proposed compliance with the electric resource planning rules. The utility has the opportunity to address the potential deficiencies or concerns identified by any stakeholder in its preparation of the triennial compliance filing.	22.080(4) Prior to beginning the integrated resource analysis required by 4 CSR 240-22.060, the utility shall make a pre-integration filing with the commission which sets forth the utility's results from its load analysis and forecasting, supply-side resource analysis and demand-side resource analysis. The commission staff shall review each pre-integration filing and shall file a report within sixty (60) days after the pre-integration filing was made which indicates the results of the review. The staff's report shall indicate all of the potential deficiencies or concerns that staff alleges exist with respect to the utility's pre-integration work. In the same timeframe, the public counsel and any stakeholder group participant may also file a report indicating the potential deficiencies or concerns they allege exist.	
9 <i>Transmission and Distribution Analysis Commission Decision 3-2 Staff Position</i>	<i>Schedule and Filing Requirements (22.045)</i>	New rule is necessary in light of the recent development of FERC-regulated regional transmission organizations (RTO) and the anticipated impact that advanced technologies (Smart Grid) may have on transmission and distribution systems in the future.	A new rule is not necessary. Any RTO and advanced technology impacts can be addressed in supply-side resource analysis 22.040.	
10 <i>Requirements for Stakeholders to Provide Evidence of Deficiencies and Suggested Remedies Commission Decision 3-2 MEDA with 10 day turn-around for work papers</i>	<i>Schedule and Filing Requirements (22.080(7) and (8))</i>	See 22.080(7) and (8) which do not require evidence or justification of alleged deficiencies or concerns of Staff/OPC/other interveners.	MEDA proposes more stakeholder accountability for asserting alleged deficiencies. For each alleged deficiency, each party shall provide at least one suggestion for how the deficiency or concern could be remedied. All workpapers, documents, reports, data, computer model documentation, analysis, letters, memoranda, notes, test results, studies, recordings, transcriptions and any other supporting information relating to the alleged deficiency or concern shall be submitted to all parties within five (5) days of filing the report or comments.	
11 <i>Filing of Reports As Part of Annual Update Process Commission Decision: Utility shouldn't have to file two large reports .</i>	<i>Schedule and Filing Requirements (22.080(3))</i>	See 22.080(3) which requires the utility host at least one annual update workshop with the stakeholder group. Following the annual update workshop, the utility must file an annual update report (to include any changes to its adopted resource acquisition strategy) and a summary report (of actions agreed to for next triennial compliance filing or annual update filing) in the case for the last triennial compliance filing. Stakeholders may file comments with the commission concerning the utility's annual update report and summary report.	MEDA proposes an annual update workshop along with the provision to require notification of changes in the utility's [3-year] implementation plan but does not require filing reports as a result of the annual update process.	