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## Energy Efficiency Advocacy Groups: A Study of Selected Interactive Efforts and Independent Initiatives

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Energy Division

**ENERGY EFFICIENCY ADVOCACY GROUPS:  
A STUDY OF SELECTED INTERACTIVE EFFORTS  
AND INDEPENDENT INITIATIVES**

Martin Schweitzer  
Mary English\*  
Susan Schexnayder\*  
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March 1994

Sponsored by

The Pew Charitable Trusts  
and  
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U.S. Department of Energy  
and  
Energy, Environment, and Resources Center  
University of Tennessee, Knoxville

Prepared by the  
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\*Energy, Environment, and Resources Center; University of Tennessee, Knoxville

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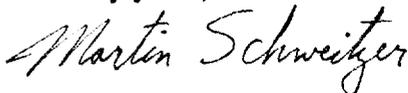
Dear colleague:

The information and analyses presented in the enclosed report are based on a set of ten case studies, but the primary focus of this document is on our overall findings rather than on the details of the individual cases. For those who would be interested in detailed write-ups that explore each of the ten cases in depth, a companion document is available. That volume, *Making a Difference: Ten Case Studies of DSM/IRP Interactive Efforts and Related Advocacy Group Activities* (ORNL/CON-378), is available upon request. If you have not already received this report and you would like to, you can obtain a copy by writing to ORNL and requesting it by title or number. Please address your letter to:

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We hope that you will find the enclosed document useful, and we will be happy to send you the case study report if you would like the additional detail that it provides.

Sincerely yours,



Martin Schweitzer

MS:mh



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## ABBREVIATIONS

Alliance	Alliance for Affordable Energy
AG	Attorney General
ALAV	American Lung Association of Virginia
APCo	Appalachian Power Company
C&I	Commercial and Industrial
CCAP	Center for Clean Air Policy
CCLM	Customer-Controlled Load Management
CFUR	Committee for Fair Utility Rates
CLF	Conservation Law Foundation
CLM	Conservation and Load Management
CO PUC	Colorado Public Utilities Commission
CPG	Campaign for a Prosperous Georgia
CPUC	California Public Utilities Commission
CT	Combustion Turbine
CUC	Consumers' Utility Counsel
CWG	Collaborative Working Group
DCA	Department of Community Affairs
DEP	Department of Environmental Protection
DER	Department of Environmental Regulation
DOE	Department of Energy
DOER	Massachusetts Division of Energy Resources
DP&L	Dayton Power and Light Company
DPU	Department of Public Utilities
DSM	Demand-Side Management
DSWG	Demand-Side Working Group
EEAG	Energy Efficiency Advocacy Group
FEO	Florida Energy Office
FPC	Florida Power Corporation
FP&L	Florida Power and Light Company
GIG	Georgia Industrial Group
IRM	Integrated Resource Management
IRP	Integrated Resource Planning
kW	kilowatt
kWh	kilowatt hour
LAW Fund	Land and Water Fund of the Rockies
LCP	Least Cost Planning
LCIRP	Least Cost Integrated Resource Plan
LEAF	Legal Environmental Assistance Foundation
LP&L	Louisiana Power and Light Company
MASSPIRG	Massachusetts Public Interest Research Group
NCAC	Northwest Conservation Act Coalition
NEES	New England Electric System
NMPC	Niagara Mohawk Power Corporation

NOI	Notice of Inquiry
NOPSI	New Orleans Public Service Inc.
NRDC	Natural Resources Defense Council
NUPs	Non-Utility Parties
OCC	Office of Consumers' Counsel
OEC	Office of Energy Conservation
OER	Office of Energy Resources
ORNL	Oak Ridge National Laboratory
PEP	Pace Energy Project
PG&E	Pacific Gas & Electric Company
PII	Public Interest Intervenors
PSC	Public Service Commission
PSCo	Public Service Company of Colorado
PUCO	Public Utilities Commission of Ohio
Puget Power	Puget Sound Power and Light Company
RIM	Rate Impact Measure
SCC	State Corporation Commission
SCE	Southern California Edison Company
SDG&E	San Diego Gas and Electric Company
SELC	Southern Environmental Law Center
SEPCo	Savannah Electric and Power Company
SEO	State Energy Office
SPUR	Seniors with Power United for Rights
TECo	Tampa Electric Company
TRC	Total Resource Cost
Virginia Power	Virginia Electric Power Company
WUTC	Washington Utility and Transportation Commission
WMECO	Western Massachusetts Electric Company

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## EXECUTIVE SUMMARY

### INTRODUCTION

The term “energy efficiency advocacy group” (EEAG) refers to a non-utility organization that advocates the aggressive use of cost-effective Demand-Side Management (DSM) resources by utilities. EEAGs may be environmental groups, consumer advocacy agencies, or other types of organization with an interest in promoting energy-efficiency. Such organizations, along with various other non-utility groups, participate in a myriad of activities aimed at influencing the policies and actions of utilities and their regulators related to DSM and Integrated Resource Planning (IRP). While such interactions have traditionally taken the form of an adversarial debate (i.e., litigation or regulatory intervention), an increasingly common forum is one in which non-utility groups and utilities cooperatively develop plans, policies, and/or programs. Arrangements of this type are referred to in this report as “interactive efforts.” The collaborative process is the type of interactive effort that provides non-utility parties (NUPs) with the greatest access to decision-making power, because interactions typically are intense and frequent and the parties involved generally try to reach consensus on key issues. Other forms of interactive effort include advisory groups, task forces, and workshops.

This report presents the findings derived from ten case studies of EEAG activities to influence the policies and actions of utilities and their regulators concerning IRP and the use of cost-effective DSM. Nine of these ten cases involve some form of interactive effort, and all of them also include other EEAG activities such as: lobbying and drafting legislation; participating in regulatory proceedings and court cases; energy planning; engaging in education and outreach; performing research and preparing publications; networking and coalition-building; making contact with the news media; and performing community service projects. In nearly all of the cases studied, other non-utility groups also have been involved in attempting to influence utility and regulatory policies and actions. This document presents an overview of all ten cases in order to explore the efficacy of various types of interactive efforts and other EEAG activities and of the contextual and procedural factors that influence their outcomes. The two-year study on which this report is based was undertaken by Oak Ridge National Laboratory (ORNL) and the University of Tennessee’s Energy, Environment, and Resources Center under the sponsorship of The Pew Charitable Trusts, the U.S. Department of Energy’s (DOE) Office of Energy Efficiency and Renewable Energy, and the University of Tennessee.

Nine of the ten cases studied were chosen because a key EEAG involved in the relevant activities receives funding from The Pew Charitable Trusts. An additional case was added to enhance the geographic balance of the study. The ten cases display substantial diversity in terms of their location, processes, longevity, and participants, despite the nonrandom nature of the selection process.

## OUTCOMES

The activities covered in this report do not necessarily represent all of the EEAGs' endeavors. Instead, each case study has focused on EEAG efforts to influence regulatory policy and a particular utility or set of utilities—specifically, the utility(ies) in the interactive effort examined in the case study. This document focuses on the major observable outcomes of these various activities during the two year study period (1992–93). The outcomes of interest are the extent to which utility DSM usage has increased, new regulatory policies have been developed, and relations among the parties have improved. It should be noted that the scope and duration of the different interactive efforts and other EEAG activities vary substantially among the cases studied and that actions taken to date—especially for new efforts— may not yet have resulted in substantial tangible results.

Utility increases in DSM usage and/or program improvements can be characterized as large for two of the interactive efforts studied and small to non-existent in three others. Outcomes in the remaining cases fall between these two extremes. For other key EEAG activities, there is only one case in which EEAG activities have resulted in a large increase in utility DSM usage but six instances in which increases in utility DSM utilization are small to non-existent. Therefore, interactive efforts generally appear to have had greater effects on utility DSM usage than have other EEAG activities, although the achievement of the effects associated with interactive efforts may be assisted by various other EEAG initiatives. In terms of influencing regulatory policy, it appears that interactive efforts in general have had slightly less effect than have other EEAG activities like intervention, settlement negotiations, and introduction of legislation.

The effects of both interactive efforts and other key EEAG activities on relations among interested parties have been positive in most cases. The improved relations among parties that have been associated with other key EEAG activities differ from those observed in interactive efforts in that they generally involve an EEAG's interactions with the public and other groups with similar interests but not its direct relations with utilities.

It is possible to characterize the overall effects achieved by each interactive effort and by other EEAG activities by looking simultaneously at the impacts on DSM usage, regulatory policy, and relations among interested parties. Using this approach, we find that—overall—two of the interactive efforts studied have had large effects, four have had moderate effects, and three have had small effects. For other key EEAG activities, there have been large overall effects in only one case, moderate overall effects in five cases, and small overall effects in four cases. This indicates that the discernible overall effects of interactive efforts have been somewhat greater than those of the EEAGs' other activities, which often have less tangible and immediate effects.

## CONTEXT

To understand why some utilities adopt DSM aggressively while others do not and why interaction concerning DSM is relatively easy in some situations but not in others, both broad

and immediate contextual factors must be understood. Key factors include the economic climate of the utility's service territory, the political climate in which the utility and other key players are operating, the utility's supply and demand situation, the ways in which various interested organizations traditionally have related to each other, and the nature of the public utility commission and its policies. Taken together, all of these factors influence, either directly or indirectly, the relationships among key players, the regulators' decisions, and the level of utility DSM usage.

The regulatory environment is the most potent contextual factor affecting utility usage of DSM and relationships among key players. A regulatory commission's policies on key substantive issues such as lost revenue recovery, financial incentives, and cost-effectiveness tests are major determinants of how aggressively DSM will be pursued by utilities, and these policies also affect relationships among key players. But the regulatory environment does not exist in isolation. It both affects and is affected by a broad spectrum of other factors. Poor economic conditions; the frustration and restlessness of ratepayers, especially large industries; the possibility of industries going off a utility's system; the prospect of deregulation: all of these serve to diminish the chances for aggressive DSM (at least as it has traditionally been practiced) and to create friction among players in utility regulatory issues. However, as a counterweight to these forces, there are the 1990 Clean Air Act amendments; the increasing acceptance of IRP and DSM; the growing recognition that the costs of environmental externalities should not be disregarded; and, prospectively, initiatives to reduce greenhouse gas emissions. The broad context within which EEAGs work has never been stable, but it is now more conflicted and unpredictable than ever.

## **INTERACTIVE EFFORTS**

In seven of the nine cases where an interactive effort has taken place, the interested parties are, or were, engaged in a collaborative. In one of the cases involving collaborative interactions, a utility-specific advisory committee and a statewide monitoring and evaluation workshop also were investigated. Rounding out the case studies is one "cooperative arrangement" and one task force.

NUPs involved in interactive efforts typically fall into the following major categories: non-profit organizations, often advocating environmental protection and energy conservation; business groups, frequently representing industrial and commercial customers; government agencies, often representing consumer interests; and regulatory agency staff. Most of the interactive efforts studied have representatives from all of these types of organization.

Most of the interactive efforts have been undertaken with the intent of developing utility DSM programs. Several efforts have had the additional objective of establishing policy concerning key DSM/IRP issues (such as financial incentives and lost revenue recovery), and one interaction has addressed regulatory policy exclusively. It is obvious that narrowly defined efforts (e.g., those designed to develop a single DSM program or address one specific policy issue) present participants with the least opportunity to achieve results. The objectives of individual participants have not varied much from case to case. EEAGs

typically want to maximize the use of cost-effective DSM resources, and this objective is sometimes shared by government agencies responsible for environmental and/or energy matters within the state. Controlling utility costs is an overriding concern of industrial and commercial organizations, who often are joined in this by government ratepayer advocates and the utilities themselves. On occasion, utilities and various NUPs also have expressed a concern with avoiding litigation and preventing delays in utility planning and implementation.

Key factors that we found to be related to the outcomes of interactive efforts include: the utility's need for new capacity; the issues addressed by the interactive effort; the extent to which the utility shares decision-making power with non-utility groups; the use of a "non-combatant" mediator to resolve conflicts between other participants; the existence of clear regulatory policies on key issues like lost revenue recovery and financial incentives; and the support of the presiding regulatory body for interactive efforts.

## **OTHER KEY EEAG ACTIVITIES**

To influence the DSM and IRP policies and actions of utilities and their regulators, non-utility groups initiate or otherwise become involved in a wide variety of activities in addition to interactive efforts. Each of these activities has some effect, although it may not be immediately apparent; the effects may also be unexpected or extremely small. Some of the various activities undertaken by EEAGs have specific goals (e.g., to have a state legislature pass a particular piece of legislation) and these activities typically have near-term, concrete outcomes. These can be categorized as "tangible outcome activities" and include: lobbying and drafting legislation; participating in regulatory proceedings and court cases; and energy planning. Performing community service projects also has some characteristics in common with the aforementioned activities.

Other activities that non-utility groups initiate or participate in have less specific goals and more nebulous outcomes than the "tangible outcome activities" introduced above. These activities include: engaging in education and outreach; performing research and preparing publications; networking and coalition-building; making contact with the news media; and, to some extent, performing community service projects. These activities typically are not associated with a particular utility proposal or regulatory proceeding. Their outcomes, if at all discernable, are usually described with phrases such as "had an influence on," "may have contributed to," or "laid the groundwork for."

Participating in regulatory proceedings is the activity on which the EEAGs investigated in the case studies have traditionally relied. In fact, intervening in cases (e.g., rate cases, IRP certifications, and need determination cases) has dominated the activities of most of the EEAGs studied. Two factors appear to influence the frequency of EEAGs' participation in interventions. The first is the number of cases occurring; the second is resource limitations, particularly if the menu of possible activities has expanded to include interactive efforts such as collaboratives, advisory committees, and task forces. Participating in more general regulatory proceedings concerning policy has been a particularly fruitful venue for

influencing DSM. Also, participating in settlement negotiations appears to boost the influence of EEAGs in the regulatory forum.

All of the EEAGs studied engage in some form of networking or coalition building. The likely outcome of all networking and coalition-building activities is that the influence of the participating parties is increased, since a powerful collective voice is stronger than the sum of the separate voices. Many of the organizations studied also use the news media regularly to publicize their activities and accomplishments, to make statements in response to commission actions, and to spur public awareness of energy conservation and efficiency. And more than half of the EEAGs sponsor education and outreach activities to inform individuals and organizations about DSM issues.

## SUMMARY OF FINDINGS

There is no one EEAG activity that is the “best” in terms of promoting IRP and cost-effective DSM. EEAG activities within interactive efforts, the regulatory arena, and other venues are complementary and interrelated: each EEAG activity is affected by other activities undertaken, as well as by the immediate and broader contexts within which they take place. The setting for regulatory and utility decisions concerning DSM and IRP is multilayered and complex, and this complexity—and its situation-specific dynamics—must be taken into account in determining which EEAG efforts are most likely to be productive, at what points in time and under what conditions. Nevertheless, the following key findings of this project may be helpful in making such determinations:

- Interactive efforts offer the greatest promise of directly and rapidly promoting DSM usage and improving relations among key players. They may also directly influence regulatory policy. However, whether an interactive effort will have substantial impacts depends on situation-specific factors: in particular, on the scope of the effort, the degree to which the effort is the locus of decision-making, the predisposition of the utility to adopt aggressive DSM, and regulatory attitudes toward DSM and toward collaboration between utilities and NUPs.
- Activities in the regulatory arena (e.g., commenting on utility plans, intervening in regulatory proceedings) have perhaps the greatest chance of directly influencing regulatory policy and are virtually essential if an EEAG wants to be taken seriously in this arena. The degree of immediate influence of such activities depends greatly on how favorably disposed the regulators and their staff are to DSM and IRP, as well as on economic and political contextual factors.
- Other EEAG activities such as networking, coalition-building, research and education, and developing media contacts are generally less likely to directly and immediately affect DSM usage, regulatory policy, and relations among key players. However, they are important counterparts to work within interactive efforts and the regulatory arena, and can have substantial payoffs over the long term. The extent to which they do pay off,

especially in the short term, depends in part on situation-specific factors: in particular, on the economic, political, and regulatory environments.

- In general, the climate for DSM and IRP is mixed at present. Utilities that have impending capacity shortages are more likely to favor aggressive DSM, but many utilities currently have capacity surpluses, especially those that have new capacity from non-utility generators and from large power plants that have recently come on line. Poor economic conditions also tend to be adverse to DSM, as rate competitiveness and short-term cost considerations preoccupy utilities, their customers, politicians, and regulators. In contrast, the stringent air quality standards resulting from the 1990 Clean Air Act amendments give utilities (especially those that rely primarily on fossil fuel plants) an added impetus to evaluate the viability of their supply-side resources and to aggressively pursue DSM. The concept of IRP was backed in the 1990 Clean Air Act and the 1992 Energy Policy Act and has by now become fairly well-institutionalized, but it remains uncertain whether meaningful IRP can be undertaken in a climate of rate competitiveness and possible restructuring of the electric utility industry.
- Interactive efforts work best with utilities that are predisposed to favor IRP and aggressive DSM and that are willing to “open up” their decision-making processes. In addition, all participants in an interactive effort must agree on a common purpose, must be willing to compromise, and must stick with the effort. Once the effort is under way, losing participants can damage it: people will start to question whether it can achieve tangible outcomes. A broad range of participants formally involved in the effort (e.g., regulatory personnel, other state agency personnel, and ratepayer representatives as well as utility staff and EEAG representatives) is neither essential nor always desirable, but informal exchanges among all the potentially interested and influential players will improve the effort’s likelihood of success.
- In deciding how to best utilize their finite resources, EEAGs would be well-advised to do the following: follow a multi-year strategic plan that gives chosen activities enough time to pay off but is flexible enough to allow change when necessary; have a range of expertise on staff, ideally including both lawyers and others (e.g., economists, engineers), so that the EEAG can act effectively within the regulatory arena but can also demonstrate that it has internal technical expertise; network with other EEAGs around the nation, but do not import ideas and information wholesale without tailoring them to the EEAG’s state or region; build coalitions with like-minded groups and ad hoc alliances with other, dissimilar organizations (e.g., industries, independent power producers) by proposing creative approaches that advance the EEAG’s basic mission while serving others’ interests as well; and do not overlook the possible value of litigation (and the threat of such action) but use this option very selectively.

This report does not propose a single course of action for all EEAGs to follow because the most appropriate path is determined by a number of factors that vary substantially from case to case. However, by providing an analysis of selected efforts, this document may help EEAGs to choose the approaches that best fit their own particular circumstances.

## 1. INTRODUCTION

Non-utility groups participate in a myriad of activities—initiated by themselves and others—aimed at influencing the policies and actions of utilities and their regulators related to Integrated Resource Planning (IRP) and Demand-Side Management (DSM). Some of these activities are not directed toward a particular regulatory body or utility but are designed to influence public knowledge and acceptance of IRP and DSM. Other activities involve interaction with a particular utility or regulatory body. The traditional forum for this interaction is an adversarial debate (i.e., litigation or regulatory intervention) over the merits of a utility's plan or proposed action. However, an increasingly common forum is one in which non-utility groups and utilities cooperatively develop plans, policies, and/or programs. Arrangements of this type are referred to in this report as "interactive efforts."

This report presents the findings derived from ten case studies of energy efficiency advocacy groups<sup>1</sup> (EEAG) activities to influence the use of cost-effective DSM and to promote IRP; nine of these ten cases involve some form of interactive effort and all of them also include other EEAG activities. The goal of this research is not to measure the success of individual activities of the various groups, but to glean from a collective examination of their activities an understanding of the efficacy of various types of interactive efforts and other EEAG activities and of the contextual and procedural factors that influence their outcomes. The two-year study on which this report is based was undertaken by Oak Ridge National Laboratory (ORNL) and the University of Tennessee's Energy, Environment, and Resources Center under the sponsorship of The Pew Charitable Trusts, the U.S. Department of Energy's (DOE) Office of Energy Efficiency and Renewable Energy, and the University of Tennessee. Findings of the first year of the study are reported in a previous ORNL report (Schweitzer, English, Yourstone, and Altman 1993). The detailed case studies from which the current report's conclusions are derived are presented in a companion document (English, Schweitzer, Schexnayder, and Altman 1994).

## BACKGROUND

This report builds on the findings of the first year of our research and on a previous examination of nine cases of DSM collaboration documented in an earlier ORNL report (Raab and Schweitzer 1992), but it is broader in scope. In addition to exploring selected interactive efforts (see Table 1.1) and the contexts in which they occur, this report also examines other activities that EEAGs undertake to influence utility DSM usage and regulatory policy. But the activities covered in this report do not necessarily represent all of the EEAGs' endeavors. Instead, each case study has focused on EEAG efforts to influence regulatory policy and a particular utility or set of utilities—specifically, the utility(ies) in the interactive effort examined in the case study (see Table 1.2).

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<sup>1</sup>"Energy efficiency advocacy group" refers to a non-utility organization that advocates the aggressive use of cost-effective DSM resources by utilities. These groups may be environmental groups, consumer advocacy agencies, or other types of organization with an interest in promoting energy-efficiency.

**Table 1.1. Summary of interactive efforts studied**

Interactive effort	Dates	State	Utilities	EEAGs	Other non-utility parties (NUPs)
<b>California Interactions</b>					
1. California Collaborative	8/89-1/90	CA	Pacific Gas and Electric Co. (PG&E), San Diego Gas and Electric Co. (SDG&E), Southern California Edison Co. (SCE), and Southern California Gas Co.	Natural Resources Defense Council (NRDC)	Three other non-profit organizations, four business groups, two government agencies, and one regulatory staff organization.
2.a. Utility-specific follow-ups	1/90-4/90	CA	Same as for collaborative	NRDC	One other non-profit organization, one government agency, and one regulatory staff organization. <sup>1</sup>
2.b. PG&E Advisory Committee	10/90-present	CA	PG&E	NRDC	Largely same as for collaborative
3. Monitoring and Evaluation Workshop	Summer-fall 1992	CA	Same as for collaborative	NRDC	Same as for collaborative
Dayton Power and Light Company (DP&L) Collaborative	2/92-present	OH	DP&L	Sierra Club/Center for Clean Air Policy (CCAP)	Five business groups, five government agencies, and one regulatory staff organization.
Georgia Collaborative	2/92-12/93	GA	Georgia Power Company	Campaign for a Prosperous Georgia (CPG)/Southern Environmental Law Center (SELC)	Two business groups, three government agencies, and one regulatory staff organization. <sup>2</sup>

Table 1.1. Continued

Interactive effort	Dates	State	Utilities	EEAGs	Other NUPs
New Orleans Collaborative	7/91-present	LA	New Orleans Public Service Inc. (NOPSI), Louisiana Power and Light Company (LP&L) <sup>3</sup>	Alliance for Affordable Energy (Alliance)	Five other non-profit organizations, five business groups, and one regulatory staff organization
Niagara Mohawk Power Corporation (NMPC) Cooperative Arrangement	Spring 1992	NY	NMPC	Pace Energy Project (PEP)	None
Public Service Company of Colorado (PSCo) Collaborative	7/91-2/93	CO	PSCo	Land and Water Fund of the Rockies (LAW) Fund	One other non-profit organization, five business groups, four government agencies, one regulatory staff organization <sup>1</sup>
Puget Sound Power and Light Company (Puget Power) Collaborative	7/90-present	WA	Puget Power	Northwest Conservation Act Coalition (NCAC)	Three other non-profit organizations, five business groups, three government agencies, and one regulatory staff organization
Virginia's Conservation and Load Management (CLM) Task Force	6/92-1/93	VA	Virginia Electric Power Company (Virginia Power), Appalachian Power Company (APCo), and five others	SELC	Two other non-profit organizations, two business groups, two government agencies, and one regulatory staff organization
Western Massachusetts Electric Company (WMECO) Collaborative	3/89-present	MA	WMECO	Conservation Law Foundation (CLF)	One other non-profit organization, two government agencies

<sup>1</sup>This is not an exhaustive list, but it describes the most active participants.

<sup>2</sup>Some government agencies stopped attending meetings because of perceived violation of Georgia Open Meeting Law.

<sup>3</sup>NOPSI and LP&L are subsidiaries of the Entergy Corporation.

**Table 1.2. EEAGs studied and associated utilities and regulatory agencies**

Energy efficiency advocacy groups	Utilities	Regulatory agency
Alliance for Affordable Energy	NOPSI and LP&L	New Orleans City Council
CPG and SELC (in Georgia)	Georgia Power Company	Georgia Public Service Commission (PSC)
CLF	WMECO	Massachusetts Department of Public Utilities (DPU)
LAW Fund	PSCo	Colorado Public Utilities Commission (CO PUC)
Legal Environmental Assistance Foundation (LEAF) <sup>1</sup>		Florida PSC
NRDC	PG&E	California Public Utility Commission (CPUC)
NCAC	Puget Power	Washington Utilities and Transportation Commission (WUTC)
PEP	NMPC	New York PSC
SELC (in Virginia)	Virginia Power and APCo	Virginia State Corporation Commission (SCC)
Sierra Club (Ohio Chapter) and CCAP	DP&L	Public Utilities Commission of Ohio (PUCO)

<sup>1</sup>LEAF's Energy Advocacy Program has not yet been involved in any formal interactive efforts. The case study examines LEAF's efforts to promote DSM in Florida.

Our ten case studies examine the activities of 12 EEAGs. In nearly all of these cases, other non-utility groups also have been involved in attempting to influence utility and regulatory policies and actions. However, this study focuses on EEAGs because of their consistent emphasis on promoting the use of cost-effective DSM resources and because these are the groups funded by The Pew Charitable Trusts, the major sponsor of this research. The activities in which EEAGs engage include traditional adversarial approaches as well as other strategies. Apart from interactive efforts, the specific activities discussed in this study are: lobbying and legislation; regulatory proceedings (e.g., interventions, settlement negotiations); court cases; energy planning; education and outreach; research and publications; networking and coalition-building; media contacts; and community service projects.

Although interactive efforts have not supplanted traditional adversarial interactions, the practice of utilities and NUPs<sup>2</sup> working together on IRP and DSM issues has become increasingly common in recent years. A primary reason for the growth of interactive efforts has been the groundbreaking work of a few EEAGs—in particular, the Conservation Law Foundation and the Natural Resources Defense Council. CLF has been especially active in the promotion of interactive efforts: it helped instigate and has participated in the first formal utility/NUP collaborative in the U.S. (the Connecticut Light and Power Collaborative, begun in February 1988) and, shortly thereafter, was instrumental in the formation and development of several other collaboratives in New England.<sup>3</sup> These early efforts have provided other EEAGs with creative ideas both about how to get a collaborative going and about what collaborative efforts can accomplish, in terms of policies and programs that promote cost-effective DSM.

A number of organizational arrangements are available to NUPs and utilities who choose to interact cooperatively with each other. The collaborative process is the approach that provides NUPs with the greatest access to decision-making power, because the parties involved generally try to reach consensus on key issues. Collaborative interactions typically are intense and frequent. Advisory groups or task forces are another form of interactive effort, though their scope is usually more limited than that of collaboratives and their goal, rather than to reach consensus, is to provide input and guidance. Workshops sometimes are used by regulatory bodies to encourage interaction between utilities and non-utility groups, but their formats and goals can vary considerably.

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<sup>2</sup>NUPs include EEAGs, business and industry groups, government agencies, and other organizations that traditionally are involved with utility issues and act to influence utilities through intervention, collaboration, or other activities.

<sup>3</sup>For a discussion of these collaboratives, see Raab and Schweitzer (1992).

## RESEARCH METHODS

### Case Study Selection

Nine of the ten cases studied were chosen because a key EEAG involved in the relevant activities receives funding from The Pew Charitable Trusts. In two instances, an additional EEAG was examined because of the importance of its contribution to the case at hand. An additional case (the New Orleans Collaborative and related activities of the Alliance) was added to enhance the geographic balance of the study. The ten cases display substantial diversity in terms of their location, processes, longevity, and participants, despite the nonrandom nature of the selection process. Case study locations are illustrated in Fig. 1.1.

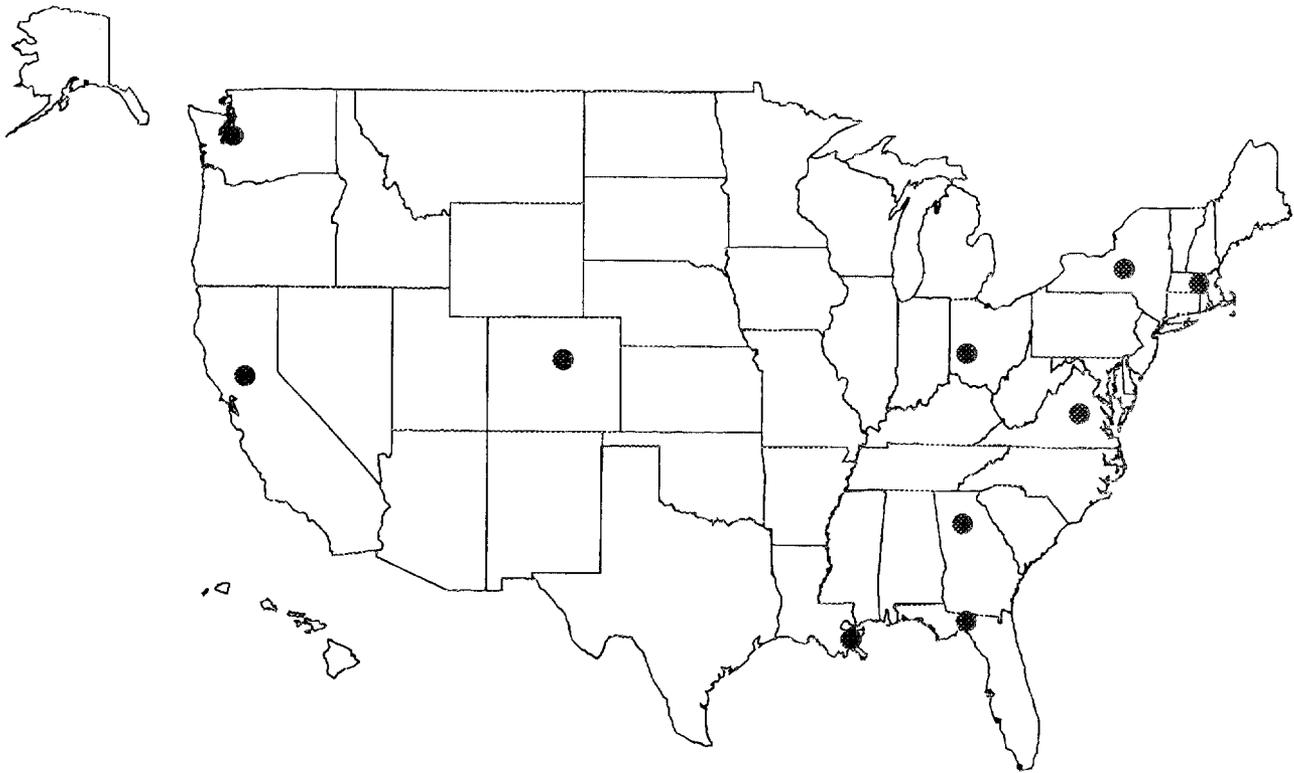


Fig. 1.1. Case study locations.

### Data Collection and Analysis

Data were collected through a review of written materials and by interviews. Written materials included: memoranda of understanding; regulatory orders; utility and non-utility party reports; utility plans; and newspaper clippings solicited from people involved in each case. A written survey was used during the first year of the study, along with extensive interviews conducted either over the telephone or in person. Those interviewed included

utility staff, regulators, regulatory staff,<sup>4</sup> and representatives of non-utility groups. Second-year interviews targeted similar people, but in some cases other individuals were interviewed, depending on their participation in the ongoing activities and their availability for interview. Face-to-face interviews were conducted for each case study in either the first or second year of data collection.

In both the first and second years of the study, the interviews conducted over the telephone and in person were guided by interview protocols. Different protocols were used for different categories of respondents (e.g., utility personnel, non-utility groups, and regulators). The interview protocols solicited background information about the parties involved, but the main thrust was to elicit the experiences and opinions of those interviewed through an extensive set of open-ended questions, both focused and exploratory.

Individual case-study reports were written at the end of each of the two years of data collection and were submitted to key respondents for their review and comment. The compiled case studies were then qualitatively analyzed to identify outcomes associated with various activities and to ascertain which factors associated with the activities influence their outcomes. The draft case studies for the first year were not published but served as the foundation for the second round of case studies, which, as noted above, are collected in a companion document (English, Schweitzer, Schexnayder, and Altman 1994).

Interviews were conducted between April and November 1992 and again between June and November 1993. The information and analyses presented in this final report, therefore, reflect conditions as they existed in late 1993. Because the interactive efforts and other activities are subject to frequent change, some findings presented in this report may differ somewhat from those previously presented in the first year's report (Schweitzer, English, Yourstone, and Altman 1993).

## SCOPE OF REPORT

The remainder of this report presents key findings from our two-year examination of the ten cases described above. Chapter 2 discusses the overall effects that interactive efforts and other EEAG activities have had and also describes their specific effects on DSM usage, regulatory policy, and relations among participants. In Chapter 3 we examine contextual factors and the effects they have had on the outcomes of the various activities. This chapter considers the environment—economic, political, utility, and regulatory—in which activities occur, as well as the relationships of key players. Interactive efforts are the topic of Chapter 4. In it, we discuss key features of the interactive efforts—initiation, participants, purpose, process, and related policies and interactions—and resulting outcomes. Chapter 5 explores other EEAG activities and their associated outcomes. In Chapter 6, we summarize and synthesize the results of the preceding chapters.

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<sup>4</sup>“Regulators” are the individuals who serve on Public Utility Commissions or similar regulatory bodies, while “regulatory staff” are the professionals who provide advisory assistance to commission members and/or play an advocacy role in regulatory proceedings.



## 2. KEY OUTCOMES AND FUTURE PROSPECTS

Nine of the ten cases introduced in Chapter 1 involve formal interactive efforts between utilities and NUPs. In addition, all of the cases involve other activities undertaken by non-utility groups to influence the policies and actions of utilities and regulatory agencies related to IRP and/or the use of DSM resources. This chapter focuses on the major observable outcomes of these various activities during the study period (1992–93). The outcomes of interest are the extent to which utility DSM usage has increased, new regulatory policies have been developed, and relations among the parties have improved. Separate sections of this chapter are devoted to each of the three outcome measures. In addition, we describe and compare the **overall** effects achieved by interactive efforts and by other activities and we briefly discuss their future prospects.

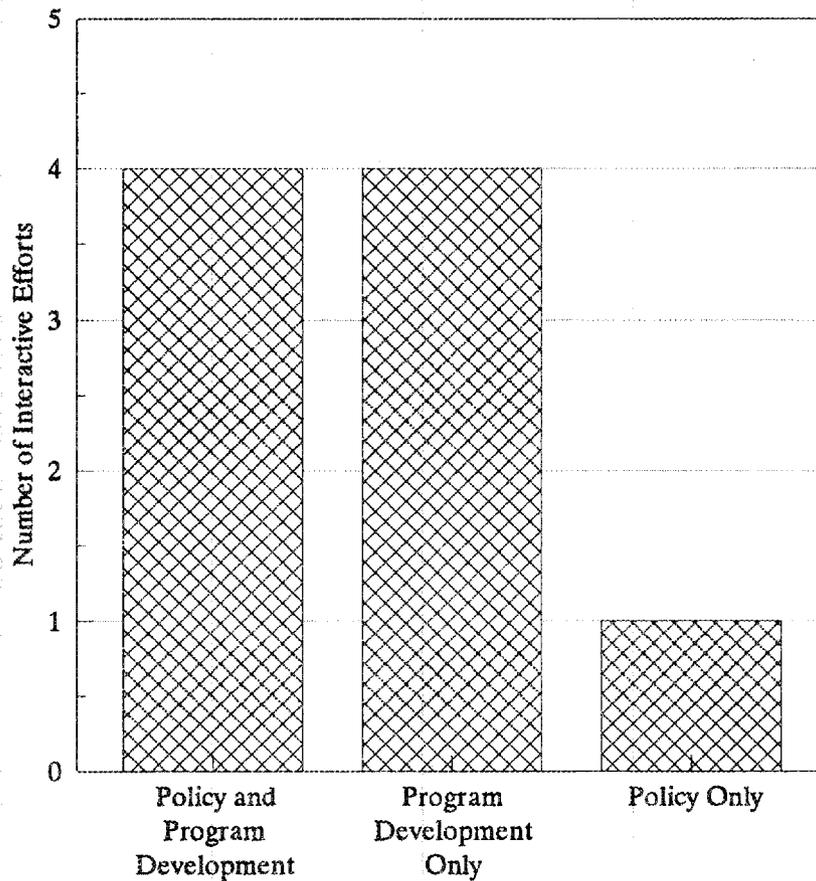
It is important to note that the initial formation of nearly all the interactive efforts studied was influenced to some extent by previous efforts of the EEAGs. Table 2.1 shows how various important EEAG activities contributed to the establishment of each of the interactive efforts. In many cases, the influence of the EEAGs was substantial. For instance, the PSCo Collaborative was formed as the result of a rate case settlement agreement that was drafted largely by the LAW Fund. In California, the efforts of NRDC seem to have had a strong influence on the regulatory commission's decision to encourage key parties to participate in a collaborative. And in Massachusetts, the formation of that state's collaboratives owe much to past interventions and educational efforts undertaken by CLF in conjunction with other intervenors. While EEAG influence on interactive effort formation was not always as strong as in the examples cited, it appears that the activities of such groups contributed to the establishment of interactive efforts in nearly all the cases studied.

In considering the information presented below, it should be noted that the term "outcome" (or "effect") refers only to observable results associated with an interactive effort or other activity; this term is not meant to imply that the activity has been the sole cause of the results observed. As discussed in the following chapters of this report, there are many factors that help to determine the nature and extent of an activity's outcomes. In addition, it should be recognized that the issues addressed by the interactive efforts and other EEAG activities vary—sometimes substantially—from case to case. Of the nine interactive efforts studied, about half of them address both policy and program development issues, while an equal number deal with program development issues only (see Fig. 2.1). Clearly, these different scopes of effort present the participants with significantly different opportunities for realizing outcomes. Similarly, the types of independent initiatives undertaken by EEAGs (e.g., lobbying, networking, education) vary considerably from case to case. And with both interactive efforts and independent EEAG initiatives, there is substantial variation in when an effort was begun and how long it has lasted. This too can have a major impact on the nature and level of a particular outcome.

Finally, it should be noted that the three outcome measures discussed here—DSM usage, regulatory policies, and relations among parties—have important differences. DSM usage is the most immediately tangible (and immediately significant) outcome, but regulatory policies

**Table 2.1. Effects of key EEAG activities on formation of interactive efforts**

Key advocacy group(s)	Outcomes
Alliance for Affordable Energy	Alliance’s introduction of proposed Least Cost Planning (LCP) legislation probably expedited passage of city ordinance requiring LCP and creating the New Orleans Collaborative, and possibly was key factor in getting this law enacted.
CLF	CLF’s intervention (along with other groups) in rate cases and other regulatory proceedings, the publication of <i>Power to Spare</i> by CLF and allied groups, and CLF’s request that the Massachusetts DPU order utility participation in a collaborative process promoted the initiation of collaborative activity throughout Massachusetts.
CPG/SELC (in Georgia)	CPG’s proposal of an “All Parties’ Conference”-type forum to discuss LCP-related issues, CPG’s and SELC’s repeated interventions in regulatory proceedings, and CPG’s long history of other activities probably all contributed to the establishment of the Georgia Collaborative.
LAW Fund	Rate case settlement agreement, drafted largely by LAW Fund, stipulated the establishment of PSCo Collaborative.
LEAF	No formal interactive effort has yet been initiated.
NCAC	NCAC’s agreement with Puget Power and other parties to work together on a regulatory reform plan for the utility marked the formation of the Puget Power Collaborative.
NRDC	NRDC’s report on declining conservation in California and its prodding of regulators and other key parties strongly influenced the regulatory commission to encourage establishment of California Collaborative.
PEP	Detailed comments by Public Interest Intervenors (PII) on utility DSM plans and follow-up discussions between PEP, NRDC, and NMPC contributed to formation of the cooperative arrangement between PEP and NMPC.
SELC (in Virginia)	SELC’s participation in the SCC’s DSM policy investigation as well as its education and outreach efforts might have had some indirect influence on SCC decision to establish CLM Task Force.
Sierra Club/CCAP	Rate case settlement established current DP&L Collaborative. While neither Sierra Club nor CCAP were directly involved in negotiations leading to stipulation, Sierra Club intervened shortly after the settlement was reached and became a charter member of the new collaborative.



**Fig. 2.1. Issues addressed by interactive efforts.**

and relations among parties set the stage for future DSM usage. Accordingly, regulatory policy and relations among parties are valuable indicators of changes to come, even though the DSM/IRP potential of these two types of outcomes may not be realized for a number of years.

## **DSM USAGE**

### **Effects of Interactive Efforts**

Table 2.2 shows how utility DSM usage has been affected by each of the interactive efforts studied. Not surprisingly, the magnitude of these effects varies significantly among the different cases. Impact magnitude in any given case can be measured qualitatively, based on the extent to which the interactive effort has influenced the DSM programs developed for the involved utility, the nature of those programs (in terms of the increase in expenditures and savings over past years, comprehensiveness, scale, and other factors), and the degree of acceptance of the programs in question by the presiding regulatory body. In California, for

**Table 2.2. Major effects of interactive efforts on utility DSM usage**

Interactive Effort	Outcomes
<b>California Interactions</b>	
1. California Collaborative	<i>Energy Efficient Blueprint for California</i> , developed by whole collaborative and accepted by CPUC, calls for utility investment in DSM to increase almost 100% by the end of 1991.
2a. Utility-specific follow-ups	PG&E's 1993 DSM budget of \$275 million represents more than a 150% increase over 1991 pre-collaborative DSM budget. Savings also have increased rapidly. Participants believe programs are better than they would otherwise be.
2b. PG&E Advisory Committee	
DP&L Collaborative	DSM programs approved by PUCO are probably better than they would have been without collaborative (due to collaborative influence on utility filing and stipulated settlement)—greater variety, better designed and targeted, and leading to greater energy savings. Collaborative probably did not increase amount of DSM expenditures.
Georgia Collaborative	Residential programs of Georgia Power and Savannah Electric and Power Company (SEPCo) are probably more aggressive and will lead to greater energy savings than would otherwise have been the case.
New Orleans Collaborative	Probably little collaborative effect on amount of DSM specified by utility in its plans.
NMFC Cooperative Arrangement	Commercial and Industrial (C&I) program eventually adopted to capture lost opportunities in new construction reflects many ideas from Cooperative Arrangement, but scale is smaller than PEP wants.
PSCo Collaborative	Programs developed by collaborative are better than would have been produced through litigation—more comprehensive and probably greater savings.
Puget Power Collaborative	Post-collaborative expenditures and projected savings (based on consensual DSM goals and budgets) are substantially greater than prior to collaborative.
Virginia's CLM Task Force	DSM usage not directly addressed.
WMECO Collaborative	1991, 1992, and 1993 filings were done by consensus. Savings and expenditures are probably higher than they would have been, although spending levels declined significantly from 1992 to 1993. However, program improvements have been made, and savings are not expected to decrease.

example, the impacts of the collaborative on DSM usage can be classified as large because consensus was reached on an *Energy Efficiency Blueprint for California* (1990) which nearly doubled utility investment in DSM, and this plan was accepted by the CPUC. Interactive efforts with less direct effect on utility DSM decisions, less dramatic savings, and/or less acceptance by regulators would tend to have their outcomes classified as moderate or small, depending on their particular set of circumstances. Altogether, utility increases in DSM usage and/or program improvements can be categorized as large in two of the cases studied and small to non-existent in three others. Outcomes in the remaining cases fall between these two extremes.

### **Effects of Other Key EEAG Activities**

The effects on utility DSM usage of some of the most significant other activities undertaken by EEAGs are presented in Table 2.3. As with interactive efforts, the magnitude of effects can be measured qualitatively, based on the extent to which key EEAG activities have influenced the DSM programs developed for the involved utility, the nature of those programs, and the degree of regulatory acceptance. Once again, a broad range of outcomes is illustrated by the cases studied. The only case in which EEAG activities have resulted in a large increase in utility DSM usage is where intervention and subsequent settlement negotiations with DP&L led to a 1991 agreement by the utility to spend \$60 million on DSM over a four year period. While neither the Sierra Club nor the CCAP were directly involved in the negotiations leading to this agreement, other groups with whom these organizations have been aligned in other cases were key players in the settlement process.<sup>5</sup> In contrast with the scarcity of cases in which a large increase in utility use of DSM resources has followed EEAG initiatives, there have been six instances in which increases in utility DSM utilization are small to non-existent. The effects of interactive efforts (described above) have been larger than this in all but two of the cases studied. Therefore, interactive efforts generally appear to have had greater effects on utility DSM usage than have other EEAG activities, although the achievement of the effects associated with interactive efforts may be assisted by various other EEAG initiatives undertaken previously.

## **REGULATORY POLICY**

### **Effects of Interactive Efforts**

The effects on regulatory policy of each of the interactive efforts studied are shown in Table 2.4. For this outcome measure, the magnitude of effects in any given case can be determined qualitatively based on the extent to which the interactive effort has influenced key regulatory policies and the nature of those policies (in terms of their type, number, and efficacy). The largest impacts have occurred in the California interactions and the Puget Power Collaborative. In the former case, the interested parties reached agreement on the use of an appropriate cost-effectiveness test and on financial incentives for the utility. In the

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<sup>5</sup>Also, the Sierra Club intervened in the case shortly after the stipulated agreement was reached and became a charter member of the collaborative established as part of this settlement.

**Table 2.3. Major effects of other key EEAG activities on utility DSM usage**

Key advocacy group(s)	Outcomes
Alliance for Affordable Energy	City Council's decision to approve much more DSM than contained in utility's proposal might have been influenced to some extent by Alliance's long-running efforts in support of DSM.
CLF	Negotiations with utility prevented deep cuts in WMECO's DSM budget.
CPG/SELC (in Georgia)	Intervention and settlement negotiations might have influenced expansion of rebate program.
LAW Fund	No direct effect on utility DSM usage.
LEAF	No major effect yet on utility DSM usage.
NCAC	NCAC's Regional Least Cost Power Plans promote utility DSM usage.
NRDC	<p data-bbox="662 883 1384 987">NCAC has worked on Washington Energy Strategy Committee, resulting in strategy that relies on DSM savings and renewables to a considerable extent.</p> <p data-bbox="662 1010 1384 1072">DSM component of rate case settlement represents increased usage over previous years.</p>
PEP	<p data-bbox="662 1100 1414 1161">Meetings with utilities on 1991-92 DSM plans resulted in revised plans with slightly increased levels of DSM spending.</p> <p data-bbox="662 1198 1414 1289">PSC decision on NMPC rate case in early 1993 reflects PEP's concerns by limiting use of "subscriptive service" approach and by increasing the utility's energy savings goals.</p>
SELC (in Virginia)	No direct effect on utility DSM usage.
Sierra Club/CCAP	<p data-bbox="662 1376 1414 1540">Rate case settlement in late 1991 included agreement that DP&amp;L would spend \$60 million on DSM over four year period. (Neither Sierra Club nor CCAP were directly involved in negotiations leading to agreement, but they became actively involved shortly thereafter.)</p> <p data-bbox="662 1576 1414 1708">Settlement of IRP cases in 1993 contains mutually-acceptable set of programs and establishes that the \$60 million to be spent by DP&amp;L on DSM applies to program costs only (and does not include lost revenues)</p>

**Table 2.4. Major effects of interactive efforts on regulatory policy**

Interactive Effort	Outcomes
<b>California Interactions</b>	
1. California Collaborative	Participants agreed to use Total Resource Cost (TRC) Test to determine cost-effectiveness. They also agree on financial incentives (with specifics to be determined separately for each utility).
2a. Utility-specific follow-ups	Parties worked out specifics of financial incentives.
2b. PG&E Advisory Committee	
3. Monitoring and evaluation workshop	Parties agreed to replace energy estimates with verified savings and to use net-to-gross ratios in measuring DSM results.
DP&L Collaborative	No regulatory policy.
Georgia Collaborative	Cost recovery and incentive mechanisms (reached by some parties in stipulation) were probably influenced to some extent by collaborative.
New Orleans Collaborative	Collaborative consensus decisions have influenced utility plan in areas of program cost/lost revenue recovery and official discount rate.
NMPC Cooperative Arrangement	No regulatory policy was discussed.
PSCo Collaborative	No direct effect on regulatory policy (collaborative did not address policy issues).
Puget Power Collaborative	Incentives approved by WUTC were largely consensual. Lost revenue recovery mechanism (decoupling) approved by WUTC was probably influenced by collaborative.
Virginia's CLM Task Force	Inputs by SELC and some other Task Force participants might have been an important factor in the SCC's decision not to order the use of the Rate Impact Measure (RIM) Test as a threshold test as advocated by industrial customers, but the SCC decision is not strongly pro DSM.
WMECO Collaborative	Few regulatory policy issues were discussed (most were decided by state regulators very early in life of collaborative). Consensus was not achieved on financial issues.

latter case, consensus has been reached on a financial incentive mechanism and the revenue recovery arrangement approved by the state regulatory agency has been influenced to some extent by the collaborative group. In contrast, there have been four instances in which the interactive effort under study has had no apparent direct effect on the policy decisions of the presiding regulatory body. In the remaining three cases, the interactive effort seems to have had some effect on regulatory policy, but to a lesser extent than in the California and Puget Power cases.

### **Effects of Other Key EEAG Activities**

Table 2.5 illustrates the effects that some of the most significant other EEAG activities studied have had on regulatory policy. Once again, the magnitude of effects can be measured qualitatively based on the extent to which key EEAG activities have influenced regulatory policies and the nature of those policies. In two cases, the outcomes resulting from other EEAG initiatives have been large. In New Orleans, without the Alliance's introduction of an ordinance requiring utilities to engage in LCP, it is very likely that the city would not have passed LCP legislation as early as it did, and it is possible that such legislation might not have passed at all. In the other case where substantial effects have occurred, the Colorado state regulatory agency has accepted (with minor modifications) the IRP process proposed by the LAW fund as part of its intervention in a regulatory proceeding. At the opposite end of the continuum, there are four cases in which other EEAG initiatives have had little or no direct effect on regulatory policy. The remaining four cases fall between these two extremes.

For both interactive efforts and other EEAG activities, the observed effects on regulatory policy have been large in two cases and small to non-existent in four others. However, those cases that fall between these two extremes have not had identical results, with other EEAG activities generally having somewhat greater effects than interactive efforts. For this reason, it appears that interactive efforts in general have had slightly less influence on regulatory policy than have other EEAG activities like intervention, settlement negotiations, and introduction of legislation.

## **RELATIONS AMONG INTERESTED PARTIES**

### **Effects of Interactive Efforts**

In Table 2.6, the effects of interactive efforts on relations among interested parties are displayed. The magnitude of effects can be measured qualitatively, based on the extent to which the interactive effort has influenced inter-party relations and the nature of the change observed in those relationships (in terms of the magnitude of improvement—or decline—and the extent of mutual trust, understanding, communication, access, and other important factors). Outcomes range from one case (the California interactions) where relations among the participants have been greatly improved to one in which existing relationships might actually have gotten more adversarial during the life of the interactive effort. In two other instances, little or no improvement has occurred. But in all the remaining cases, accounting

**Table 2.5. Major effects of other key EEAG activities on regulatory policy**

Key advocacy group(s)	Outcomes
Alliance for Affordable Energy	Introduction of proposed ordinance probably expedited passage of legislation requiring LCP in New Orleans, and possibly was a key factor in getting such legislation enacted.
CLF	Limited regulatory policy effects in 1992-93 time period (many key policy issues had already been resolved.)
CPG/SELC (in Georgia)	State legislation (and subsequent regulations) on LCP was probably influenced to some extent by lobbying efforts and related activities.
	Interventions have led to stipulated agreements that include Residential and C&I incentive/penalty mechanisms. One stipulation also included Residential Demand Side Option Rider for DSM program cost recovery (subsequently overturned by Superior Court and currently being appealed by utility.)
	PSC decision on Riders for C&I programs (subsequently overturned and now under appeal) possibly was influenced by CPG/SELC intervention and negotiations on residential programs.
LAW Fund	Intervention on IRP case resulted in regulators accepting (with minor modifications) LAW's proposed IRP process.
LEAF	LEAF's draft resolution concerning the need for changes in the state's power plant licensing process helped instigate government report that recommends decoupling, early consideration of environmental factors, and minimizing the need for new generation.
NCAC	No regulatory policy.
NRDC	Testimony on DSM incentives contributed to CPUC reaffirmation of the incentive concept.
PEP	Limited regulatory policy effects in 1992-93 time period. (Many key policy issues had already been resolved.)
SELC (in Virginia)	Intervention possibly a factor in regulatory agency's decision not to adopt RIM as a threshold test.
Sierra Club/CCAP	Rate case settlement in late 1991 included agreement to use TRC Test for determining cost-effectiveness.

**Table 2.6. Major effects of interactive efforts on relations among interested parties**

Interactive effort	Outcomes
<b>California Interactions</b>	
1. California Collaborative	Relationship between NUPs (at least NRDC) and utility have greatly improved. Parties better understand each others' viewpoints and motivations.
2a. Utility-specific follow-ups	Relations have not changed substantially since collaborative (except for new parties, whose relationships have improved).
2b. PG&E Advisory Committee	
DP&L Collaborative	Mutual trust, understanding of other parties' positions, and exchange of information all have improved.
Georgia Collaborative	Small improvement in participants' ability to get along and in knowledge of each others' positions.
New Orleans Collaborative	Relationships have stayed the same or gotten more adversarial.
NMPC Cooperative Arrangement	No major change from this effort.
PSCo Collaborative	Relations have gotten more cooperative and parties have learned more about each others' positions and objectives.
Puget Power Collaborative	Relations have improved as a result of collaborative. Most participants believe they are getting along better (with the least amount of change between industrials and other NUPs).
Virginia's CLM Task Force	Relations have improved in terms of increased mutual understanding and (possibly) access to each other.
WMECO Collaborative	Mutual respect has grown. Working relationship generally has been fairly good, but utility and NUPs still have very different interests and there are some philosophical differences among the NUPs themselves.

for over half of those studied, the improvement in existing relations has been fairly substantial. For example, most participants in the Puget Collaborative believe that they are getting along better than they had before this effort began, and those parties who participated in Virginia's CLM Task Force report that relations have improved in terms of increased mutual understanding and possibly in terms of better access to the other participants.

## Effects of Other Key EEAG Activities

Table 2.7 shows the major effects of some of the most significant other EEAG activities on relations among interested parties. Unlike the preceding tables, this one shows very little variation in outcomes among the cases studied. In nearly all instances, representatives of the key EEAGs reported some improvements in their relations with the public and/or with other like-minded organizations, but it is difficult to discern major differences in the magnitude of these changes from one case to another. As with interactive efforts, the magnitude of effects can be measured qualitatively based on how much an EEAG's key activities have influenced the relationships among parties and the nature of the change in those relations. The improved relations that have been observed—which typically result from a group's research, education, networking, and lobbying activities—differ from the changes associated with interactive efforts in that they generally involve an EEAG's interactions with the public and other groups with similar interests but not its relations with utilities. However, in a few cases, respondents report that interventions in regulatory proceedings have had direct effects on their relations with utilities; the reported results have been mixed, ranging from increasing a utility's willingness to cooperate to eroding existing relations. In one case, an EEAG's actions have alienated some members of the presiding regulatory body. However, representatives of EEAGs often note that many of their activities help enhance their organization's credibility. This, in turn, could indirectly influence regulators and utilities, but it is hard to identify the precise effect this would have on relations with those parties.

## OVERALL EFFECTS

It is possible to characterize the overall effects achieved by each interactive effort and by other EEAG activities by looking simultaneously at the impacts on DSM usage, regulatory policy, and relations among interested parties. However, the reader is cautioned to remember that the scope and duration of the different interactive efforts and other EEAG activities vary substantially among the cases studied. As noted earlier, this means that not all cases present the same opportunities for achieving outcomes. It would be incorrect to assume that the efforts leading to the greatest overall effects are necessarily those that have been most carefully designed and executed. While the actions of the involved parties certainly can affect outcomes, the context in which these efforts take place also is exceedingly important, as is the focus and longevity of key activities. Actions taken to date, especially for new efforts, may not yet have resulted in substantial tangible outcomes, but the groundwork for future effects may have already been established. This does not invalidate the findings presented here, but it points out that a future study of the same cases might find additional effects, especially in terms of DSM use influenced by new regulatory policies and improved relations among parties.

In a few cases, the magnitude of effects from an interactive effort has been the same for each of the three separate outcome measures described above. In California, for example, there have been large increases in utility use of DSM resources, agreement has been reached on an appropriate cost-effectiveness test and on financial incentives, and the relations among participants have been greatly improved. In the case of the Puget Collaborative, the effects

**Table 2.7. Major effects of other key EEAG activities  
on relations among interested parties**

Key advocacy group(s)	Outcomes
Alliance for Affordable Energy	Education, networking, and related activities have created or improved relationships with like-minded community groups, strengthened support among some community members, and increased Alliance's visibility; but aggressive intervention, litigation, and public statements have alienated some regulators and may have strained relations with utilities.
CLF	Coalition-building and related activities have strengthened relationships with other organizations.
CPG/SELC (in Georgia)	Research and publication have enhanced reputation with key players in New England. Lobbying, research, and related activities have led to increased visibility and public support.
LAW Fund	Networking, education, and related activities have helped build alliances with other community activist and environmental organizations and increase LAW's credibility with other key players.
LEAF	Intervention in rate case and subsequent discussions with utility have contributed to utility's willingness to submit decoupling and incentives proposals to state regulators.
NCAC	Meetings with state agencies and with other EEAGs have improved contacts with key players in state utility-related issues.
NRDC	Intervention in general rate case damaged relations with utility. Research, intervention, and other efforts have engendered public interest and support and contributed to NRDC's credibility.
PEP	Productive working relations (developed in collaborative) have not been eroded by adversarial proceedings or other EEAG activities. Creation of PII has strengthened relations with other like-minded non-utility groups.
SELC (in Virginia)	Detailed comments on utility DSM plans and publication on environmental externalities have helped establish credibility with key players. Research and related activities have strengthened ties with other organizations having similar interests and enhanced SELC's credibility with key players.
Sierra Club/CCAP	Networking activities have increased strength of ties with other organizations having compatible interests.

on DSM usage also have been substantial, the interested parties have agreed on financial incentives, and relations among those involved have gotten substantially better. In the remaining cases, the effects of the interactive efforts have shown less internal consistency from one measure to the next. In many instances, this is because the interactive effort has not addressed the full range of issues covered by the impact measures used in this study. For example, neither the NMPC Cooperative Arrangement nor the PSCo Collaborative dealt with regulatory policies, and most regulatory issues were resolved by state regulators early in the life of the WMECO Collaborative. In the case of Virginia's CLM Task Force, the participants dealt only with policy issues and were not concerned directly with DSM programs. In general, the interactive efforts studied have had substantially greater effects on utility DSM usage and relations among parties than on regulatory policy.

In the face of the intra-case inconsistencies mentioned above, the overall effects of an interactive effort can be determined by averaging the impacts (or lack thereof) achieved in each outcome category. The DP&L Collaborative, for instance, which resulted in no change in regulatory policy, some improvement in DSM programs, and substantial improvement in relations among interested parties, can be classified overall as having had moderate effects. Using this approach, we find that—overall—two of the interactive efforts studied have had large effects, four have had moderate effects, and three have had small effects (see Fig. 2.2).

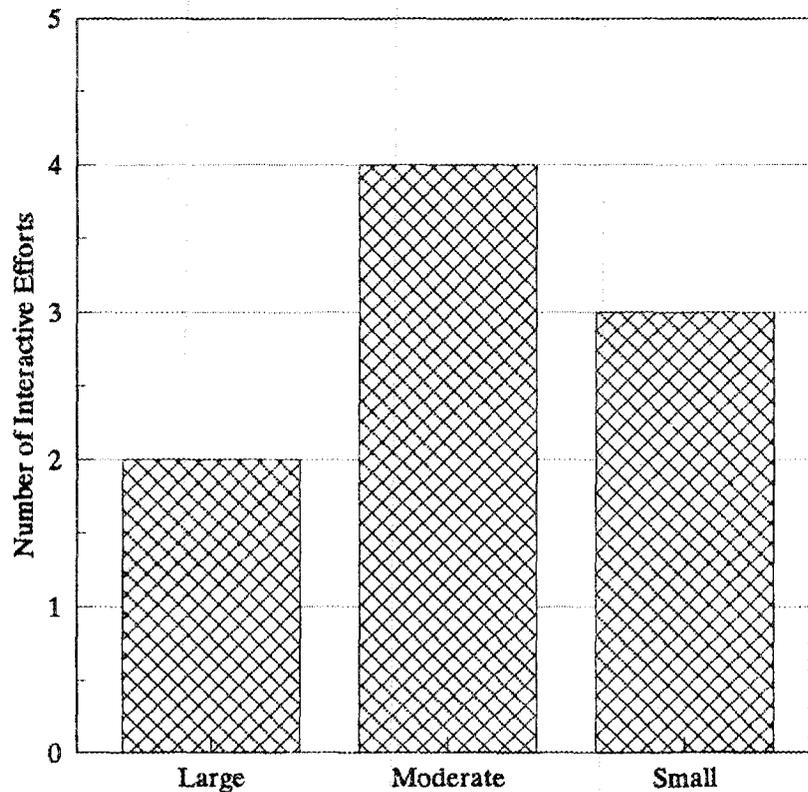
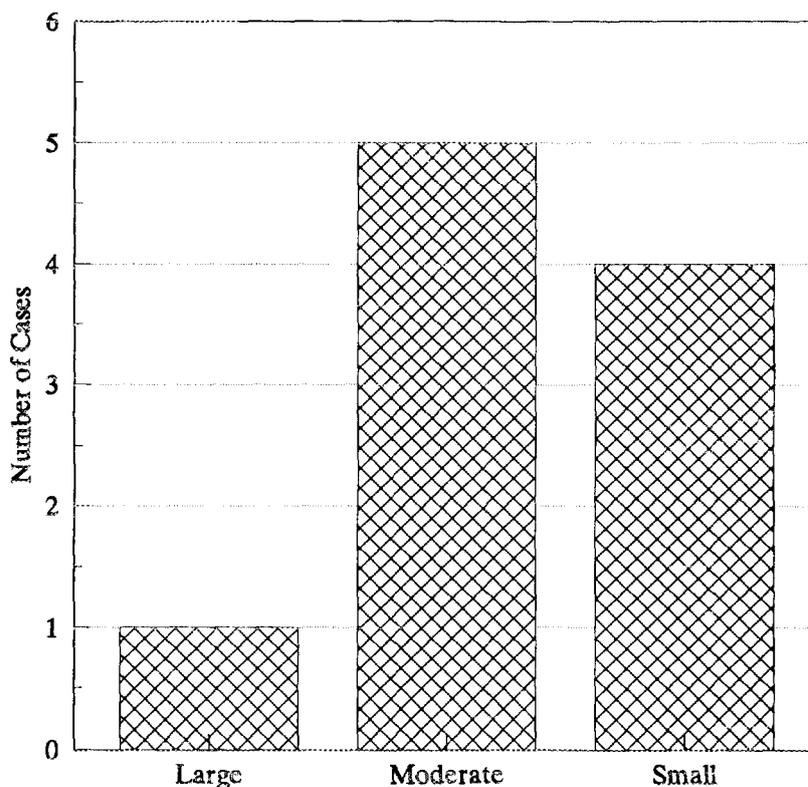


Fig. 2.2. Overall effects of interactive efforts.

When examining the effects of each EEAG's other activities, there is even less consistency among the three separate outcome measures than we found within each interactive effort. In general, EEAGs' activities (other than interactive efforts) have had the greatest effect on regulatory policy and the least effect—at least directly—on utility DSM usage. Despite the internal inconsistencies within nearly all cases, overall effects can be determined for each group's activities by averaging the effects from all outcome categories, as was done for interactive efforts. Using this approach once again, we find that EEAG activities have resulted in large overall effects in only one case, moderate overall effects in five cases, and small overall effects in four cases (see Fig. 2.3).



**Fig. 2.3. Overall effects of other key EEAG activities.**

When we compare the outcomes of each EEAG's other activities with the outcomes of the interactive effort with which it is involved, we find that the overall effects are the same in four of the nine cases.<sup>6</sup> In two of these cases the effects of the interactive effort and the group's other activities are both small and in two cases the effects of both are moderate. In the other five cases, the overall effects of the EEAGs' other activities differ from the effects of their interactive efforts. However, in nearly all those cases, the differences are small

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<sup>6</sup>While this study covers 10 cases of advocacy group activities, an interactive effort was undertaken in only 9 of those cases.

(e.g., moderate effects from the interactive effort and small effects from other activities; large effects from other activities and moderate effects from the interactive effort). In only one case is there a large difference in overall effects; in that instance, the impact of the interactive effort is categorized as large while the effect of the EEAG's other activities is small. It should be noted that there are no cases in which the overall effects of both the interactive effort and the EEAG's other activities are large.

As shown above, the overall effects of interactive efforts are classified as large in two cases while the overall effects of EEAGs' other activities are large in only one case. Conversely, there are three cases in which the overall effects of interactive efforts have been small and four cases in which this designation is applied to the overall effects of EEAG' other activities. Furthermore, in three of the five cases where the overall outcomes of an EEAG's other activities differ from the outcomes of its interactive effort, the effect of the interactive effort is larger. All of this indicates that the overall effects of interactive efforts have been somewhat greater than the effects of EEAGs' other activities. However, it should be noted that it is often difficult to separate the effects of the various activities in which an EEAG is involved. For example, collaborative discussions can make it easier for participants to negotiate subsequent settlements of regulatory proceedings, while a group's other activities can contribute to its strength and influence, which can positively affect its collaborative accomplishments.

## **FUTURE PROSPECTS**

Of the nine interactive efforts studied, four have been discontinued or are expected to end soon, so they will not result in additional outcomes. In two other instances, it is not clear whether or not the interactive effort will continue. The remaining three interactive efforts seem certain to continue, at least in the near-term future. In all cases where interactive efforts endure, the outcomes are expected to be similar to those that have been experienced to date. In nearly all instances, this means that moderate to large overall effects are expected, since most of the interactive efforts that have had small effects will not extend their operations. The continuation of an interactive effort generally indicates an ongoing opportunity to achieve positive results, although the magnitude of these effects may not be quite as great as those experienced to date because some of the need for future improvement may have been removed by past accomplishments. For example, substantial improvements in relations among parties have already been achieved by the California and DP&L Collaboratives and these will not need to be repeated. In terms of the issues to be covered by the ongoing interactive efforts, it is likely that DSM program-related issues alone will be addressed in about half the cases. The DP&L Collaborative, for example, will probably refine the utility's existing DSM programs based on monitoring and evaluation results but will not address larger policy issues. Other enduring efforts will deal with both program and policy questions. The PG&E Advisory Committee, which will probably refine existing financial incentives and continue examining DSM programs, falls into this category.

In all 10 cases, even those where interactive efforts are not ongoing, various types of other EEAG activities are expected to continue. Most of the groups interviewed expressed

their intention to continue intervening in regulatory proceedings, and many also reported that they plan to engage in various other activities—such as networking, lobbying, and education. The effects that have been achieved by the above-mentioned endeavors in the past are not very good indicators of what the magnitude of effects from similar actions is likely to be in the future. This is especially true for effects on regulatory policy and relations among key parties. In the regulatory arena, the past development of regulations on a key topic is likely to reduce or eliminate the near-term need for new regulatory policy on this subject. In New Orleans, for example, the passage of a LCP ordinance in mid-1991 has greatly reduced the opportunity for EEAGs to influence the development of new regulatory policy on this subject in the near-term future. In the area of relations among parties, past improvements—especially where they are substantial—reduce the opportunity for future improvements of a comparable size to occur. Past increases in DSM usage could indicate a willingness on the part of the involved parties to go further in this direction, but it also could signify that the utility has already adopted as much cost-effective DSM as it wants.

The prospect of any type of future activity—interactive effort or otherwise—leading to substantial effects is influenced by a variety of contextual factors. These include: the attitude of the presiding regulatory body toward utility use of DSM, which can be strongly influenced by changes in commission members; economic conditions in the service area; competitive pressure faced by the involved utility, including competition from non-utility generators and the possibility of retail wheeling; ratepayer challenges, particularly those mounted by industrial customers; utility need for new capacity, or the lack thereof; and EEAG funding, which can be a prime determinant of an organization's ability to successfully participate in utility-related matters.

\* \* \*

This chapter described important outcomes of the interactive efforts and other EEAG activities studied and briefly discussed the future prospects for such undertakings. Among the key findings presented above are the following:

- The initial formation of nearly all the interactive efforts studied was influenced to some extent by previous efforts of the EEAGs, and in many cases this influence was substantial;
- Interactive efforts have had substantially greater effects on utility DSM usage and on relations among the involved parties than on regulatory policy;
- Other EEAG activities have had the greatest effect on regulatory policy and the least direct effect on utility DSM usage; and
- The discernible overall effects of interactive efforts have been somewhat greater than those of the EEAGs' other activities, which often have less tangible and immediate effects.

In the next chapter, we take a closer look at the broad setting within which interactive efforts and other EEAG activities take place, and at how these efforts are affected by key contextual factors.

### 3. CONTEXT

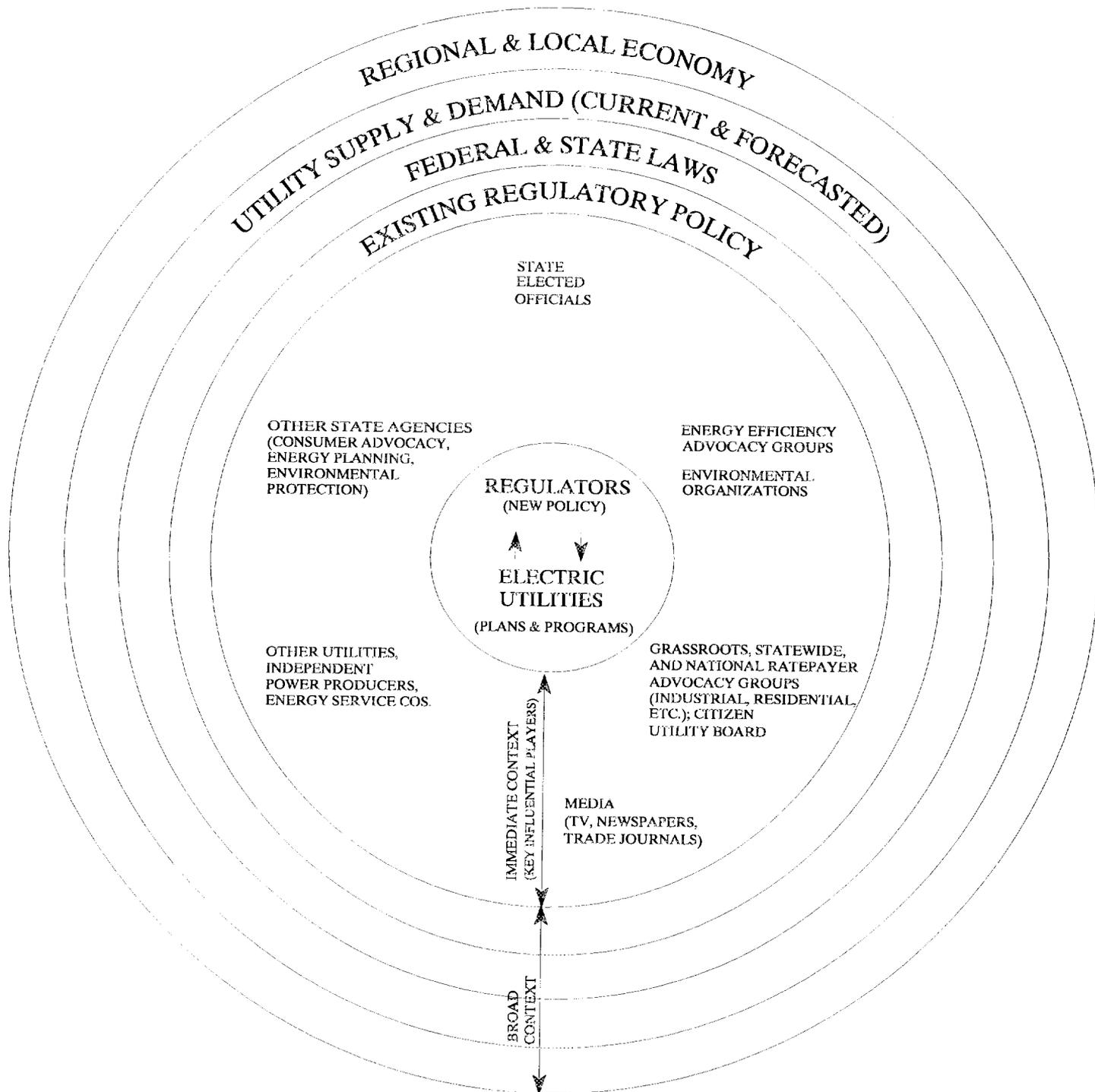
To understand why some utilities adopt DSM aggressively while others do not and why interaction concerning DSM is relatively easy in some situations but not in others, both broad and immediate contextual factors must be understood (see Fig. 3.1). Key factors include the economic climate of the utility's service territory, the political climate in which the utility and other key players are operating, the utility's supply and demand situation, the ways in which various interested organizations traditionally have related to each other, and the nature of the public utility commission and its policies. Taken together, all of these factors influence, either directly or indirectly, the relationships among key players, the regulators' decisions, and, most importantly, the level of utility DSM usage.

#### ECONOMIC ENVIRONMENT

In the halcyon days of the mid-1980s, the local and regional economy was not a major concern for most electric utilities. During that time, many areas were experiencing an economic boom, and many utilities were concerned mainly with meeting growing demand. However, only a few years later, the situation had changed. While the repercussions of the recent widespread economic downturn are by no means the only factor affecting utility decisions concerning DSM, they do play a role.

Customer resistance to rate increases has heightened with poor economic conditions and has led to qualified views of DSM by some ratepayer groups—industrial ratepayers, in particular. Various industry representatives (for example, the California Large Energy Consumers Association, the Florida Industrial Power Users Group, the Georgia Industrial Group (GIG), Multiple Intervenors in New York, Industrial Energy Consumers in Ohio, and the Washington Industrial Committee for Fair Utility Rates) have been actively opposing aggressive use of DSM by utilities. Industries are not uniformly opposed to utility-sponsored DSM programs: in Massachusetts, for example, some industries have allied with EEAGs because they think widespread energy efficiency makes good economic sense, especially in the long run. But many large industries, particularly those that have undertaken their own energy conservation measures, are opposed to large-scale DSM programs provided by utilities to all sectors and paid for by across-the-board rate increases. Especially as competitiveness in a global market becomes an increasing concern to industries, they are seeking ways to cut costs. The utilities, in turn, listen to these customers, if only because they constitute a large but by no means captive segment of their market.

Increased rates may lead industrial customers to generate their own power if they think they can do so more cheaply than the utility. Alternatively, an industry may decide to relocate outside the utility's service territory, partly in search of lower rates. It may even close down altogether if its financial picture becomes bad enough. Any time a major ratepayer goes off a utility's system, the loss can potentially affect other ratepayers by raising their rates to pay for fixed costs. With higher rates, fuel-switching—e.g., switching from



**Fig. 3.1. The setting for decisions concerning electric utility DSM and IRP.**

electricity to natural gas—becomes an increasingly attractive option for various utility customers, residential and commercial as well as industrial. Thus, unless people—both utilities and their customers—are persuaded that aggressive DSM makes good sense in hard times as well as good times, some retrenchment on DSM is likely.

## **POLITICAL ENVIRONMENT**

Through legislative and administrative actions, as well as through being on the giving and receiving ends of various forms of political pressure, state legislators and other government officials set the stage for the development of regulatory policy concerning DSM. Federal legislation—most recently, the 1990 Clean Air Act amendments and the 1992 Energy Policy Act—is also an integral part of the broader political environment in which decisions concerning DSM are made. So too are other federal initiatives such as the recent “global climate change initiative.”

One of the key drivers of regulatory policy is the commission itself: the make-up of the commission is an important determinant of its policy positions. In most of the cases studied, regulatory commissioners are appointed by the governor (except in Virginia where they are appointed by the legislature and in Georgia and New Orleans where they are elected). While bipartisan representation may be required, the majority of the commissioners usually share the governor’s policy preferences. Thus, a change in party control of the state administration can lead to major shifts in the regulatory commission’s make-up and the nature of its policies.

In Massachusetts, for example, the Dukakis administration was superseded in 1991 by the Weld administration, and as a result, the three-member regulatory commission was completely revamped. The prior commission had been strongly pro-DSM, but the new commission has been somewhat more qualified in its support of utility-sponsored energy efficiency programs. In contrast, when Lawton Chiles, a Democrat, became governor of Florida in 1991 following a Republican administration, he began to name new members to the regulatory commission as openings occurred, and as a result, the commission has become somewhat more amenable to the idea of increased DSM. However, regulatory policy changes are not due solely to political changes (for example, the recent economic downturn has been much more severe in Massachusetts than in Florida), and they usually do not occur overnight: as in Massachusetts and Florida, they normally are incremental rather than dramatic. Rapid, dramatic changes are unlikely, partly because regulatory agency staff often remain in place despite changes in regulatory commission make-up. In addition, regulatory stability, which is valued by many as an important good in itself, results from the consistent, long-term application of policies; thus, well-established policies are not likely to be rapidly overturned.

In addition to changes in regulatory commission make-up, other actions of governors and their agencies can have implications for DSM. For example, in Florida, New York, Virginia, and Washington, state agencies (typically with a state energy office as lead) have developed plans to assess their state’s potential for energy efficiency and have made

recommendations concerning DSM. Regardless of whether implementation of the plan's goals is mandated by law (in New York it is; in the other states noted, it is not), such plans help to make energy efficiency a subject of statewide discussion.

State legislatures usually do not deal with the technicalities of utility regulation, but they do sometimes have an impact on energy efficiency issues. For example, Washington passed a bill in 1990 mandating the public utility commission to consider policies to improve energy efficiency while protecting utilities from short-term revenue reduction; California recently enacted a law that will focus more utility DSM dollars on industrial processes; and Florida recently enacted legislation requiring development of a uniform statewide system for rating the energy efficiency of residential and commercial buildings. However, state legislation may also serve to obstruct attempts to institute utility-sponsored energy efficiency programs. In Georgia, for example, the state senate passed a bill in early 1993 to radically downsize the regulatory commission's staff and shift its advocacy functions to another agency. The bill, which was still pending in the house as of the fall of 1993, is seen by some as a regulatory reform effort, but others believe it represents an effort to temper the commission's earlier support for aggressive DSM.

Federal legislation can have important effects across the nation. Of particular importance to DSM are the 1990 Clean Air Act amendments, which require utilities to reduce emissions produced by the burning of fossil fuels. In a number of the states studied, the 1990 amendments are seen as having a potentially significant effect on utility and regulatory actions. Though many utilities are seeking to achieve Clean Air Act compliance primarily through mechanical, supply-side solutions (e.g., using scrubbers and upgrading combustion systems), and to a lesser extent, through emissions trading allowances, increased energy efficiency measures are being adopted by some. [For example, New England Electric System (NEES), which relies heavily on coal-fired plants, is aggressively pursuing DSM as one means to reduce this reliance.] As discussed further below, the need to comply with new and more stringent emissions standards may also influence a utility's decisions regarding plant retirements and its supply-side mix of power sources. In addition, the 1990 amendments are influencing state government activity in various ways: for example, they were taken into account in Florida in its recent review of its power plant licensing process, and in New York, they helped to shape a recent update of the state's energy plan.

The 1992 Energy Policy Act is likely to have both a less significant and a more mixed impact on utility usage of DSM than the 1990 Clean Air Act amendments. Though the Act mandates energy efficiency standard-setting and supports IRP and DSM, it also provides that utilities, under certain conditions, must allow their transmission lines to be used as "middlemen" between wholesale power producers and other, more distant utilities. This provision has the potential to undercut utility-based DSM programs because, by promoting competition in the wholesale power business, it may lead to an emphasis on short-term over long-term cost effectiveness.

In addition to federal legislation, there is growing attention at the national level to the risks of global climate change incurred with "greenhouse gases," including, especially, carbon dioxide and methane. While greenhouse gases are produced by a number of sources

(e.g., agriculture and industry), utilities that burn fuels are a major contributing factor. President Clinton's October 1993 action plan to cut greenhouse gas emissions (to 1990 levels by 2000, a goal set by the President in April) relies mainly on voluntary action by industry. Whether federal or state government will put more teeth into greenhouse gas reduction remains to be seen.

## UTILITY ENVIRONMENT

As noted above, the economic and political milieu can have major effects on utilities. In addition, there are several other issues that arise in the utility environment. Generally, these fall into three categories: the relative costs of various power sources, non-utility generation of power, and the prospect of deregulation.

High costs arising from electricity production can have a mixed impact on DSM usage. Retiring debts assumed during the construction of a nuclear power plant, for example, can be an extremely expensive undertaking. To a lesser extent, so too can Clean Air Act compliance, which, as discussed above, may entail costly investments in pollution control devices. Alternatively, a utility may seek to reduce emissions by burning cleaner fuels, but such fuels often are more expensive. In some cases a plant may be so outmoded that it may be cheaper to retire it and find another power source, rather than bringing it into compliance. These are all supply-side problems that can lead to rate increases, but—to the extent that these rate increases are seen by utilities as unavoidable—they can have adverse effects on DSM, by exacerbating ratepayer (and utility) opposition to rate increases attributable to DSM. While some utilities are using DSM as a way to deal with their supply-side problems, not all are prepared to embrace DSM as a solution. The most viable candidates are utilities that are “lean” (i.e., not encumbered with large debts for capital investments), facing significant air quality compliance problems, and anticipating capacity shortages.

Non-utility generation also constitutes a potential obstacle to utility usage of DSM. Under the 1978 Public Utility Regulatory Policies Act, utilities are required to purchase power generated by qualifying facilities. In a state such as Washington, where there is a capacity shortage, this does not create a problem for DSM. However, in states such as New York and Massachusetts, where several utilities are experiencing short-term capacity surpluses, DSM is relatively less appealing: all other things being equal, utilities with excess capacity are less inclined to adopt aggressive energy efficiency programs.

The prospect of deregulation is perhaps the greatest question mark for utilities, and for the future of DSM. The regulated monopolies of investor-owned electric utilities may be crumbling. As noted above, recent federal policies have tended to encourage competition in the wholesale power business, and, as noted further below, deregulation is being explored at the state level. While a more competitive utility environment will help to ensure lower rates for some utility customers, it will not necessarily be conducive to the long-term planning that underlies DSM.

## **INTERACTIONS OF KEY PLAYERS**

In the arena of utility regulation, a multitude of interests interact—sometimes conflicting, sometimes cooperating. Key players such as the governor, legislators, regulatory commissioners, and utilities have been discussed above. The present discussion will focus on three other types of players: ratepayer groups, state agencies (apart from the regulatory agency), and EEAGs.

### **Ratepayer Groups**

In many states, perhaps the most powerful of the various ratepayer classes is the industrial class. Large industrial users are represented by organizations such as those noted in the “Economic Environment” section above. In most cases, these organizations pressure utilities to contain or reduce their commitments to DSM. As discussed earlier, rate impacts tend to be their major focus. However, they may also be concerned about inter- and intra-class “subsidies” for DSM. In other words, industrial customers sometimes object to paying for DSM programs targeted toward other ratepayer classes, and they also may be averse to contributing to the utility-sponsored energy efficiency measures of competing industries, especially if they have already invested in their own energy conservation measures. However, as noted earlier, industries are not uniformly opposed to aggressive DSM: some see it as making good long-term economic sense.

Residential and small business customers tend to lack the clout that large industrial and commercial customers can wield. The former’s strength lies in numbers, but—especially if they are not well-organized, well-financed, and vocal—they often have neither the influence with utilities and the state administration that a large customer may have, nor abundant funds to litigate in regulatory proceedings. However, they do have their advocates. These groups, which may be either statewide or local ratepayer organizations, sometimes advocate aggressive DSM, but not always: low-income residential advocacy groups, especially, are wary of measures that increase rates without appreciable benefits to their customers. Other groups that may speak on behalf of ratepayers include state agencies, EEAGs, and—in a few states—Citizen Utility Boards, which are independent watchdog organizations that have obtained the legal right to solicit membership by piggybacking on state governmental mailings.

### **State Agencies**

Apart from the public utility commission and its staff, several other state agencies may become involved in DSM issues. Generally, these fall into four categories: energy planning offices, consumer advocacy agencies, attorneys general offices, and environmental protection agencies. State energy offices, most of which were started in the oil crisis era of the 1970s with an energy planning/conservation function, tend to share many of the pro-DSM sentiments of EEAGs. State consumer advocacy agencies focus mainly on representing ratepayers (often but not always concentrating on residential customers). These agencies may or may not align with EEAGs; they tend to support the concept of DSM programs, but not if those programs fail to benefit a large number of customers. State departments of law (the

attorney general's office or its equivalent) are also sometimes active in DSM issues. They tend to fall in between energy offices and consumer advocacy agencies: while they see themselves as looking out for the interests of ratepayers (especially those lacking strong lobbying groups), they are also concerned with broader social and environmental welfare issues. Environmental welfare issues are the primary concern of state environmental protection agencies. Their role in utility regulatory issues is growing, especially with power plant siting and licensing cases and, more recently, with the 1990 Clean Air Act amendments, and they constitute potential allies for EEAGs.

Despite each of these agencies' natural leanings, however, the political environment colors their perspectives. Most of them are under the governor's direct control (although the attorney general may be separately elected), and the heads of the agencies can be seen, to some extent, as articulating the policy preferences of the governor's office. Staff to the agency do not necessarily alter radically with a change of administration, however, and this may temper changes in policy directions.

### **Energy Efficiency Advocacy Groups**

EEAGs can and do play a vital role as a driving force for DSM. As discussed in the next two chapters, the nature of their efforts can include education, outreach, lobbying, research, and regulatory intervention, as well as participation in interactive efforts with utilities and other NUPs. Different groups emphasize different aspects of energy efficiency advocacy. For example, the LAW Fund in Colorado focuses mainly on regulatory issues, as does LEAF in Florida, whereas an energy efficiency advocacy association of which LEAF is a part concentrates more on information-gathering and outreach. Regardless of the nature of an EEAG's efforts, however, it is becoming increasingly apparent that the most effective ones build broad coalitions, not only with like-minded organizations but also with other groups, agencies, and ratepayers (even industries!) where some common ground can be found.

## **REGULATORY ENVIRONMENT**

The above factors all influence the regulatory environment. The degree of each one's influence varies in different states and over time, but each is likely to have a direct or indirect effect on the decisions that take place in the regulatory arena. In addition to these external factors, however, there are also important internal factors. These include, especially, the backgrounds and personalities of the current regulatory commissioners and the body of policies they have inherited.

As mentioned earlier, the selection of commissioners has major implications for resulting policy. In addition to their political affiliations, different commissioners bring different experiences, professional training, and attitudes to their positions. If a majority of members agree on most issues before them, a well-defined regulatory stance is more likely; otherwise, differences among commissioners may balance each other out, resulting in a moderate but sometimes waffling stance on key issues, which can delay decisions. The chair

may be able to promote a particular regulatory agenda, especially if he or she is strong-minded and well-respected and is able to garner the support of other commission members. For example, the long-standing chair of the New York PSC has been influential in shaping the current philosophy of that body, as has the chair of the WUTC. However, a weak chair's influence tends to be little more than that of other commission members.

Within the regulatory arena, all of these internal and external factors combine to affect the regulatory policies which help to determine both the utilities' usage of DSM and relationships among key parties. Some regulatory policies tend to be informal (perhaps even unstated) and pertain to process issues. For example, regulatory commissions' formal or informal stances on collaboratives have varied: while some have mandated a collaborative arrangement, others have simply endorsed such arrangements, while still others have been cool toward them, especially if they involve shared decisionmaking power between the utility and NUPs. Formal or informal regulatory stances on issues such as collaboratives may indirectly affect how much DSM is adopted by utilities; at any rate, they clearly affect the relationships among key players, by helping to determine the forums within which they are likely to interact. If shared-power collaboratives are not encouraged (or are actively discouraged) by the regulatory commission, then aggressive intervention is the probable recourse for those who seek to influence the commission's decisions on policies and specific cases.

Of even greater and more direct influence are the regulatory commission's policies on key substantive issues such as lost revenue recovery, program cost recovery, and incentives; cost-effectiveness tests; integrated resource planning; and, on the horizon, restructuring of the electric utility industry. Policies on these issues are major determinants of how aggressively DSM will be pursued by utilities, and these policies also affect relationships among key players, by establishing "the rules of the game" for their interactions on DSM issues, either within collaborative-type arrangements or in other settings. If fundamental issues such as cost-effectiveness tests, mechanisms for recovering program costs and lost revenues, and financial incentives have already been resolved by the regulatory commission, relationships among key players are likely to be somewhat smoother than if those issues remain subjects of wide-ranging and contentious debate.

### **Lost Revenue Recovery, Program Cost Recovery, and Financial Incentives**

Even utilities that philosophically agree with the idea of energy conservation must find DSM financially viable. There are several roadblocks. DSM programs reduce demand for electricity, which reduces a utility's sales and thus its inclination to aggressively pursue DSM. One way regulatory commissions have addressed this problem is to "decouple" revenue from sales; other forms of lost revenue recovery have also been adopted. In addition, there is the question of how rapidly a utility's costs of providing a DSM program will be recovered. And finally, there is the question of whether financial incentives will be rewarded for DSM investments, to make DSM a more financially attractive means of meeting capacity needs. In the cases studied, most of the states by now have mechanisms in place to deal with most of these issues, although the mechanisms vary in terms of their

advantageousness to DSM. Across the nation, however, a number of states are still wrestling with some or all of these issues, or have yet to address them.

### **Cost-Effectiveness Tests**

Developing cost-effectiveness tests for DSM programs has been a complex and controversial issue for many regulators. There are several types of tests: the RIM Test, the TRC Test, the Societal Cost Test, the Participants Test, and the Utility Cost Test. The three most popular tests appear to be the RIM Test, which assesses a DSM program's effect from the standpoint of nonparticipant in the program; the TRC Test, which assesses whether the total economic cost of a DSM program will be less than supply-side options; and the Societal Cost Test, which includes not only market cost/benefit considerations but also non-market considerations such as environmental externalities. Much of the controversy revolves around the extent to which environmental externalities are included in the cost of a resource.

Factoring environmental externalities into supply-side resources increases the costs of such resources and makes DSM a more attractive option. Thus, cost-effectiveness tests which do so are favored by EEAGs. But utilities and ratepayer groups (especially industrial ratepayers) often tend to favor the RIM Test, which takes into account the effects that utility-sponsored energy efficiency programs have on rates (in particular through possible cross-class and intra-class subsidization) and which tends to favor supply-side resources.

Some regulatory bodies (e.g., the Massachusetts and New York public utility commissions and the New Orleans City Council) have come down in favor of tests that incorporate the concepts of the TRC Test and the Societal Cost Test. Other states (e.g., Florida, Ohio, and Virginia) have not yet made a clear-cut decision on the issue. Some, such as Florida, have in the past tended to favor the RIM Test but appear to be moving from their exclusive commitment to this cost-effectiveness test.

### **Integrated Resource Planning**

The concept of IRP helps to promote DSM: it requires a utility to take a long-term view of energy capacity and demand, and it puts DSM on a potentially equal footing with supply-side resources. IRP has become much more widespread during the past five years. The 1990 Clean Air Act amendments and the 1992 National Energy Policy Act promote IRP, and nearly every state has instituted an IRP rule-making process. Despite this trend, however, there are two intertwined forces that, if they grow, may vitiate IRP: customer concern about rates, and utility concern about competitiveness. First, to the extent that rates become a heated issue and rate cases become a legitimate forum for discussion of a utility's resource mix and budgetary allocations, separate IRP proceedings risk becoming irrelevant. IRP will remain meaningful only if ways can be found to integrate it into rate cases, to temper the relatively short-term view often taken in such cases. And second, as the utilities' control over electricity supply within their service territories is eroded, rate competitiveness becomes increasingly crucial to them. Yet hyperattention to rates can be, as just noted, detrimental to the concept of IRP. Utilities and their regulatory commissions are on the horns of a dilemma:

long-term, least-cost planning is a laudable goal and sound business practice, but it may not fit comfortably with the current trend toward increased competition.

### **The Prospect of Deregulation**

Due in part to a push from large customers, including industries but also others such as municipalities, some state regulatory commissions and legislatures are beginning to entertain the possibility of deregulatory approaches such as “retail wheeling.” Under such approaches—promoted especially by the Electricity Consumers Resource Council (ELCON), a national association of industries—electricity consumers would be allowed to shop for the cheapest rates by buying power from utilities outside their local utility’s service territory. The argument for the approach is grounded in the virtues of free-market competitiveness: utilities would no longer be able to count on captive customers. The arguments against it are grounded partly in equity concerns (if the largest customers depart, the residences and small businesses left on the local utility’s system may find their costs skyrocketing, as the utility seeks to cover fixed costs incurred when its market was much bigger) and partly in environmental concerns (lacking the ability to plan coherently for future demand, utilities will give up energy efficiency programs that do not have immediate and large payoffs). It is not yet clear whether deregulation is the wave of the future, but it looms as a present uncertainty.

\* \* \*

Obviously, the regulatory environment is the most potent contextual factor affecting utility usage of DSM and relationships among key players. But equally obviously, the regulatory environment does not exist in isolation: it both affects and is affected by all of the other contextual factors discussed here. The poor economy; the frustration and restlessness of ratepayers, especially large industries; the possibility of industries going off a utility’s system; the prospect of deregulation: all of these serve to diminish the chances for aggressive DSM (at least as it has traditionally been practiced) and to create friction among players in utility regulatory issues. However, as a counterweight to these forces, there are the 1990 Clean Air Act amendments; the increasing acceptance of IRP and DSM; the growing recognition that the costs of environmental externalities should not be disregarded; and, prospectively, initiatives to reduce greenhouse gas emissions. The broad context within which EEAGs work has never been stable, but it is now more conflicted and unpredictable than ever.

## 4. INTERACTIVE EFFORTS

As mentioned in Chapter 1, nine of the ten cases studied involve interactive efforts between utilities and various NUPs related to IRP and/or the use of DSM resources. In seven of these cases, the interested parties are, or were, engaged in a collaborative as defined in Chapter 1.<sup>7</sup> In one of the cases (California) involving collaborative interactions, a utility-specific advisory committee and a statewide monitoring and evaluation workshop also were investigated. Rounding out the case studies is one “cooperative arrangement” (NMPC—Pace) and one task force (Virginia).

This chapter does not attempt to describe the individual cases studied in any detail.<sup>8</sup> Rather, it discusses the relationships between key features of interactive efforts and resulting outcomes as revealed by a qualitative analysis of all nine cases taken as a whole. The individual outcomes of interest are the extent to which utility DSM usage has increased, new regulatory policies have been developed, and relations among the parties have improved—as discussed in Chapter 2. For the sake of this analysis, the effects observed within each of these separate categories have been combined to yield a single measure denoting the magnitude of an interactive effort’s overall effects; these can be characterized as small, moderate, or large. The salient characteristics of interactive efforts featured here are: (1) how such efforts are initiated; (2) participating organizations; (3) the purpose of these efforts; (4) the interactive process itself; and (5) related policies and interactions. Each of these topics is explored below.

### INITIATION

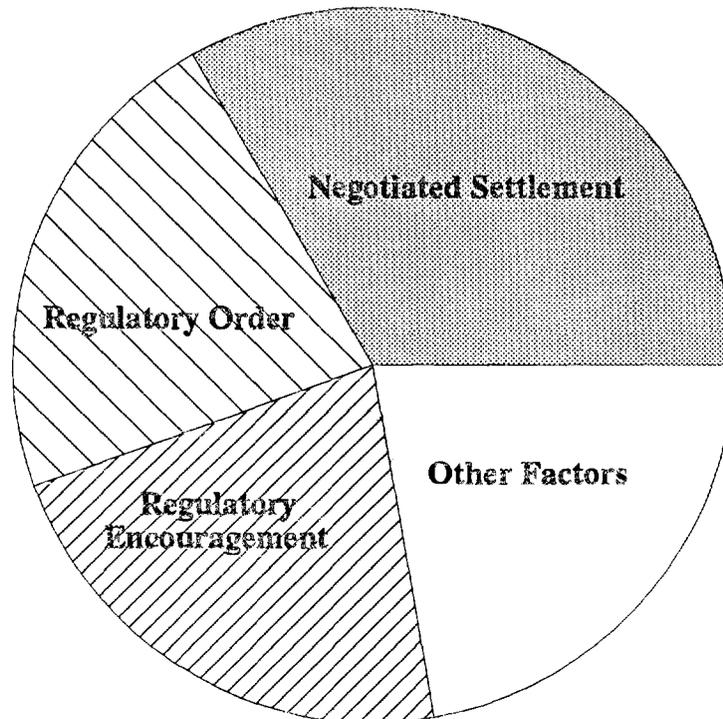
Interactive efforts can, and have been, initiated in a variety of ways, as shown in Fig. 4.1. In three cases, an interactive effort was created as part of a negotiated agreement between utility and non-utility groups settling a contested rate case or other regulatory proceeding. In two of the cases studied, formation of a collaborative or task force was ordered by the presiding regulatory body. In another two instances, the parties were encouraged—but not required—to enter into such an arrangement. In the remaining cases, a variety of factors, including overtures by a key non-utility group, influenced the decision to form an interactive effort.

The interactive efforts that have resulted in the greatest increase in utility DSM programs, the design of the most new regulatory policies, and the most substantial improvement in relations among the participants are those whose formation was encouraged by state regulators. This could indicate that an expression of interest in utility-NUPs

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<sup>7</sup>Six of these cases involve a single collaborative: The DP&L Collaborative; the Georgia Collaborative; the New Orleans Collaborative; the PSCo Collaborative; the Puget Power Collaborative; and the WMECO Collaborative. In California, the multi-utility California Collaborative was studied, followed by the PG&E Collaborative—one of four utility-specific collaboratives that grew out of the larger effort.

<sup>8</sup>For a detailed description of each case, see English, Schweitzer, Schexnayder, and Altman (1994).



**Fig. 4.1. Key factors leading to initiation of nine interactive efforts studied.**

interaction by regulators at the onset of the interactive process influences the parties involved to work closely together and aggressively pursue DSM resources. But paradoxically, those efforts that were *mandated* by the presiding regulatory body resulted in the smallest impacts, suggesting that it may not do much good to force utilities and others into interactive efforts. We believe that commitment to the interactive process by both regulators and the participants themselves can be an important determinant of outcomes. However, short-term expressions of interest shown at the birth of an interactive effort are not good predictors of eventual results. They do not, by themselves, show whether or not this commitment will continue, nor do they take into account other factors that could affect the participants' willingness to interact productively.

## **PARTICIPANTS**

### **Utility Characteristics**

Recently, a number of utilities involved in the interactive efforts under study (e.g., Georgia Power, Virginia Power) have undergone some type of internal reorganization. Most commonly, the new organizational form has been described as putting increased emphasis on the utility's DSM activities. This type of reorganization has taken place at utilities whose

interactive efforts have resulted in large overall effects as well as at utilities whose interactions have had much smaller effects. This indicates that internal reorganization alone does not ensure that the interactive effort with which a utility is involved will lead to substantial increases in DSM use, the adoption of major new policies, or significantly improved relations among interested parties. It is likely, however, that a utility that has been reorganized to facilitate its DSM activities will eventually do more in that arena than it would otherwise have done.

There seems to be a definite link between a utility's need for new generating capacity and the outcomes of its interactive effort. The interactive efforts that have achieved small overall effects have been those in which the utility involved has substantial excess capacity and does not anticipate a near-term need for new resources. In contrast, most of the cases resulting in larger effects involve utilities that are capacity-short and/or are characterized by very rapid growth in customer demand. For example, Puget Power, whose rate of customer growth is almost double the national average for electric utilities, has been involved in a collaborative that has achieved substantial overall effects.

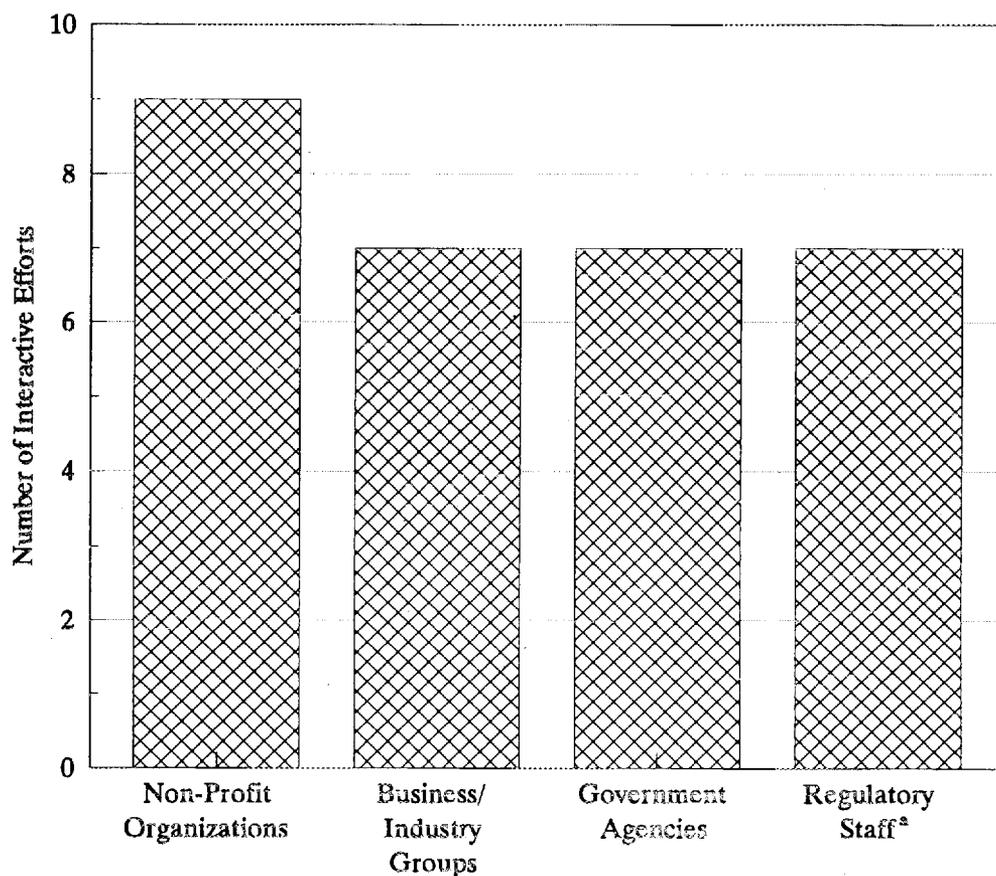
### Non-Utility Parties

NUPs involved in interactive efforts typically fall into the following major categories: non-profit organizations, often advocating environmental protection and energy conservation; business groups, frequently representing industrial and commercial customers; government agencies, often representing consumer interests; and regulatory agency staff.<sup>9</sup> Most of the interactive efforts studied have representatives from all of these types of organization (see Fig. 4.2). The fact that industrial customers are represented in nearly all these interactive efforts represents a change from earlier collaboratives, in which industrial participation was not nearly as common (Raab and Schweitzer 1992). There is no clear distinction in terms of the type or number of parties involved between the cases that have achieved large overall effects and those whose effects have been much smaller. It appears, therefore, that having full participation in a collaborative or similar effort does not guarantee that the overall effect will be substantial. However, based on the comments of participants and our own observations, it appears that an interactive effort's operations can be enhanced if the participating organizations are committed to the process and are willing to compromise.

Although large effects are not assured by recruiting a broad range of participants, an interactive effort can be hurt if key parties are lost part way through the process. In Georgia, the Governor's Office of Energy Resources (OER) withdrew from the collaborative and the Consumers' Utility Counsel (CUC) (an important player in state utility matters) stopped attending meetings not long after the effort was initiated because gas utilities were not allowed to fully participate in the working group due to the electric utilities' concerns about sharing confidential information. PSC staff also has limited its involvement as a result of this decision. Apparently, the concern of these state agencies is that collaborative meetings held without the gas utilities might violate the Georgia Open Meetings Law. The result of the state

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<sup>9</sup>Regulatory staff agencies are not legally responsible for overseeing utility operations, as are the regulatory *commissions* with which they are associated. Accordingly, they can generally participate in interactive efforts and enter into discussions outside of official regulatory proceedings without violating state *ex parte* laws.



**Fig. 4.2. Number of interactive efforts involving each major type of non-utility party.**

<sup>a</sup>In two cases (the DP&L and Georgia Collaboratives) regulatory staff participated as non-voting members or observers.

withdrawal is that an important set of interests has not been directly represented in collaborative negotiations and that the ability of the collaborative to study all sides of the issues has been diminished. In order to keep state agencies involved, the Georgia Collaborative would have had to include the state's gas utilities or somehow make a persuasive argument that their exclusion did not violate state law. Putting this issue aside, keeping NUPs involved in an interactive effort generally requires that the participating parties believe their input makes a difference in utility decisions and represents a prudent investment of their time and other resources.

## **PURPOSE**

### **Participants' Objectives**

Objectives can be divided into two separate categories: (1) those that are held in common by all participants and represent the overall purpose of the interactive effort; and (2) those that are held by the participating groups individually. In the first category, most of the interactive efforts have been undertaken with the intent of developing utility DSM programs. Several efforts have had the additional objective of establishing policy concerning key DSM/IRP issues (such as financial incentives and lost revenue recovery), and one interaction has addressed regulatory policy exclusively. Because there is a substantial similarity of overall purpose in many of the cases studied, no clear relationship emerges between an interactive effort's overall objectives and the resulting outcomes. However, it is obvious that narrowly defined efforts (e.g., those designed to develop a single DSM program or address one specific policy issue) present participants with the least opportunity to achieve results. In any case, the parties involved in an interactive effort would be well advised to clearly establish their common purpose at the very outset of their endeavor to avoid subsequent confusion.

As for the objectives of individual participants, these do not vary much from case to case. EEAGs typically want to maximize the use of cost-effective DSM resources, and this objective is sometimes shared by government agencies responsible for environmental and/or energy matters within the state. Controlling utility costs is an overriding concern of industrial and commercial organizations, who often are joined in this by government ratepayer advocates and the utilities themselves. On occasion, utilities and various NUPs also have expressed a concern with avoiding litigation and preventing delays in utility planning and implementation.

### **Issues Addressed**

About half of the interactive efforts studied address program development issues only; the other half deal with both policy and program issues. As mentioned earlier, only a single case has involved policy issues exclusively. Generally, the efforts that have had the greatest impacts are those that deal with both program development and related policy issues. For example, the original California Collaborative addressed overall DSM budgets and the question of financial incentives, while the subsequent PG&E follow-up and advisory committee efforts have looked at both financial incentives and DSM programs in more detail. In Washington State, the issues dealt with by the Puget Collaborative include lost revenue recovery, financial incentives, rate design, and DSM program refinement. However, not all efforts that address a broad array of issues have been equally successful. In at least one case, participants attribute the limited effects of their interactive effort to attempting to tackle too many topics—including a broad array of policy issues—in too short a time period.

## PROCESS

### Structure and Function

Most of the interactive efforts studied have two organizational levels (e.g., collaborative group and subcommittees in the DP&L Collaborative), but a few have only a single level (e.g., the PG&E Advisory Committee in California). There is no apparent relationship between the number of organizational levels into which an interactive effort is organized and the outcomes of that effort.

Nearly all the interactive efforts have a facilitator who is charged with scheduling meetings, exchanging information, and coordinating the activities of the various participants. In more than half the cases, the utility provides these facilitation services—most frequently by itself but in a few cases jointly with another party. Government regulatory staff have played the facilitator role—either singly or with another participant—in about a third of the cases. NUPs other than regulatory staff only rarely serve as facilitators. No relationship appears to exist between the organization facilitating an interactive effort and the resulting outcomes.

Deadlines for the completion of key tasks have been set both internally (by the participants themselves) and externally (by the presiding regulatory body) in most of the interactive efforts studied. While a clear relationship between the use of deadlines and eventual outcomes cannot be identified, the absence of such time constraints can indicate a problem with the interactive process. This is illustrated by the New Orleans Collaborative, which has not established any internal deadlines since mid 1992 and has not reached consensus on a single substantive issue since that time. While it is possible for participants in an interactive effort to work productively without definite deadlines, a group's failure to set any such temporal guidelines can be a good indicator that the real forum for addressing and resolving important issues has moved elsewhere.

A utility's willingness to share decision-making power with the NUPs is the structural factor that has the clearest direct relationship with the outcomes of an interactive effort. The efforts that have resulted in the largest effects are those in which consensus has been actively sought or NUPs' inputs have otherwise been taken seriously by the utility. The California, Puget, WMECO, and PSCo Collaboratives all have been characterized by vigorous attempts to achieve unanimous agreement. A utility's willingness to allow non-utility groups to have a real say in important policy- and program-related decisions is probably fostered by the presence of a strong NUP or set of NUPs with the potential to act effectively in the adversarial arena, as is the case in the collaboratives mentioned above. Having a presiding regulatory body that encourages the participants to reach consensus also can be important, but regulators may resist the idea of utilities sharing their decision-making authority with other parties. In New York, for example, the PSC holds that the responsibility for utility decision-making must ultimately rest with the utilities themselves, and this view may have the effect of discouraging full-blown joint utility-NUP efforts. The interactive efforts resulting in small overall effects are generally those where the utility has shared very little of its decision-making authority and has not actively sought group consensus on key issues.

Regardless of the form an interactive effort takes, its operations are likely to be helped (and certainly could not be hurt) if the organizational structure is well-defined and clearly communicated to all participants at the very beginning of the process.

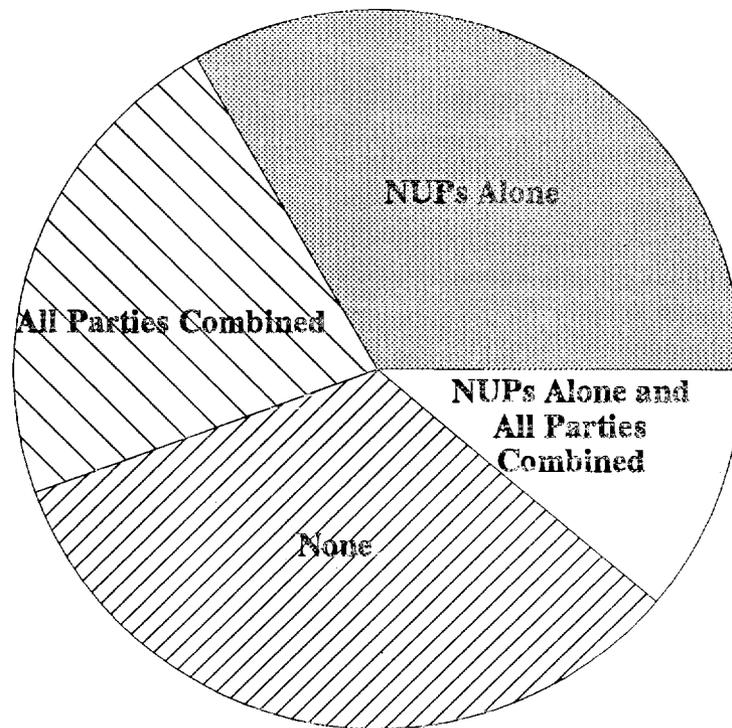
### **NUPs' Funding**

In the interactive efforts studied, the NUPs' budgets and the source of these groups' funds varies widely from organization to organization. Still, we can identify no strong relationship between the amount and source of NUPs' funding and the outcomes of the efforts in which they are involved. The probable reason that funding does not emerge as a key correlate of outcomes is that other factors—notably the regulatory and utility environments in which the NUPs operate—are so important that they cause considerable variation in outcomes from one case to another, hiding the less dramatic effect that funding alone might have. Still, in any given case, it is likely that non-utility groups could accomplish more (up to a certain point) if their funding were greater and was provided in a consistent and predictable manner.

### **Outside Consultants**

Figure 4.3 shows that, in most of the interactive efforts studied, the utility has funded consultants to provide expert assistance for the participants (in addition to any consultants it might procure for itself alone). In two cases, outside consultants have been provided that serve all the parties combined, including the utility. In another three instances, utility funds have been used to hire consultants to serve the NUPs alone. In a single case, the utility has paid for separate consultants (albeit on a limited basis) to serve both the whole collaborative and the NUPs. And in three of the interactive efforts studied, no utility funding has been made available for the hiring of outside experts. The outcomes achieved by interactive efforts are not clearly related to utility funding of consultants or the parties served by those outside experts. While it is true that a lack of utility-funded consultants characterizes two of the efforts whose overall effects have been small, one of the efforts resulting in large overall effects also has been carried out without benefit of such assistance. And the NUPs have been provided with their own consultants in one of the efforts that has achieved small overall effects as well as in several cases that have experienced more substantial outcomes.

As with NUPs funding (discussed above), other factors probably have a greater influence on outcomes and serve to mask the effect of utility-funded consultants. Despite this, it seems probable that the hiring of outside experts “levels the playing field” to some extent for non-utility groups, allowing them to participate more fully in interactive efforts and probably improving outcomes over what they might otherwise have been. Strong regulatory support for the provision of outside experts is likely to improve the chances of such an arrangement being established. NUPs also can insist on utility-funded consultants when working with the utility to develop a memorandum of understanding at the outset of the process or, as in the DP&L Collaborative, when settling a case sometime during the life of an ongoing interactive effort. Experience with regulatory staff's consultants in New Orleans indicates that, if multiple experts are hired to serve the NUPs, care should be taken to ensure



**Fig. 4.3. Parties served by utility-funded consultants.** This does not include those consultants hired to serve the utilities exclusively.

that a clear and consistent message about the participants' desires is sent to the utility. And past events in New York suggest that, if out-of-state consultants are employed, they should be sensitive to local conditions.

### Coalitions

In half of the eight cases where multiple NUPs are involved in interactive efforts, stable coalitions among the non-utility groups have been formed. In two of these four cases (the WMECO and DP&L Collaboratives), the coalition has involved all the NUPs and the interaction has taken on the approximate character of a two-party negotiation, with the utility on one side and a more-or-less unified body of non-utility groups on the other. In the WMECO Collaborative, the all-NUPs coalition has been long-lasting and fairly harmonious. But in the DP&L Collaborative, unity among the NUPs only lasted for the first year of the effort. Later, some of the non-utility groups withdrew from the all-NUPs alliance, leaving a core coalition of environmental and consumer groups. In each of the other cases where stable coalitions have been observed (the Georgia and New Orleans Collaboratives), two separate alliances have coexisted. In the Georgia Collaborative, the two coalitions—representing industrial customers and environmental/energy conservation interests respectively—tend to be strongly opposed to each others' positions, and this has led to considerable disagreement

between the two sides over the life of the collaborative. Even in those cases where long-lasting coalitions have not formed, it is not uncommon for various groups to establish temporary alliances around specific issues.

It appears that coalitions among the NUPs—involving either all NUPs or a subset—can be useful in two ways. For the NUPs, the formation of coalitions with like-minded groups holds the possibility of increasing their influence over what it might have been if they had acted alone. And for the utilities, the formation of NUPs' blocs means that there are fewer competing positions that the utility must understand, and negotiate with, during the interactive process. However, the presence of NUPs' coalitions is not necessary or sufficient to ensure substantial effects, as evidenced by the fact that the two interactive efforts resulting in large overall effects have been carried out without benefit of such arrangements while coalitions are present in one of the efforts whose effects have been small. The only case in which coalitions might actually have been detrimental is the previously-mentioned collaborative where there are two opposing coalitions whose positions are radically different from each others', making it virtually impossible for the entire group to reach consensus on any issue where both competing alliances have an interest.

### **Conflict and Conflict Resolution**

Nearly all of the interactive efforts studied were marked by some conflict among participants concerning issues where agreement could not easily be reached. This is a natural—and healthy—reflection of the fact that the different parties have different interests. We found no strong relationship between the presence of conflict and the eventual outcomes achieved. While people often have a tendency to see conflict as a sign of trouble, the fact is that a lack of conflict in an interactive effort can be an indication that the parties involved are avoiding difficult but important issues, thereby limiting their opportunity to achieve meaningful results.

In one of the interactive efforts that achieved large overall effects (the California Collaborative), conflict among participants was mediated by a collaborative member (often the NRDC) who did not have a strong stake in whatever issue was being contested. With such an arrangement, the "non-combatant" participant serving as mediator can change as different issues take center stage. It is likely to help if this person is well-informed and trusted by the interested participants. Other conflict resolution techniques that have been used are holding extended discussions among all participating parties as well as assigning difficult issues to committees for in-depth discussion and negotiation. Both of these approaches have met with mixed results. In the Georgia Collaborative, agreement on residential programs was reached after the industrial parties, whose interests were not directly affected by the topic at hand, excused themselves from further discussions. This is not a solution, however, for those issues in which all parties have a strong interest.

## **RELATED POLICIES AND INTERACTIONS**

### **Key Regulatory Policies**

The importance of regulatory policies concerning key substantive issues (i.e., cost-effectiveness tests; program cost and lost revenue recovery; financial incentives; IRP) was mentioned in Chapters 2 and 3. In nearly all of the cases studied, some regulations in these key areas had already been adopted by the presiding regulatory body before the interactive effort began, although these regulations did not always cover all important issues or establish detailed guidelines to adequately address future cases. In about half of the cases studied, additional regulations have been adopted during the interactive effort with varying degrees of influence from the utility—NUPs interaction. In the cases where overall effects have been small, no regulations on issues addressed by the interactive efforts have been adopted while those efforts have been ongoing. In fact, efforts resulting in minimal outcomes most often take place in jurisdictions where there are no regulations at all—either predating the interactive effort or promulgated since its inception—specifying mechanisms to use for the recovery of program costs and lost revenues or for the provision of DSM-related financial incentives to utilities. Participants in many of the interactive efforts have suggested that the presiding regulatory body should develop clear regulatory policies on key substantive topics either before the effort begins or very early in the process.

In addition to official regulatory policies, the attitudes of regulators toward utility—NUPs interactions also can have an effect on the outcomes of interactive efforts. Those efforts that have resulted in small overall effects have taken place in jurisdictions where there is little regulator support for interactive efforts, especially those in which the utility shares decision-making power with non-utility groups. However, it should be noted that the regulatory bodies in many of the cases have had some reservations about such efforts. Participants in most of the cases studied recommend that regulators should clearly support interactive efforts; we would add that, to be effective, this support should be ongoing and clearly conveyed to all interested parties. We further suggest that regulators should, if they wish to support interactive efforts, send a clear message that consensus decisions are considered desirable and will tend to be looked upon favorably by the presiding regulatory body. Rapid approval of collaborative filings, as was done by the CO PUC in Spring 1993, is a concrete way to convey such a message. In New Orleans, City Council's failure to move rapidly on recommendations made by the collaborative in early 1992 seems to have signalled some key participants—notably the utility—that the collaborative's outputs would not be taken as seriously as they had formerly believed would be the case, to the detriment of the interactive process and subsequent outcomes. And in the Puget Collaborative, criticism of the "structure and consequences" of the collaborative process by the state regulatory agency was very damaging to future interactions.

### **Other Related Activities**

In many of the cases studied, key NUPs have intervened in regulatory proceedings and engaged in settlement negotiations on the same subjects (or on topics closely related to those subjects) addressed in the interactive efforts discussed in this chapter. Often these related

activities have taken place while the interactive efforts have been ongoing. Intuitively, it seems that having the same parties involved in an adversarial proceeding while they are trying to develop cooperative solutions could be detrimental to the interactive effort—hindering the development of trust and the search for creative approaches to jointly-held problems. This has apparently been true in some instances but not in others. Overall, our analysis of the cases indicates that the simultaneous occurrence of interactive efforts and interventions does not doom an effort to failure, nor does the absence of simultaneous intervention ensure that an interactive effort will result in substantial effects. However, it is clear that the ability of an interactive effort to develop creative and mutually-beneficial solutions is diminished by any activity—intervention or otherwise—that becomes a substitute for cooperative interaction. In New Orleans, for example, when the locus of decision-making on IRP/DSM issues shifted from the collaborative to outside meetings between the utility and the city’s consultants, the productivity of the interactive effort was substantially reduced.

\* \* \*

This chapter identified a number of factors that are related to the outcomes of interactive efforts. These include:

- The utility’s need for new capacity;
- The issues addressed by the interactive effort;
- The extent to which the utility shares decision-making power with non-utility groups;
- The use of a “non-combatant” mediator to resolve conflicts between other participants;
- The existence of clear regulatory policies on key issues like lost revenue recovery and financial incentives; and
- The support of the presiding regulatory body for interactive efforts.

In the next chapter, we discuss other activities in which EEAGs engage—such as lobbying, education, and intervention—and their relationship to outcomes.



## 5. OTHER ENERGY EFFICIENCY ADVOCACY GROUP ACTIVITIES

To influence the DSM and IRP policies and actions of utilities and their regulators, non-utility groups initiate or otherwise become involved in a wide variety of activities in addition to interactive efforts. Each of these activities has some effect, although it may not be immediately apparent; the effects may also be unexpected or extremely small. For example, CPG's presence at each PSC administrative session does not by itself affect the decisions being made but it does signal the commission that CPG is concerned about the issues being discussed. The result may be to increase CPG's efficacy in future activities. Similarly, even an intervention that has no direct influence on a commission's decision may have some eventual effect. Accordingly, this chapter should be read with the understanding that the activities described herein may have outcomes that are not fully apparent to the authors or to the EEAGs.

Some of the various activities undertaken by EEAGs have specific goals. For example, the goal of a lobbying campaign might be to have a state legislature pass a particular piece of legislation, while the goal of an intervention could be to have a commission enact certain DSM regulation. These activities typically have near-term and concrete outcomes. For example, a piece of legislation or a regulation is approved or not; an energy plan is completed with specified DSM goals; a judge rules in favor of or against a utility merger. Of course, in some cases a non-utility group's activities may fail to produce the desired result. Still, an outcome—though not necessarily the one preferred by the non-utility group—occurs. These activities can be categorized as “tangible outcome activities” and include: lobbying and legislation; regulatory proceedings; energy planning; and court cases. Community service projects also have some characteristics in common with the aforementioned activities.

Other activities that non-utility groups initiate or participate in have less specific goals and more nebulous outcomes than the “tangible outcome activities” introduced above. These activities are: education and outreach; research and publication; networking and coalition-building; media contacts; and, to some extent, community service projects. These activities typically are not associated with a particular utility proposal or regulatory proceeding. Their goals might be to investigate statewide or regional potential of DSM, to increase public awareness of DSM, or to improve relations with other organizations that have an interest in energy issues. Their frequently intangible outcomes, if at all discernable, are usually described with phrases such as “had an influence on,” “may have contributed to,” or “laid the groundwork for.” We categorize these activities as “intangible outcome activities.”

The following sections explore outcomes associated with each of the above-mentioned activities, with an eye toward identifying particular features and characteristics of the processes themselves or the contexts in which they are carried out that influence their outcomes. However, the reader should note that this chapter does not present an exhaustive treatment of all activities carried out by the EEAGs examined in the case studies.

## **TANGIBLE OUTCOME ACTIVITIES**

### **Lobbying and Legislation**

Drafting legislation and lobbying public officials are activities that address DSM and IRP issues through the political arena. The targets of such activities typically are governors, legislators, and other government personnel. The contact is initiated by a representative of a non-utility group and is focused on a particular proceeding or issue before the legislature.

The tax-exempt status of not-for-profit EEAGs can limit their use of lobbying, but often such organizations report using less than their allowed resources on lobbying. This could be because the potential for a direct impact is afforded through regulatory proceedings more often than through the political process. For example, NRDC's recent lobbying efforts have helped to prevent the decimation of the California Energy Commission. The outcomes of such lobbying efforts are apparent, but their long-term effects on DSM and IRP are often indirect and uncertain. Furthermore, lobbying is often a reactive rather than a proactive activity.

In contrast, drafting legislation is usually a proactive activity and has the potential to significantly affect DSM or IRP if a legislator is willing to sponsor the proposed law. However, it is equally possible that considerable effort might not yield the desired outcome. For example, draft legislation requiring utilities to file Least Cost Plans was proposed and promoted by the Alliance in New Orleans and statewide. The New Orleans City Council and its consultants subsequently modified the proposed ordinance and, after negotiations among the interested parties, a city ordinance was passed requiring utilities to file least cost plans; in contrast, the Louisiana PSC has not yet taken action on this. LEAF drafted a resolution calling for a review of the Florida power plant licensing process. The subsequent review resulted in a Department of Environmental Protection (DEP) report that strongly supports aggressive DSM.

An EEAG's influence in the political arena depends greatly on the weight it brings to bear through its membership and its alliances with, or explicit support from, other organizations. The visibility and reputation gained by an EEAG through its previous activities, both inside and outside the political arena, also affect its political influence. Therefore, activities such as coalition-building—which increase a group's weight—and participation in regulatory proceedings and preparation of publications—which increase its visibility and establish credibility—may all indirectly and positively affect the outcomes of lobbying and legislative efforts.

### **Regulatory Proceedings**

Participating in regulatory proceedings is the activity on which the EEAGs investigated in the case studies have traditionally relied. In fact, intervening in cases (e.g., rate cases, IRP certifications, and need determination cases) has dominated the activities of most of the EEAGs studied. Two factors appear to influence the frequency of EEAGs' participation in interventions. The first is the number of cases occurring; the second is resource limitations,

particularly now that the menu of possible activities has expanded to include interactive efforts such as collaboratives, advisory committees, and task forces.

Interventions have occurred in cases related to IRP, DSM programs, and rates, as well as in other cases such as need determinations and proceedings regarding a utility merger. Several interventions have brought about increases in DSM usage or resulted in regulation favorable to IRP and DSM. Notable examples are the LAW Fund's intervention in an IRP docket, the result of which was commission approval (with some modifications) of an IRP process proposed by LAW. The Sierra Club and CCAP (or closely-associated intervenors) have had success in increasing DP&L's DSM budget and in increasing expenditures by having the regulatory decision that established spending levels interpreted as applying to DSM programs only (excluding lost revenues). This intervention also resulted in the TRC Test being established as the test to be used in determining the cost-effectiveness of DSM programs.

Other interventions have had "deferred" results, wherein regulators have approved utility proposals containing less DSM than desired by EEAGs but have promised to require more in the future. An example of such a "deferred" result is the Colorado commission's temporary acceptance of a DSM incentive mechanism while the commission reopened the examination of lost-revenue recovery mechanisms.

Still other interventions have performed damage control by tempering reductions to DSM budgets and programs or regulation unfavorable to DSM that would have occurred without the intervention. Examples include PEP's intervention in a NMPC rate case. Although the New York PSC agreed to an experimental "subscriptive service" program to which PEP was opposed, PEP's intervention helped to convince the commission to limit this type of program to NMPC until its effects on energy savings could be evaluated. SELC's intervention in Virginia may have been a factor in the commission's decision not to adopt the RIM test (which would exclude numerous DSM programs) as a threshold test for assessing potential DSM measures, as advocated by industrial customers.

Some attempts to influence DSM have occurred outside typical IRP- or DSM-related cases. For example, in the Alliance's intervention in a proposed merger between two utilities, Entergy and Gulf States Utilities, the Alliance intervened in part because it expected the merger to have a detrimental effect on Entergy's DSM programs. LEAF's interventions in Tampa Electric Company's (TECo) and Florida Power Corporation's (FPC) need determination cases focused in part on these utilities' perceived under-reliance on DSM. Neither the Alliance nor LEAF expected specific DSM mandates to result from these interventions, but the general outcome of such interventions is that regulators are reminded to examine the potential effects of any utility activity on DSM. The primary outcome may not be changed (e.g., need determinations were fully or partially approved in the TECo and FPC cases), but a secondary outcome may result. In its rulings on these cases, the regulatory commission mandated that future need determinations be substantiated by prior conservation plan filings.

Participating in more general regulatory proceedings concerning policy has been a particularly fruitful venue for influencing DSM. Two prime examples are NRDC's response to the California commission's en banc hearing on DSM and NCAC's response to the Washington commission's inquiry on LCP. In the former case, NRDC's testimony helped convince the commission that California's use of DSM was lagging and needed a regulatory spur; in the latter, NCAC (along with NRDC) helped convince the Washington commission that regulatory barriers to implementing LCP did exist and should be removed. In response to both proceedings, the commissions accepted proposals for collaboration among utility and NUPs. The outcomes of the subsequent collaboratives are detailed in Chapter 4.

Non-utility groups are not solely (and sometimes not even primarily) responsible for the outcomes of the proceedings in which they participate. Characteristics of interventions and other regulatory proceedings that may exist independently and that may influence eventual outcomes include the type of proceeding, the predisposition of the regulating body and the utility involved, and the influence of other intervening parties. However, factors within the control of the non-utility groups include the filing of expert testimony, cross-examination of other witnesses, and the groups' willingness to negotiate a settlement.

The type of proceeding and the predisposition of the regulating party are related factors. For example, the California commission's hearing on DSM and the Washington commission's inquiry on LCP occurred because the commissions were interested in pushing forward with DSM. The questions are issued in a rhetorical fashion. That is, in both cases the commissions solicited parties' input to document the existence and extent of circumstances that the commission was already aware of and willing to change. In other cases, the commission's predisposition may not be so apparent but it affects the outcome nonetheless.

Filing expert testimony has become a common strategy of EEAGs when they intervene in major cases. However, comparable testimony apparently does not yield equal results, and as a factor influencing the outcomes of interventions, expert testimony may be secondary to the predispositions of the regulatory body and the utility. Cases in point are the Puget Power/NCAC and LAW Fund proposals for decoupling utility profits from sales. Comparable testimony was filed in support of decoupling in Washington and then, two years later, in Colorado. In fact, the same individual was involved in developing or supporting both proposals. However, decoupling has been accepted by the Washington commission while being rejected by regulators in Colorado. Important differences between the two cases that apparently have influenced the commissions' rulings are the willingness (or absence of willingness) of the utility to operate under the new regulation, and the failure of the testimony in the Colorado case to account for the outcome of two years of experience achieved in Washington.

Participating in settlement negotiations is one activity that appears to boost the influence of EEAGs in the regulatory forum. This conclusion is difficult to substantiate because the difference between what is gained in a settlement and what would be decided by the regulators is seldom known. However, the case studies suggest that DSM budgets, programs, and regulations resulting from settlements generally have been satisfactory to the EEAGs

(relative to the expected commission ruling). In two cases where the EEAGs have been dissatisfied with the settlement and have refused to sign it, the commissions subsequently have amended the agreement or have begun a reexamination of the matter to reflect the groups' concerns.

### **Energy Planning**

Participating in state or regional energy planning influences utility reliance on DSM resources only to the extent that the plan is followed. For example, a NCAC draft plan that called for heavy reliance on DSM was the model for the first Northwest Power Planning Council's regional power plan. However, the NCAC has been frustrated with the outcome of the planning process because it believes that the Bonneville Power Administration, for whom the first and subsequent plans were developed, fails to implement these plans. Nevertheless, NCAC's effort may not have been for naught: *Washington's Energy Strategy*, which was developed in 1992 by a committee which included a NCAC representative, reiterates—for the state of Washington—the goal of saving 800 average MW by the end of the decade.

Elsewhere, EEAGs have participated in state level energy planning and in national planning regarding global climate change. The latter impacts energy planning and use though it is not energy planning per se.

### **Court Cases**

Four of the EEAGs investigated have used court cases to influence energy policy or utility practices during the time period covered by this study. Of them, two—LEAF and the Alliance—have either experienced little success with collaboration or have had proposals to collaborate rejected. The other two—NRDC and NCAC—used suits several years ago. The absence of recent suits by NCAC and NRDC suggests that these groups are comfortable with other processes and satisfied with the outcomes achieved in them. This is supported by the discussion in Chapter 4 that shows that both NCAC and NRDC have been involved in collaboratives that have had large impacts on DSM regulation and DSM use. In contrast, the experience of LEAF and the Alliance suggests that, in environments that are less receptive to interactive efforts or successful intervention, EEAGs sometimes resort to strong adversarial tactics such as court cases to assert their influence.

Two significant limitations to using court challenges as a means of influencing utility or commission behavior are the considerable time and financial resources they require. Court cases regarding issues that are not “black and white” are often decided according to who has the best legal counsel, and good legal counsel is expensive. Accordingly, suing is only available to organizations that have top-notch lawyers on staff (as do many of the EEAGs studied, although they often are short-handed) or that have the resources to hire them. Also, court cases often require a long-term commitment of resources because they often are both time-consuming and protracted.

Another limitation is the extent of judicial review. At the appellate level, litigation may revolve simply around procedural issues, without a re-weighing of evidence. An additional

limitation is the potential repercussions to other ongoing or anticipated processes. Challenging a utility or a commission in court is usually the measure of last resort and is inherently antagonistic. Other ongoing processes that rely on collegial relations and good faith negotiations could very well be tainted, particularly if the same individuals are involved in both processes. A further effect would be an unwillingness to share information—an essential component of collaboration—for fear that the shared information could weaken one's court case. The NRDC and NCAC situations are evidence that court cases do not permanently preclude non-adversarial interaction. New faces, different issues, and time—in addition to an encouraging commission—can foster a change from adversarial to non-adversarial interaction.

### **Community Service Projects**

Community service projects can have both tangible and non-tangible outcomes. For example, when the Alliance installs energy saving measures in low-income residences, it knows it has achieved a certain energy savings based on the number of measures installed, the energy savings potential of each measure (relative to the measure it replaced), and the anticipated usage of the measure. A second, non-tangible and non-measurable, outcome is increased community support for the Alliance and its positions. Community service projects usually require the work of large numbers of people and, as such, are best carried out by local organizations or local chapters of national organizations that have many active members. This limitation is the likely reason why only two EEAGs are involved in community service projects.

## **INTANGIBLE OUTCOME ACTIVITIES**

### **Education/Outreach**

More than half of the EEAGs sponsor education and outreach activities to inform individuals and organizations about DSM issues. The activities are quite diverse, ranging from Alliance-sponsored energy conservation workshops for school-age children to one-to-one meetings between Ralph Cavanagh of NRDC and California utility commissioners about DSM's potential to improve the California environment. The outcomes of these activities, and other education and outreach activities of the NUPs, are not tangible but may have important secondary effects if people act on the basis of the information received.

### **Research and Publications**

Conducting research and publishing the results is related to education and outreach in that one of the goals is to disseminate information. Research, however, has the additional task of collecting and analyzing information, frequently with an eye toward educating on particular issues. The publications of several organizations have examined state and regional patterns of energy and DSM use, the potential energy savings of DSM, and the environmental impacts of electricity production. They include, for example, NRDC's *The Decline of Conservation in California*, *Power to Spare* and *Power to Spare II* by CLF and

affiliated groups, PEP's *Environmental Costs of Electricity*, and *Energy 2000* by SELC and its allies. Some organizations and their staffs (e.g., the LAW Fund, CLF, Pace) also publish in the professional literature. Of the non-utility groups studied, NRDC alone conducts research about the engineering and manufacturing aspects of efficiency measures.

One case in which research and subsequent publication of the findings contributed directly to a tangible outcome is NRDC's investigation of the decline of DSM in California. This research significantly influenced the commission's decision to hold the previously-discussed en banc hearing regarding DSM use in California. In other cases, the research and publications may have contributed to commission awareness of the issues addressed, and may have garnered the utilities' attention.

In general, research and publications build organizational and personal credibility and influence, which in turn may affect the outcomes of other activities. Research and publications can have the greatest positive effect if they are accurate, well-substantiated, and fairly present other opinions. Otherwise, the publications may be counter-productive.

### **Networking and Coalition Building**

All of the EEAGs studied participate in some form of networking or coalition building. NCAC, for example, was founded as a coalition of diverse groups, including public utilities, environmental groups, consumer advocacy groups, and others. A particularly influential coalition has been PII, formed in 1991 under PEP's leadership. PII, frequently with PEP at the lead, allows New York EEAGs to speak with a single voice, thereby strengthening their position.<sup>10</sup> Other organizations have worked to build coalitions for particular projects. An example is SELC's formation of the Virginia Energy Coalition which released the *Energy 2000* report analyzing the environmental, economic, and health effects of Virginia's energy use. LAW Fund has recently initiated a formidable networking activity with over 100 organizations in its region that have an interest in energy issues. Some other coalitions are more aptly described as "alliances," as they are strictly issue- and process-specific, and little or no attempt is made to maintain them over time. An example is NCAC's alliance with WUTC staff regarding risk associated with DSM. CLF is an example of an EEAG that has been working to build both coalitions with like-minded groups and alliances with others, such as selected industries.

The likely outcome of all networking and coalition-building activities is that the influence of the participating parties is increased, since a powerful collective voice is stronger than the sum of the separate voices. One hindrance to coalitions, if parties are not allowed the freedom to work outside them, is that an internal negotiation process may be required to reach the "collective" position. Also, where differences exist (e.g., among parties in the NCAC regarding the specifics of cost recovery and lost revenue recovery) arguments must be made in broad, non-specific terms and can potentially be weaker than they would otherwise have been.

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<sup>10</sup>It is likely that PII's voice would be even stronger if it had industrial members who strongly advocate the use of DSM.

## Media Contact

Many of the organizations studied use the news media regularly to publicize their activities and accomplishments, to make statements in response to commission actions, and to spur public awareness of energy conservation and efficiency. Contact is sometimes initiated by the media but more frequently by the EEAG that seeks to have its positions more widely known. As with several of the activities discussed previously, the only easily discernable outcome is a possible increase in awareness of the organization and its activities and of energy issues in general. Having a working relationship with the news writers and editors who cover energy issues is the fundamental requirement for effective use of the media.

## CONCLUSIONS

Seemingly similar activities (e.g. two interventions that rely on the same expert testimony) have only a slight chance of producing the same outcome. Reasons for this include the predispositions of the commission and the affected utility which are, in turn, influenced by previous experience and numerous contextual factors, such as the economic and the political context in which the activity occurs. The political and economic context also contribute to the influence the utility and industrial concerns have on the regulatory body.

It is difficult to isolate a single activity as the sole cause of any outcome. And all activities in support of DSM and IRP likely have some effect, though the effect is often not discernable. In fact, it is most likely that numerous activities (both past and present) have an additive effect. For example, the California collaborative resulted from a regulatory proceeding examining the decline of DSM in California. The regulatory proceeding may not have occurred but for NRDC's report, *The Decline of DSM in California*. The report alone might not have gotten the commission's attention were it not for the meetings between Ralph Cavanagh and commissioners and the media attention NRDC drew to the report. Furthermore, NRDC might not have had such ready access to the commissioners and the media were it not for its previous success in interventions and the credibility it has developed through years of research. Together, all these activities contributed to the collaborative, which subsequently led to a substantial increase in DSM use in California.

Both new and well-established organizations (e.g., LAW Fund and NCAC, respectively) are taking a critical look at which activities have the greatest efficacy. This self-scrutiny is necessitated by resource limitations and the desire to continue to increase and improve DSM and IRP. EEAGs must consider the historical political, utility, and regulatory context and its own organizational strengths when making decisions about allocating resources among the many activities they may participate in or initiate. We expect no immediate, significant changes in courses of action. Based on our conclusion regarding the additive effect of activities, we caution EEAGs against hastily discontinuing activities or redirecting resources without first considering the potential effects the action(s) in question could have in conjunction with all of the organization's other activities.

## 6. KEY CONCLUSIONS

### SUMMARY

In the first phase of our two-year study, we concentrated on DSM/IRP interactive efforts. Mainly, this entailed a detailed examination of selected collaboratives entered into by utilities and non-utility groups. The focus of the second phase has been somewhat different. In this phase, we have concentrated more exclusively on the activities of one type of non-utility group—EEAGs. Furthermore, we have examined, not only the interactive efforts in which they have participated, but also other efforts they have made to promote IRP and DSM by electric utilities. The overarching question that has framed the second phase of this study is:

Which EEAG efforts appear to be currently the most effective in promoting IRP and cost-effective DSM, and why?

The short answer to this question is that there is no one “best” EEAG activity. EEAG activities within interactive efforts, the regulatory arena, and other venues are complementary and interrelated: each EEAG activity is affected by other activities undertaken, as well as by the immediate and broader contexts within which they take place. The setting for regulatory and utility decisions concerning DSM and IRP is multilayered and complex, and this complexity—and its situation-specific dynamics—must be taken into account in determining which EEAG efforts are most likely to be productive, at what points in time and under what conditions. Nevertheless, the following key findings of this project may be helpful in making such determinations:

**Interactive efforts: direct (but not always large) effects on DSM usage, relations among key players, and—possibly—regulatory policy.** Interactive efforts offer the greatest promise of directly and rapidly promoting DSM usage and improving relations among key players. They may also directly influence regulatory policy. However, whether an interactive effort will have substantial impacts depends on situation-specific factors: in particular, on the scope of the effort, the degree to which the effort is the locus of decision-making, the predisposition of the utility to adopt aggressive DSM, and regulatory attitudes toward DSM and toward collaboration between utilities and NUPs.

**Activities in the regulatory arena: direct (but not always large) effects on regulatory policy.** Activities in the regulatory arena (e.g., commenting on utility plans, intervening in regulatory proceedings) have perhaps the greatest chance of directly influencing regulatory policy and are virtually essential if an EEAG wants to be taken seriously in this arena. The degree of immediate influence of such activities depends greatly on how favorably disposed the regulators and their staff are to DSM and IRP, as well as on economic and political contextual factors.

**Networking, coalition-building, research and education, etc.: indirect, long-term effects on DSM usage, regulatory policy, and relations among key players.** Other EEAG

activities such as networking, coalition-building, research and education, and developing media contacts are generally less likely to directly and immediately affect DSM usage, regulatory policy, and relations among key players. However, they are important counterparts to work within interactive efforts and the regulatory arena, and can have substantial payoffs over the long term. The extent to which they do pay off, especially in the short term, depends in part on situation-specific factors: in particular, on the economic, political, and regulatory environments.

**Key contextual factors: economic, political, and regulatory environments.** In general, the climate for DSM and IRP is mixed at present. Utilities that have impending capacity shortages are more likely to favor aggressive DSM, but many utilities currently have capacity surpluses, especially those that have new capacity from non-utility generators and from large power plants that have recently come on line. Poor economic conditions also tend to be adverse to DSM, as rate competitiveness and short-term cost considerations preoccupy utilities, their customers, politicians, and regulators. In contrast, the stringent air quality standards resulting from the 1990 Clean Air Act amendments give utilities (especially those that rely primarily on fossil fuel plants) an added impetus to evaluate the viability of their supply-side resources and to aggressively pursue DSM. The concept of IRP was backed in the 1990 Clean Air Act and the 1992 Energy Policy Act and has by now become fairly well-institutionalized, but it remains uncertain whether meaningful IRP can be undertaken in a climate of rate competitiveness and possible restructuring of the electric utility industry.

**Optimum internal conditions for interactive efforts: commitment to a common purpose; willingness to compromise.** Interactive efforts work best with utilities that are predisposed to favor IRP and aggressive DSM and that are willing to “open up” their decision-making processes. In addition, all participants in an interactive effort must agree on a common purpose, must be willing to compromise, and must stick with the effort. Once the effort is under way, losing participants can damage it: people will start to question whether it can achieve tangible outcomes. A broad range of participants formally involved in the effort (e.g., regulatory personnel, other state agency personnel, and ratepayer representatives as well as utility staff and EEAG representatives) is neither essential nor always desirable, but informal exchanges among all the potentially interested and influential players will improve the effort’s likelihood of success.

**Which strategies should an EEAG adopt?** All EEAGs—even well-funded ones—have finite resources; they must choose carefully which strategies to adopt. Each EEAG is faced with questions such as: Should staff spend more time in collaboratives? In regulatory intervention? In networking and coalition-building? In media contacts and lobbying? Should they hire more staff scientists and engineers, or more lawyers? How much should they negotiate and compromise; how much should they “stick to principles”? How should they respond to possible regulatory changes? Clearly, universal answers cannot be given to these questions. They must be addressed by each EEAG with its own goals, resources, and contextual situation in mind. Nevertheless, a few general guidelines can be mentioned:

- **Follow a flexible strategic plan.** Many strategies do not have immediate payoffs; thus, an EEAG should not abandon a strategy simply because it hasn’t produced quick results.

The EEAG should have a multi-year strategic plan and should stick to it. However, an EEAG should consider downscaling strategies that consume a lot of resources and that, after a couple of years, have not begun to produce significant results. Also, the EEAG's strategic plan needs to be flexible enough to respond to unanticipated threats and opportunities.

- **Have a range of expertise on staff.** Ideally, the EEAG staff should include both lawyers and others (e.g., economists, engineers), so that the EEAG can act effectively within the regulatory arena but can also demonstrate (especially to utilities) that, in addition to outside technical consultants, it has internal technical expertise.
- **Network, but tailor ideas and information.** Networking with other EEAGs around the nation is especially valuable for new EEAGs: it can save time and resources by providing ideas and information. However, an EEAG should not import ideas and information wholesale, without tailoring them to the EEAG's state or region. Partly for this reason, encouraging and participating in statewide energy planning can be a valuable way to begin to get state-specific data that are widely accepted.
- **Build coalitions with both "fellow travellers" and others; develop evidence of broad support.** Coalition-building with like-minded groups can be one of the most cost-effective means of strengthening an EEAG's position with utilities and regulators. In addition, an EEAG's position will be substantially strengthened if it can form ad hoc alliances with other, dissimilar organizations (e.g., industries, independent power producers) and if it can show that it represents the views of a number of ratepayers, not simply a small cadre of dedicated environmentalists. To develop a broad base of support, the EEAG must be able to propose creative approaches that advance the EEAG's basic mission while serving others' interests as well.
- **Speak softly but carry a big stick.** Litigation can be an EEAG's ace card, but it should be played very selectively. The threat of litigation (and actual litigation) can strengthen an EEAG's position with others: it may result in a favorable judgement, and even if it doesn't, it may increase respect for the EEAG. However, if litigation becomes the dominant EEAG activity, it may lead to widespread antagonism, which will adversely affect the EEAG's other strategies—including, possibly, its work with coalitions and ad hoc alliances, as well as its work within interactive efforts.

## STRUCTURE OF THIS CHAPTER

In the remainder of this chapter, the above points will be elaborated. They will be addressed by breaking out the central question, "Which EEAG efforts appear to be currently the most effective in promoting IRP and cost-effective DSM, and why?" into a series of subquestions that largely parallel Chapters 2 through 5:

- What might have happened in the absence of the interactive efforts and other EEAG activities?

- Which external, contextual factors appear to be having the greatest effects on DSM and IRP?
- Under what conditions have the EEAGs' participation in interactive efforts worked best?
- Under what conditions have the EEAGs' other activities (e.g., lobbying, education, intervention in regulatory proceedings, litigation) worked best?
- How do internal factors such as an EEAG's funding, staff size, and staff expertise affect its ability to undertake various strategies effectively?

## CAVEATS

Before turning to these questions, several caveats should be mentioned. Most of these cautionary notes were mentioned in our first-phase report (Schweitzer, English, Yourstone, and Altman, 1993), but they are equally true here.

First, our conclusions and recommendations are based solely on the cases studied as part of this project. As discussed in Chapter 1, these cases were selected because they were of particular interest to us, not because they constitute a random sample. While they represent a good deal of the diversity that can be expected across the U.S., a different collection of cases might result in somewhat different findings, perhaps leading to different conclusions and recommendations.

Second, these case studies represent a particular time period. In doing them, we have attempted to take a longitudinal perspective: we have tried to understand past as well as current events and opinions, and we have tried to anticipate future trends. Nevertheless, the same cases studied at other points in time could result in somewhat different findings.

Third, a degree of respondent bias is always possible. Our case studies are based both on factual information and on the opinions of those interviewed. With respect to the former, we have tried to verify that we have a reasonably accurate understanding of what has transpired. With respect to the latter, we have, as interviewers, tried to ensure that our questions are neutrally expressed, but in the final analysis we have had to rely on the frankness of those interviewed. In considering how to elicit opinions, we decided to pose exploratory, open-ended questions. In doing so, we opted for richness of detail and insights over a data set that could be readily replicated or rendered as statistics. We accepted the risk that the opinions offered were being consciously slanted to serve particular agendas. However, because of informal means of checking (talking with a variety of types of respondents; having the draft case studies reviewed by several respondents) we feel reasonably confident that lack of frankness was not a pervasive problem.

Finally, our own views concerning some of the central themes of this report should be stated. We believe that DSM (defined as both load management and energy efficiency measures) can be a valuable resource—one that too often has been neglected. We do not believe, however, that DSM measures should be pursued imprudently, without attention to their cost effectiveness or how they fit into a utility's IRP. We do believe that, while meaningful least-cost planning can be difficult, it is essential, if only from a long-range,

societal standpoint. We also believe that nonadversarial, interactive efforts can be a valuable tool—again, one that too often has been neglected—but we do not believe that full-scale (multi-party, multi-purpose, multi-year) collaboratives are always the best route to take. Instead, with both DSM and interactive efforts, the approach should be tailored to fit the circumstances. And last, we believe that EEAGs can, through their participation in interactive efforts and their other initiatives, make a significant contribution to utility policy. But, while they are the focus of this report, we do not believe that they necessarily “have all the answers.” Instead, they are one among several important players in an ongoing, dynamic process of policy formation.

## **MAKING A DIFFERENCE**

### **What might have happened in the absence of the interactive efforts and other EEAG activities?**

It is virtually impossible to say with certainty what would have happened in the cases studied if, all other things being equal, the interactive efforts and other EEAG activities had not occurred. There are simply too many complex, intertwined variables. Nevertheless, as Chapter 2 has indicated, patterns in the case studies suggest that interactive efforts can directly and substantially promote DSM usage and improve relations among key players. In contrast, many of the effects of other EEAG activities (e.g., lobbying, education, research and publication) are likely to be more indirect and less immediate. However, in terms of influencing the formulation of regulatory policy, our findings indicate that EEAG activities such as intervention in regulatory proceedings, participation in settlement negotiations, and drafting legislation generally have had slightly more effect than have interactive efforts.

As these cases also suggest, interactive efforts do not always have substantial impacts. As estimated in Chapter 2, two of the interactive efforts studied have thus far had large overall impacts, whereas four have had moderate impacts and the remainder have had relatively small impacts. The reasons for different levels of impact vary: for example, if the interactive effort is of limited scope, its payoffs will be accordingly limited; if key decisions are being made in other arenas, it may be regarded as irrelevant; and, of course, specific characteristics of the environment in which the efforts take place and the nature of those efforts themselves can be extremely important.

Similarly, the fact that an EEAG has undertaken other activities to promote DSM and IRP does not necessarily mean that those activities will have substantial outcomes. In Chapter 2, it is estimated that EEAG activities outside interactive efforts thus far appear to have had major impacts in only one case, but have had moderate impacts in several other cases. Again, the reasons for different levels of impact vary, and are not always completely within the EEAG’s control. The EEAG may launch a major initiative and yet may, if counterforces are strong enough, get little reward for its efforts. In developing its strategies, an EEAG needs to be sensitive to the possibility that they may produce little direct payoff relative to the effort invested.

It appears from these cases that, on the whole, somewhat more substantial and immediate impacts can be produced through an interactive effort than through the independent initiatives of an EEAG. Nevertheless, the hackneyed phrase "You can lead a horse to water, but you can't make it drink" is especially apt here. There's no way for an EEAG to force a utility to participate in an interactive effort. It must choose to do so (or be ordered to participate by a regulatory commission). However, its participation in an interactive effort may be precipitated by the EEAG in various ways: for example, the EEAG may connect the utility with outside expertise, and it may also offer the likelihood of less controversy in the regulatory arena over utility filings. Once the EEAG is in an interactive effort, it can have a good deal of influence over that effort (especially if it is the only NUP, but even if it is not), but utility cooperation is still essential. Lacking that cooperation, the EEAG must pursue other, independent initiatives. And even if an EEAG is involved in a seemingly successful interactive effort with one or more utilities, the EEAG still needs independent initiatives, in order to maintain its role as a strong player in utility regulation.

## **THE WORLD OUTSIDE**

**Which external, contextual factors appear to be having the greatest effects on DSM and IRP?**

There are many factors over which an EEAG has little or no control. These include, especially, the contextual factors discussed in Chapter 3: the particular situation of the various utilities; the key players concerned with the utilities' DSM and IRP; and, more generally, the economic, political, and regulatory environments. Some of these factors are in a state of significant change at present.

As noted in Chapter 3, the regulatory environment is the most direct and potent contextual factor influencing DSM and IRP. Important aspects of the regulatory environment include policies concerning: measures to encourage utilities to adopt DSM (e.g., lost revenue recovery, program cost recovery, and financial incentives), cost effectiveness tests for screening DSM programs (ranging from the RIM Test to the Societal Cost Test), and whether and how IRP will be done by the regulated utilities. Policies on issues such as these provide the immediate framework within which utilities, EEAGs, and others act. And, while most states have adopted IRP, some have not yet adopted other regulatory approaches favorable to DSM. In addition, other procedures and attitudes of the regulatory commission and its staff can also have major effects on DSM and IRP, and especially on the interactions of key players. For example, if the commission endorses the notion of utility/NUP collaboration, collaboratives are more likely to be formed than if the commission is opposed to them for some reason (e.g., because the commission members think utilities should not share their decision-making responsibilities). Similarly, if the regulatory commission sets up opportunities for informal workshops, advisory groups, etc. to supplant formal regulatory proceedings, the chances for exchange among players are increased. Whether this exchange will be frank is another question: one partly determined by the nature of the key players.

Apart from the utilities, the regulators, and EEAGs, key players can include ratepayer advocacy groups; state agencies such as energy planning offices, consumer protection boards, departments of law, and environmental agencies; and representatives of independent power producers and energy service companies. Of these, groups speaking on behalf of large industries are often the most well-financed, well-staffed, and vocal.

Especially as poor economic conditions prevail, industries are seeking to cut costs wherever they can, and this can lead them to consider such options as co-generation or moving their operations to another area with lower costs of doing business. These possibilities—especially the possibility of losing major industries—can command a lot of attention from not only utilities but also the governor, state legislature, and regulators. It can lead to a lot of discussion about “rate competitiveness,” which in turn can lead to discussion about the extent to which DSM contributes to “inter- and intra-class rate subsidization.” Even as rate competitiveness becomes a hot issue, however, increased emphasis is also being put in many states on equity issues (e.g., whether low-income customers will receive a “raw deal” if utility-sponsored programs tailored to their needs are curtailed) and on environmental issues (especially due to the 1990 Clean Air Act amendments). This serves as a counterbalance to the current, fairly widespread impetus to curb DSM budgets in order to maintain attractive utility rates for industries.

Of various initiatives within the political environment at the state and federal levels, the 1990 Clean Air Act amendments are likely to have the most pervasive effect. Their effects are being felt unevenly: utilities that rely on coal-fired plants (especially older plants that are harder to bring into compliance with strict air quality regulations) are more likely to feel the “pinch” of the 1990 Clean Air Act, and may have more reason to aggressively pursue DSM. In contrast, utilities with a heavy investment in newly built nuclear power plants, with their “clean” power production but their large construction expenses, are likely to be less concerned about air quality compliance and more concerned about their rate competitiveness. These differences have contributed to an important change in the utility environment. Electric utilities are not as unified in their views as they once were: dissimilarities in various utilities’ supply and demand pictures have taken on new meaning, especially with federal air quality legislation and with a recent move toward utility deregulation.

Looming on the horizon is the possibility that the electric utility industry may be fairly radically restructured—most likely through a regulatory approach that promotes competition among utilities. This possibility is welcomed by some, especially large industries that seek lower rates through “retail wheeling,” but feared by others, including some utilities (particularly those with large debts and high rates) as well as EEAGs and groups representing residential and small business customers. No federal legislation mandating a major restructuring of the electric utility industry has been enacted, although the 1978 Public Utility Regulatory Policies Act sought to put independent power producers on a more equal basis with the regulated utilities, and the 1992 Energy Policy Act contains a provision that utilities must, under certain conditions, allow their transmission lines to serve as “middlemen” between wholesale power producers and other utilities. The issue of deregulation of the electric utility industry—in particular, whether and how retail competition between power suppliers should be promoted—is receiving increasing attention at the state level. And the

mere prospect of restructuring has been enough to color the total context within which EEAGs and other key players currently interact.

## **WORKING WITH UTILITIES**

**Under what conditions have the EEAGs' participation in interactive efforts worked best?**

As discussed in Chapter 4, a number of conditions affect the ability of EEAGs to achieve their goals within interactive efforts. Some of these cannot be directly controlled by an EEAG, but many are more susceptible to influence than are the broader contextual factors discussed immediately above.

In setting the stage for an interactive effort, a key factor is the utility's need for generating capacity. If the utility anticipates a capacity shortage, it is more likely to tilt toward increased DSM and regulatory policies that favor DSM. It also may more avidly seek the input and expertise that NUPs can bring to a collaborative DSM effort. As noted previously, favorable regulatory policies—ideally, either before the effort begins or early on—also do much to set the stage for a successful interactive effort. So too do the attitudes and actions of the regulators regarding the collaborative process and its results, including the speed with which the regulatory commission considers and implements those results.

Within the interactive effort, a highly relevant factor is the extent to which the utility is willing to share decision-making power. Another important factor is the ability of participants in the effort to agree upon a common purpose at the outset and thereby avoid subsequent confusion. In addition, all participants need to be committed to the process and willing to compromise.

The NUPs themselves are another key factor. While a broad range of NUPs is not essential, losing NUPs during the process can damage it. Thus, it is important that they continue to feel that the interactive effort is “worth it”—in other words, that it will achieve tangible outcomes. A potentially important factor is whether the NUPs are provided with funds to hire their own experts, thereby allowing them to participate more fully. While funding for NUPs' consultants may not be absolutely essential in all instances, it helps “level the playing field.” (However, NUPs' consultants can jeopardize the process if they do not give clear and consistent messages or if they appear to be uninformed about the state's and the utility's particular situation.) If there is more than one NUP, forming coalitions can be strategically useful, as a coalition can have more clout with the utility and can help to streamline the interactive process by reducing the number of competing positions. Interestingly, contemporaneous litigation by one or more of the NUPs (perhaps as a coalition) does not necessarily jeopardize an interactive effort; in fact, the threat of litigation may strengthen their hands. However, litigation will vitiate an interactive effort if it becomes the only meaningful forum for exchange.

And finally, as noted in Chapter 4, internal or external deadlines may not be absolutely necessary for productive work within an interactive effort, but their absence may indicate that the real work of resolving issues is going on elsewhere. This may, in turn, reinforce some participants' views that the interactive effort is not worth the often substantial time and effort it takes.

## **INDEPENDENT INITIATIVES**

### **Under what conditions have the EEAGs' other activities worked best?**

Regardless of whether an EEAG is in one or more interactive efforts, it can and should pursue independent initiatives. As discussed in Chapter 5, these can include efforts such as lobbying, drafting legislation, education, research, coalition-building, promoting and participating in statewide energy planning, intervention in regulatory proceedings, and litigation. These efforts are not totally under the control of the EEAG: for example, lobbying is constrained by tax-exempt status considerations; draft bills require legislative sponsors; willing partners are needed for coalitions; statewide energy plans require widespread support if they are to be initiated, executed, and implemented; regulatory commissions determine the number and type of opportunities for participation in formal proceedings and other less formal regulatory meetings. Furthermore, as discussed further below, the nature and magnitude of these efforts are largely determined by the EEAG's funding and by the size and skill composition of its staff. Nevertheless, the independent initiatives of EEAGs are likely to be more under their control than are interactive efforts, because they do not require utility cooperation. These initiatives vary as to the nature of their outcomes, and as to their pitfalls and promises.

As noted in Chapter 5, these initiatives can be roughly divided into two categories: those which have specific, fairly immediate goals and those which have less tangible, longer-range goals. The first category generally includes such activities as lobbying; drafting bills, resolutions, etc.; seeking to get a statewide energy plan in place or updated; commenting on utility plans and otherwise intervening in regulatory proceedings; and bringing suit. Lobbying has not been emphasized by many of the groups studied, although some have been aligned with organizations that do engage in extensive lobbying. Appropriate opportunities for drafting legislative bills, administrative orders, etc. rarely arise, but when they do, they can be an effective way for the EEAG to proactively promote particular policies. The political climate must be right for such efforts, however; otherwise they are likely to be futile. Based upon these case studies, statewide energy planning can be an especially fertile area for EEAGs to proactively pursue. It enables them to work on a common cause with other, often dissimilar groups and agencies: few people are prepared to dismiss outright the concept of energy planning. Moving from that concept to the actual plan and its implementation is another story, but at least the idea of a public effort to plan for energy supply and demand has taken root.

Commenting on utility plans and intervening in regulatory proceedings concerning either particular cases or more general policy issues (as well as participating in less formal,

workshop-like regulatory settings) are virtually essential for EEAGs, if they want to be taken seriously in the regulatory arena. While these efforts are usually intended to have immediate payoffs, they can also help to build the EEAG's reputation, even if a particular regulatory intervention is not successful. However, such efforts can take an enormous amount of time and thus must be selected carefully, maintaining a regular presence and a steady purpose while not doggedly pursuing lost causes or giving short shrift to other types of initiatives. Legal suits can also be valuable tools to grab people's attention and force change, but suits also are resource-consuming and run the further risk of alienating potential allies. In these types of activities, a carefully calculated measure of flexibility—including a willingness to settle—can be important, both to achieve at least a degree of success and to build a reputation for reasonableness.

The second category of EEAG initiatives (those with longer-range goals and generally less tangible outcomes) includes such activities as education and outreach; research and publication; and coalition-building with either like-minded groups or with dissimilar groups where common ground can be found. Education and outreach has been tackled to a limited extent by most of the groups studied; however, these endeavors are more likely to be the responsibility of other, allied organizations. Community service projects, in particular, are usually best carried out by local organizations, as they often require mobilizing a number of people. In contrast, developing a good working relationship with key media personnel is often feasible and may prove valuable. In addition to major newspapers, journals and newsletters that reach utilities, industries, and other unlikely but potential allies should be explored. In other words, EEAGs are most effective if they don't just preach to the converted. Research and publication adds considerably to the credibility of an EEAG, but only if the research findings are well-argued and documented and if the publications reach those whom the EEAG is seeking to influence. Obviously slanted research may, in contrast, jeopardize an EEAG's reputation with all but "fellow travellers."

Coalition-building can be one of the most cost-effective strategies of an EEAG, because coalitions (either within interactive efforts or in other settings) are likely to carry more weight than the voice of a single organization. They do, though, have the potential downside of requiring compromises in order to speak with a unified voice. The most effective strategy appears to entail a loosely organized coalition—one which allows some but not all members to coalesce around particular issues as they arise. Unlike coalitions of like-minded groups, alliances of disparate groups (e.g., EEAGs, utilities, and industries) are likely to be targeted toward one, relatively short-lived cause; nevertheless, they can lay the groundwork for future, renewed alliances over shared interests and concerns. Even more than coalitions, such alliances temper the possibility that the EEAG will be regarded by "insiders" as an extremist outsider. Mustering the support of ratepayers is part of what coalitions and alliances is about: it is important (especially as a political tactic, to counter opponents) to show that the EEAG speaks for a broad range of actual people, not just for an ideology. In this effort especially, an EEAG working with utilities and in the regulatory arena may need the support of other organizations with stronger grassroots connections.

## CRITICAL RESOURCES

**How do internal factors such as an EEAG's funding, staff size, and staff expertise affect its ability to undertake various strategies effectively?**

No one group can do everything. EEAGs need to do both cost/benefit analyses, to assess which broad strategies and specific tactics are likely to have the biggest returns in the long and short run in their particular situations; and self-examinations, to realistically assess where their group's strengths lie. Stable, diversified sources of funding are important: to initiate and carry out either interactive efforts or other types of efforts, the EEAG and others (including potential opponents) must know that it will not vanish in six months or a year, that it is there for the long haul. Without adequate funding, the group's ability to undertake certain efforts—especially costly ones such as research and regulatory intervention—will be curtailed. Yet funds alone cannot ensure that the EEAG will be successful in its efforts, and not just because of the external, relatively uncontrollable factors mentioned above. In addition, the EEAG's success will be determined by its ability to attract and retain a talented and appropriate mix of staff members. Building up internal expertise usually takes time. While consultants can be used to some extent, they are expensive and they may be regarded with skepticism by others who see them as "carpetbaggers." In the final analysis, it appears that most EEAGs are judged to a large extent on their own capabilities.

To stretch the limited resources of EEAGs, they can join with other like-minded groups and divide up the efforts to be undertaken, as noted above. In addition, creative use can be made of the particular setting of an EEAG: for example, its affiliation with a university or other organization. (However, this affiliation can also lead to extra responsibilities that draw off time and energy from advocacy work.) The national network of EEAGs now in place can be helpful, to give access to ideas and approaches being developed elsewhere—but only if those ideas are applied with a sensitivity to how they will "play" at home. In the end, though, it appears that most EEAGs must continually deal with a shortage of staff resources. In doing so, they are faced with the challenge of trying to do a few things well (rather than lots of things poorly) while remaining alert to new possibilities for exerting their influence. It is a difficult balancing act.

\* \* \*

There is no surefire formulas for success. Many variables affect whether interactive efforts and the independent initiatives of EEAGs will have significant results. The general economic situation and a utility's particular set of resources have major impacts on the efforts of EEAGs. So too do actions within the regulatory arena—especially current regulatory policies and, on the horizon, the prospect of a major shakeup in electric utility regulation. Other variables closer to home such as the availability of EEAG funding and of opportunities for coalition-building play important roles as well. Furthermore, in many instances it is too early to determine precisely what the long-term results of interactive efforts and independent EEAG initiatives will be.

An important job of those leading an EEAG is to determine which activities will prove the most fruitful. In doing so, they must take into account both the combined effects of various activities at any one point, and their additive effects over time. This report does not provide a “recipe” for EEAGs. By providing an analysis of selected EEAG efforts, however, it may help to guide EEAGs as they chart their own courses.

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**APPENDIX A**  
**INDIVIDUAL CASE STUDY CHRONOLOGIES**



## THE CALIFORNIA COLLABORATIVE AND RELATED NRDC ACTIVITIES

### CHRONOLOGY

- January 1979:** Conservation Load Management Adjustment Clause is added to SCE tariffs.
- April 1989:** Conservation Load Management Adjustment Clause tariff is withdrawn.
- Spring 1989:** NRDC completes and publishes *The Decline of Conservation in California: Causes, Costs, and Remedies*.
- July 1989:** Commission holds en banc hearing on DSM. There is agreement to initiate a collaborative process.
- August 1989:** Collaborative parties begin meeting. Three phases of activity are defined:
- (1) fact-finding on technologies and programs
  - (2) developing policy options
  - (3) synthesis and report writing
- November 1989:** Fact-finding phase of collaborative process is completed.
- January 1990:** *An Efficiency Blueprint for California, Report of the Statewide Collaborative Process* is presented to the Commission. Highlights of the document are:
- (1) utilities will increase DSM investment 96% by the end of 1991
  - (2) financial incentive mechanisms for each utility are outlined
- February–April 1990:** NUPs work with individual utilities to develop DSM programs and financial incentive mechanisms.
- April 1990:** Utilities individually file detailed DSM program descriptions and details of financial incentives mechanisms with CPUC.
- August 1990:** DSM applications approved by CPUC.
- October 1990:** CPUC sends formal letter to all utilities supporting the advisory committees which have been formed to continue the involvement of affected parties in DSM program planning, implementation, and evaluation.

- 1991:** First full-year implementation of customer energy efficiency programs adopted by CPUC in August, 1990.
- Advisory committees begin meeting.
- Regulatory review workshops on DSM measurement and evaluation activities are held in the winter and summer.
- California Conservation Inventory Group prepares report on statewide DSM resources.
- May 1991:** SDG&E- and SCE-proposed merger is denied by CPUC, and the utilities decide not to appeal the decision.
- SCE announces plan to reduce carbon dioxide emissions by 20% by 2010.
- June 1991:** In Biennial Resource Plan Update proceeding, CPUC orders utilities to assign costs to environmental externalities when evaluating new resources.
- August 1991:** SDG&E files its Biennial Resource Plan Update, which forecasts a need for 1600 MW by the year 2000 and estimates that DSM could provide 240 MW by 1995 and 360 MW (22.5% of the forecasted need) by 2000.
- October 1991:** PG&E receives U.S. President's Environment and Conservation Challenge Award (the presidential award for environmental excellence).
- December 1991:** Utilities meet their 1991 DSM goals for energy savings and peak demand reductions.
- March 1992:** Utilities file first annual progress reports on DSM with the CPUC. Progress reports provide details by program on results, expenditures, evaluation and measurement.
- June 1992:** Utilities are required by CPUC to announce the quarterly meetings of their DSM advisory committee(s) one year in advance.
- Summer-fall 1992:** CPUC holds workshops on DSM measurement and evaluation (M&E). Participants are the same as those in collaborative, but negotiations occur through a third-party facilitator.
- December 1992:** CPUC Division of Strategic Planning releases the "Yellow Report" regarding the future regulation of energy utilities. Report concludes

that utility regulatory policies are inconsistent with the current market.

**January 1993:**

CPUC receives consultant's report that examines DSM shareholder incentive programs in use in California and solicits testimony about whether DSM incentives should exist and, if so, in what form.

**January-June 1993:**

CPUC holds three full-panel hearings regarding regulation of utilities.

**April 1993:**

Administrative law judge ruling regarding M&E basically approves what has been settled in workshop: change from *ex ante* engineering estimates to *ex post* verification and use of net-to-gross ratios. Where disagreements remain, the administrative law judge generally sides with utility (and against the CPUC Division of Ratepayer-Advocate) regarding use of performance and retention studies, frequency of study, and front-end loading of returns.

**May 19, 1993:**

CPUC approves M&E protocols (Docket R91-08-003), mandates load impact study after first year and performance and retention studies in third and sixth years for residential programs and fourth and ninth year for commercial programs, and orders 50% of returns in first year and the remainder divided into 3-4 year and 6-9 year time frame. Together utilities will spend about \$37.6 million annually on M&E (about 12% of DSM budgets).

**September 1993:**

CPUC reaffirms its support for providing financial incentives (R93-09-078) for DSM for each utility and begins investigation of what specific incentive mechanisms should be used. Since the inauguration of the collaborative the net benefit of all DSM programs has been \$1.9 billion.

**Fall 1993:**

CPUC promises to deliver in February 1994 a statement (though not a formal ruling) about revising electric utility regulation.

## **COLLABORATIVE PARTICIPANTS<sup>11</sup>**

### **Utilities**

- PG&E
- SCE
- Southern California Gas Company
- SDG&E

### **Nonprofit Groups**

- NRDC
- Toward Utility Rate Normalization
- California Energy Coalition
- Cal/Neva Community Action Association

### **Business/Industry Groups**

- California Large Energy Consumers Association
- Association of California Water Agencies
- California Manufacturers Association
- Independent Energy Producers Association

### **Government Agencies**

- California Energy Commission

### **Regulatory Staff**

- CPUC/Division of Ratepayer Advocate

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<sup>11</sup>Participation in the M&E workshop closely paralleled collaborative participation. Advisory committees are utility specific, and PG&E's committee, for example, includes additional representatives from the building and lighting industries.

## DP&L COLLABORATIVE AND RELATED ACTIVITIES

### CHRONOLOGY

- 1980s:** DP&L invests heavily in the Zimmer Nuclear Power Plant. The Zimmer plant is never completed as a nuclear generating facility, but the need to recover these expenditures sets the stage for rate increases in the next decade.
- Mid-1980s:** Decision is made not to complete Zimmer as a nuclear plant but to convert it to a coal unit (to burn Ohio coal); agreement is reached among key parties on an overall cap to Zimmer costs.
- Sierra Club Ohio Chapter begins advocating aggressive utility use of DSM before PUCO.
- May 1989:** CCAP issues report on the environmental benefits of energy conservation and its potential for reducing acid rain.
- Summer 1989:** PUCO holds series of public meetings centering around prospective IRP rules. Ohio Office of Consumers' Counsel (OCC) states that the profitability issue should be addressed in order to stimulate utility interest in DSM and offers to work collaboratively with any interested utility.
- Oct. 31, 1989:** PUCO revises rules for long-term forecast reports and Integrated Resource Plans for electric utilities. Electric utilities are required to file Integrated Resource Plans every two years. These plans must contain a 20 year demand forecast, a least cost resource strategy, and a separate short-term (four year) implementation plan.
- PUCO rule states that DSM programs are to be implemented by utilities whenever these are shown to be cost-effective in comparison with available supply-side alternatives. However, the ruling recognizes that the implementation of DSM programs could have adverse impacts on utility profits, even if the programs are cost-effective, because of "certain fundamental disincentives" contained in the existing rate-making process.
- January 1990:** OCC agrees to drop its excess profits claim in an ongoing case against DP&L in return for the utility's agreement to enter into a joint planning process to develop a residential conservation pilot program. In the resulting stipulation, DP&L declares its intention to launch a \$500,000 residential pilot program by the end of 1990. The cooperative planning effort involving DP&L and OCC begins

immediately; shortly thereafter, a consulting firm is chosen to work on pilot program design.

**May 14, 1990:**

PUCO invites comments from interested parties on the impacts of DSM programs and power purchases on company profitability.

**Summer 1990:**

Responses are received from a number of interested parties, including utilities, OCC, the Ohio Manufacturer's Association, the Alternative Energy Association, and the Sierra Club. OCC proposes "customer-driven revenue adjustment."

**1991:**

CCAP launches its Ohio Energy Conservation Initiative to encourage greater utility commitment to DSM and renewable energy resources and to work with other non-utility groups in Ohio toward that end.

**January 1991:**

As a result of its cooperative planning program with OCC, DP&L initiates a program to install low-cost conservation measures in customers' homes. All customers using electricity for space heating or hot water are eligible.

**Feb. 7, 1991:**

PUCO issues preliminary regulatory policy on DSM incentives and cost-recovery mechanisms. These regulations include: provisions for utilities to recover all expenditures on qualifying DSM programs; provisions for the recovery of "lost revenues" resulting from successful conservation programs; and the establishment of incentive bonuses for successful implementation of DSM programs that allow utilities to receive a portion of net savings. To be approved for cost recovery, DSM programs must be included in the IRP filed by each utility every two years. The exact magnitude of the revenues allowed under each of these items is to be determined during subsequent rate case proceedings. This rule is to take effect in 60 days unless the PUCO is persuaded otherwise through at a workshop arranged by the staff to clarify details of the order or through rehearing.

**March 5, 1991:**

Workshop is held by PUCO staff, in which staff answer questions from attendees on the details of the order and propose some staff-authored revisions to the order.

**March 11, 1991:**

Eight Ohio utilities plus the OCC file applications for a rehearing on the Finding and Order of February 7, 1991, regarding DSM incentives and cost recovery mechanisms.

**April 1991:**

PUCO guidelines for DSM cost recovery, lost revenue recovery, and shared savings incentives go into effect. These rules are those issued in February 1991 with some revisions developed by the PUCO staff.

DP&L submits its first IRP to the PUC. DP&L also files application for its first base rate increase in eight years. This increase is expected to generate approximately \$187 million of additional revenue per year, an increase of nearly 25% over current revenues. In response to the proposed rate increase, all of the following organizations intervene over the next several months: OCC; IEC; Executive Agencies of the United States; Ohio Council of Retail Merchants; Sunshine Seniors and Edgemont Coalition; Ohio Cable Television Association; and townships of Clay and Miami, villages of Gratis and Phillipsburg, and city of Brookville (Local Government Utility Coalition).

**Nov. 6, 1991:**

DP&L and intervenors file a stipulation with the PUCO that would resolve all of the contested issues in the rate case. Nearly all of the original intervenors are signatories to the stipulation. Key points of the agreement include the following: DP&L will receive an increase of \$129 million in annual revenues, exclusive of DSM revenues, to be phased in over three years; DP&L's Zimmer plant investment will be limited to \$795 million, with an estimated service life of not less than 33 years; an "earnings cap" is established for DP&L, with a target return on equity of 13%; DP&L agrees to spend \$15 million per year for the next four years on cost-effective DSM programs; the signatory parties will join in a collaborative effort (to be part of the process of readying DP&L's 1992 IRP filing) "to insure that DSM funds are expended in a cost-effective manner;" the costs associated with DSM programs should be allocated to the classes that benefit from those programs; DP&L will only adopt programs that pass the TRC Test, but it will initiate a pilot DSM program to target low-income residential electric customers; and the signatory parties agree that this stipulation resolves the issues raised by DP&L in its application and testimony concerning the reasonableness of its decision to convert the Zimmer plant to a 1300 MW coal-fired generating plant.

**Nov. 12, 1991:**

PUCO staff files report of investigation, finding the November 6 stipulation to be a reasonable resolution of the pending case.

**Nov. 21, 1991:**

PUCO issues order requiring utilities to evaluate the impact of including the economic costs of environmental externalities resulting from electric power generation when comparing costs of supply- and demand-side resources.

**Late 1991:**

PUCO (with substantial public input) begins work on Ohio Energy Strategy.

**January 1992:**

Sierra Club Ohio Chapter initiates project to organize and share information with local groups and individuals throughout Ohio who are involved with ongoing intervention in PUCO cases. This effort produces a periodic newsletter and can provide other forms of assistance, as resources allow. This "energy activists' network" is separate from, but coordinated with, the CCAP's subsequent efforts to develop a network of energy conservation advocates in Ohio (and elsewhere in the midwest).

**Jan. 22, 1992:**

PUCO accepts staff's recommendation and rules that the November 6, 1991, stipulation settling the contested rate case is reasonable and in the public interest and should, therefore, be adopted. This signals the official birth of the new DP&L Collaborative. In addition to DP&L, members of the collaborative include all those intervenors in the rate case (or their representatives) who signed the November 6 stipulation plus the Montgomery County Community Action Agency (which was invited to join) and the Sierra Club (which intervened in the case after the Nov. 6 agreement was reached). The PUCO staff is to participate in the collaborative as a nonvoting (but active) member, and the CCAP also is involved in the collaborative as an active nonvoting member (due to its role as advisor to the Sierra Club).

**February 1992:**

First meeting of collaborative is held on February 6. Major topics are: a proposed workplan presented by DP&L; a schedule of meetings for the near-term future; the issue of technical support (including the use of outside experts by the NUPs); the selection of DSM programs for DP&L's upcoming 1992 IRP filing; and a discussion of DP&L's past and current DSM programs. The participants agree that decisions are to be made by consensus and that separate subcommittees should be formed to deal with programs in the residential and C&I sectors. However, the parties disagree over whether outside experts should be hired for the NUPs. The NUPs would like up to \$50,000 to use for this purpose, but DP&L considers such assistance unnecessary.

The entire collaborative group meets two more times in February and both subcommittees also meet. The parties still cannot agree on the immediate necessity of outside experts, but DP&L does agree to retain consultants when specific tasks are identified. Discussion begins on specific programs that the various participants would like to see included in DP&L's 1992 IRP, and the utility expresses its desire to incorporate programs that the NUPs want. All parties support DP&L's goal of having an IRP (and associated DSM programs) ready for filing by April 15. The Sierra Club develops a draft workplan containing more detail than the earlier DP&L

offering, but this is never adopted. No formal rules are established concerning collaborative structure and procedures.

**Spring 1992:**

Collaborative participants continue to meet every week or two and to discuss potential DSM programs for DP&L's 1992 IRP. In a compromise solution, all parties agree to hire consultants to serve the entire collaborative; these experts give presentations on what's been done in other states and on how to evaluate programs, but they do not evaluate specific DP&L programs.

The deadline for filing the 1992 IRP is pushed back from April 15 to June 30. All parties reach substantial agreement on the DSM programs that the utility should adopt but **not** on the allocation of funds to specific programs. DP&L favors spending a large portion of its total DSM budget on customer education programs, while many NUPs want more funding to go to the direct provision of DSM services.

**May 21, 1992:**

Collaborative holds last meeting before DP&L files its IRP. At this meeting, DP&L presents the mix of DSM programs that it intends to include in its upcoming IRP, giving the NUPs another opportunity to offer comments.

**June 13, 1992:**

Sierra Club, CCAP, and others hold workshop in Columbus for individuals and organizations involved with energy issues in Ohio. Topics include: legal and administrative opportunities; IRP and DSM; and coordinating locally for action.

**June 30, 1992:**

DP&L files 1992 IRP with PUC. This plan (which includes many elements in addition to the portfolio of DSM programs that is the focus of the collaborative) is **not** presented as a consensus filing. Shortly after the plan is filed, several collaborative members (including OCC and the Sierra Club) file motions to intervene in the IRP case.

**Mid 1992:**

CCAP starts working with existing low-income organizations to help them address energy efficiency issues.

**Sept. 24, 1992:**

Collaborative meetings resume after a summer of inactivity, with a new team of utility representatives that many members consider more approachable than the original company representatives. In the first six weeks following the May 21 meeting, DP&L had been busy preparing its 1992 IRP for the June 30 deadline. After that, NUPs had been involved in reviewing the filing, and many collaborative participants had been involved in other cases, particularly the Ohio

Power Environmental Compliance Plan. The involvement of outside consultants ceased during the summer months.

**Oct. 1, 1992:**

NUPs meet in attempt to formalize a mutually-acceptable collaborative structure and to decide what tasks to undertake prior to onset of IRP hearings (probably in January). A small working group (containing representatives from OCC, IEC, and the Sierra Club) is established and charged with reaching agreement on these issues and reporting back to all NUPs.

PUCO issues order modifying procedures for DSM cost recovery, lost revenue recovery, and shared savings incentives. Revised order allows utility DSM programs implemented prior to (or between) IRP proceedings to qualify for program cost and lost revenue recovery (but not for shared savings). Order also allows certain types of pilot programs to qualify for lost revenue recovery. Finally, PUCO staff is ordered to organize a conference for affected utilities and NUPs to explore the viability of alternative DSM recovery mechanisms.

**Oct. 13, 1992:**

NUPs meet to discuss agreement reached by smaller working group on collaborative procedures/decision-making structure and key tasks for the coming months. NUPs reach agreement and send their "Collaborative Process Agreement" to DP&L for review. This draft document presents the NUPs' position on a number of process-related topics, including: the purpose, role, and scope of the collaborative; membership and participation; decision-making; and the use of consultants.

**Oct. 14, 1992:**

NUPs send DP&L their comments on the DSM programs proposed by the utility in its IRP filing of June 30, 1992. The NUPs identify some programs that should go forward immediately, some for which more information is needed, and some that should be put on hold. Specific comments are offered on a number of the programs.

**Oct. 27, 1992:**

Entire collaborative meets to discuss issues raised by the NUPs in their October 13 and 14 communications and to attempt to reach consensus in these areas.

**Fall 1992:**

DP&L starts implementing some of the DSM programs included in its IRP filed on June 30, 1992, and continues to increase the size of its DSM staff (a ramping-up process that began during the summer). Collaborative participants discuss DSM programs contained in the IRP and the hotly-contested issue of hiring a consultant to serve the group. Negotiations are held on program changes suggested by the NUPs in an effort to reach a settlement on major issues of contention

before PUCO hearings begin. No agreement is reached concerning new collaborative procedures.

PUCO issues draft report on Ohio Energy Strategy.

**Feb. 17, 1993:**

Prefiled testimony and exhibits concerning DP&L's 1991 and 1992 IRPs are submitted to PUCO at evidentiary hearing. During this hearing, a Stipulation and Recommendation Agreement, worked out in private negotiating sessions (separate from the collaborative) and signed by most parties to the IRP case, is submitted to the Commission. The negotiating sessions did not involve all collaborative members, because not all of them are formal intervenors, but these sessions did involve the key players in the collaborative. CCAP was intensely involved in the negotiations as Sierra Club's advisor, but it is not an intervenor in the case and therefore does not sign the stipulation. IEC and the organizations represented by the Dayton Legal Aid Society are not signatories to the stipulation but they are not opposed to it. The main features of the agreement are that: the utility's forecasts are found to be adequate; the need for additional generating capacity presented by the utility is agreed to be reasonable (although the parties do not sign off on any specific facility); the utility will spend less than \$15 million on DSM in 1992 but will still meet the overall four-year expenditure level of \$60 million (which will count only program costs and will not include lost revenues); the utility will be allowed to eventually recover program costs and lost revenues and collect shared savings on 15 recommended programs and six additional programs, pending demonstration of their cost-effectiveness under the TRC test; the utility can implement 10 education, demonstration, or pilot programs and eventually recover the associated program costs; and DP&L will continue to work with the existing collaborative on the development, design, implementation, monitoring, and evaluation of DSM programs and will fund a consultant (Xenergy) to assist the collaborative by evaluating, refining, and suggesting specific programs to meet the \$60 million investment goal.

Collaborative members agree informally that the collaborative will operate without written rules for the next six months and that this issue will be revisited at the end of that time. The decision to hire a consultant (formalized in the stipulation) represents the culmination of many months of discussion in the collaborative. While the collaborative discussed utility-suggested programs prior to the settlement, it did not actually engage in program design. The settlement on acceptable programs reached in the negotiating sessions was aided by a cost-effectiveness analysis performed by PUCO staff

which allowed participants to have an overview of all possible programs.

- February 22, 1993:** OCC issues a news release proposing a series of energy efficiency actions to be aggressively pursued in Ohio. These proposed actions include: getting the PUCO to establish guidelines for more effective collaborative interactions; setting statewide goals for energy efficiency savings; streamlining the PUCO process for approving and implementing DSM programs; and requiring utilities to examine the cost-effectiveness of the widest range of energy efficiency measures.
- Spring 1993:** Consultant to collaborative (Xenergy) is hired and charged with designing (and subsequently implementing) evaluations of DP&L's ongoing DSM programs.
- May 6, 1993:** PUCO approves 2/17/93 stipulation and allows DP&L to defer (until the company's next IRP case) the appropriate level of program costs, lost revenues, and shared savings for the programs specified in the stipulation. The Commission further states its expectation that DP&L will design and implement all feasible cost-effective DSM measures **beyond** those provided in the stipulation. The Order notes that "while this Commission is never bound by a stipulation, we believe that agreements which have been accepted by all parties of record are entitled to our careful consideration."
- June 30, 1993:** DP&L files its 1993 IRP, on which no PUCO hearing will be required. This is not a consensus filing of the collaborative.
- July 1993:** DP&L files for bonus emission allowances under the Clean Air Act, based on its 1992 DSM activities.
- Summer-fall 1993:** Collaborative continues to meet about once a month, as it has done all year. The meeting place is provided by DP&L, which also gives collaborative participants summaries of prior meetings and advance notification of future meetings and agendas. Major topics are utility performance on existing programs and possibilities for program refinement and new programs. Subcommittees (called "working groups") also meet on an ad hoc basis, as needed, to discuss specific issues that need closer attention (such as low income residential issues).

## **COLLABORATIVE PARTICIPANTS**

### **Utility**

- DP&L

### **Nonprofit Groups**

- Sierra Club
- CCAP (nonvoting member)

### **Business/Industry Groups**

- Lazarus
- IEC (withdrew after decision on IRP case in Spring 1993)
- Kroger
- General Motors
- Appleton Paper

### **Government Agencies**

- Ohio OCC
- Local Government Utility Coalition
- Legal Aid Society of Dayton
- Montgomery County Community Action Agency
- Wright Patterson Airforce Base

### **Regulatory Advisory Staff (nonvoting member)**

- PUCO Staff



## LEAF ACTIVITIES TO PROMOTE DSM IN FLORIDA

### CHRONOLOGY

- October 1, 1973:** Provisions of the Florida Electrical Power Plant Siting Act go into effect.
- 1980-1981:** The PSC requires electric utilities to adopt programs to meet the requirements of the newly enacted Florida Energy Efficiency and Conservation Act.
- Early 1980s:** Rules of the PSC pertaining to its energy conservation goals and residential conservation service program are implemented. The main purposes of these rules are (1) to increase the efficiency of electric and natural gas systems and their end uses by reducing weather-sensitive peak demand and oil and electricity consumption to the extent cost-effective; and (2) to require utilities to provide residential customers with energy conservation audits and, if necessary, weatherization with financing arrangements and inspections.
- November 14, 1989:** The PSC issues an order directing electric utilities to submit new and updated conservation plans and programs.
- December 1989:** Florida experiences unprecedented cold weather, causing peak electricity demands to exceed generating capacity by approximately 4,400 MW on December 25. As a result, rotating blackouts are employed by some Florida utilities.
- March 20, 1990:** In response to its investigation of the December 1989 blackouts, the PSC issues an order directing Florida's electric utilities to prepare a severe weather emergency plan for the State.
- September 11, 1990:** The PSC acts upon the utilities' conservation program submittals ordered on November 14, 1989, approving most of them. However, some programs are rejected because they do not meet the legislative intent embodied in the Florida Energy Efficiency and Conservation Act, and the PSC directs them to be resubmitted.
- October 1990:** The PSC opens a docket on shareholder incentives for DSM.
- December 4, 1990:** The PSC adopts the Florida Electrical Emergency Contingency Plan, which addresses actions to be taken by Florida's electric utilities during a generating capacity shortage, and gives procedures to be followed by utilities to ensure coordinated statewide action.

- August 1991:** FPC files a need determination petition, with the PSC, for four new gas combined-cycle power units providing an additional 940 MW by 1998-2000.
- The Florida Energy Office (FEO) holds a meeting with Governor Chiles, utilities, PSC staff, and EEAGs to discuss a comprehensive, statewide study of Florida's conservation potential.
- September 1991:** TECo files a need determination petition, with the PSC, for a new 220 MW integrated coal gasification combined-cycle power plant needed in 1996.
- September 13, 1991:** The PSC holds a workshop on the issue of economic incentives to encourage demand-side options.
- October 10, 1991:** LEAF, Florida Public Interest Research Group, Florida Solar Energy Industries Association, Florida Consumer Action Network, Manasota-88, PEP, John O. Blackburn of Maitland, FL, and Tim Steorts of Lake Wales, FL file a motion to intervene in FPC's need determination case. Terry Black, an attorney with PEP, is granted permission to intervene on behalf of LEAF.
- October 28, 1991:** LEAF, Florida Public Interest Research Group, Florida Solar Energy Industries Association, Florida Consumer Action Network, Manasota-88, PEP, John Ryan of Lakeland, FL (John Ryan is Vice Chairman of LEAF's board of directors) and Tim Steorts of Lake Wales, FL file a motion to intervene before the PSC in the TECo case. Terry Black is granted permission to intervene on behalf of LEAF.
- Nov. 20-21, 1991:** The PSC hearing for FPC is held. The PSC subsequently issues its order (February 25, 1992) denying FPC two of the four power units it had requested.
- December 10, 1991:** The PSC hearing for TECo is held. The PSC subsequently issues its order (March 2, 1992) granting TECo permission to build its requested plant.
- 1992:** The Florida legislature moves FEO from directly under the Governor's office to the Department of Community Affairs (DCA).
- January 1992:** FPC files a rate increases request amounting to \$145.9 million. The last rate change in 1988 reduced FPC's rates by \$121.5 million.
- February 25, 1992:** The PSC issues an order authorizing the construction of the first two units in the FPC's August 1991 plan and rejecting units 3 and 4.

Furthermore, the order requires FPC to file special DSM plans a year prior to its next needs petition.

**March 2, 1992:** The PSC issues an order granting permission to TECo to build its 220 MW power plant requested in the September 1991 petition. The PSC agrees that it is the most cost-effective alternative. However, the PSC requires TECo to file a new conservation plan one year prior to filing its next need determination case.

**March 1992:** LEAF files motions for reconsideration in response to the PSC's February 25 and March 2 orders regarding FPC's and TECo's need determination cases.

**Spring 1992:** The FEO initiates a statewide DSM study with representatives from the PSC, public and private utilities, and EEAGs (e.g., Florida Solar Energy Industries Association, LEAF, and the Project for an Energy Efficient Florida).

**May 19, 1992:** The PSC denies LEAF's motions for reconsideration of the FPC and TECo cases. LEAF appeals the TECo case to the Florida Supreme Court in July, but LEAF does not appeal the FPC case because it is negotiating on FPC's pending rate case.

**May 22, 1992:** Florida Power and Light (FP&L) and Cypress Energy Partners petition the PSC for a determination of need for two 416 MW pulverized coal-fired power units.

**June 1992:** Phase I of the statewide DSM study—the baseline assessment phase—is completed.

TECo files a petition for a permanent base rate increase of \$49.7 million in 1993 and \$33.5 million in 1994.

LEAF petitions to intervene in the FP&L/Cypress need determination hearing.

**July 1992:** In response to FPC's rate increase request, two witnesses give testimony on behalf of LEAF, arguing for decoupling and incentives.

LEAF files an appeal with the Florida Supreme Court on the TECo need determination case.

**August 19–24, 1992:** FP&L's need determination hearing is held. Eight EEAGs are present, including LEAF. Only LEAF formally intervenes.

**September 22, 1992:** The PSC agrees to have FPC file decoupling and incentives proposals within 60 days after the PSC issues its order on the FPC rate case.

**October 1992:** The PSC approves a petition by FP&L to modify conservation program standards for Dade County in order to expedite the installation of energy-efficient equipment in homes damaged by Hurricane Andrew.

The PSC issues an order denying the two 416-MW coal-fired units requested by FP&L and Cypress Energy Partners. Subsequently, Cypress Energy Partners appeal the denial to the Florida Supreme Court, and LEAF files a cross-appeal.

The PSC issues an order granting FPC an \$85.7 million rate increase to be implemented in three phases beginning in November 1992.

**October 20, 1992:** The Governor and the Cabinet (sitting as the Power Plant Siting Board) adopt a resolution directing the Department of Environmental Regulation (DER) to analyze the existing power plant licensing process, as well as the requirements of the 1990 Federal Clean Air Act and the 1992 National Energy Policy Act, and to advise the Siting Board whether changes in the process are needed. Some of the major issues noted include LCP and environmental externalities.

**Nov. 23-24, 1992:** The first public hearing is held by DER concerning the October 20 resolution adopted by the Power Plant Siting Board. Representatives of the utilities and the PSC favor the status quo, but others, including representatives of the cogeneration industry, want to develop a legislative proposal that would change the power plant licensing process.

**Dec. 9-10, 1992:** The second public hearing is held concerning the October 20 resolution directing DER to review the power plant licensing process. This session deals with nuclear power and air pollution issues.

**Dec. 15-16, 1992:** The third public hearing is held on the power plant licensing process. This session deals specifically with environmental externalities.

**December 17, 1992:** The PSC denies TECo's rate increase request of \$97.9 million, instead granting \$34 million to be phased in over two years.

**Dec. 17-18, 1992:** The PSC holds hearings in order to review its existing rule concerning the conservation goals embodied in the Florida Energy Efficiency and Conservation Act.

- December 22, 1992:** A final public hearing is held by DER on the power plant licensing process, in order to summarize the various issues raised during the other public hearings.
- Early 1993:** The Florida legislature passes the Florida Building Energy Efficiency Rating Act, which directs the DCA to develop a uniform statewide system for rating the energy efficiency of new and existing residential and commercial buildings.
- January 1993:** Julia Johnson is appointed to the PSC by Governor Lawton Chiles, replacing Betty Easley who was appointed by the former Republican governor. With Johnson's appointment, Chiles, a Democrat who took office in January 1991, has appointed four of the five members of the PSC.
- January-  
March 1993:** LEAF assists Florida Legal Services in developing a proposal for the group's participation in PSC energy efficiency matters pertaining to low-income citizens.
- March 1993:** Cypress Energy Partners appeal the PSC's denial of their two requested units to the Florida Supreme Court. LEAF subsequently files a cross-appeal.
- March 18, 1993:** LEAF petitions to intervene in a PSC case to consider whether Gulf Power's proposed plan to attain Clean Air Act compliance is reasonable and in the public interest.
- March 23, 1993:** The Florida legislature passes legislation allowing electric utilities to recover certain costs incurred on or after April 13, 1993 that are associated with reducing emissions to comply primarily with the Clean Air Act.
- March 30, 1993:** The PSC adopts rules regarding conservation goals. The new rules require utilities to submit proposals for numerical conservation goals for energy savings and demand reduction. Once the proposals are approved by the PSC, the utilities will have 90 days to submit specific programs to reach their goals. These programs also must be approved by the PSC. In addition, after goals and programs have been approved, utilities are required to make annual reports to the PSC on the results of their efforts to implement the programs and reach the goals.
- April 1993:** FPC files revenue decoupling and DSM incentives proposals for PSC review.

- April 9, 1993:** The Florida Supreme Court hears oral argument on LEAF's appeal of the TECo need determination case.
- May 1993:** The FEO issues its final report on the statewide DSM study titled "Electricity Conservation and Energy Efficiency in Florida: Technical, Economic, and Achievable Results."
- June 22, 1993:** LEAF submits comments to the DCA on its draft strategic plan, raising the issue that DCA had not yet reacted to the DEP's proposed report on the power plant licensing process.
- June 29, 1993:** PSC staff hold a workshop on issues pertaining to the environmental cost recovery legislation passed earlier in the year.
- July 1993:** Cypress Energy Partners withdraw their appeal of the PSC's denial of their two proposed units, because it is determined that FP&L no longer needs new capacity by 1998.
- July 1, 1993:** The DER and the Department of Natural Resources are consolidated to form Florida's DEP. This delays release of the former DER's report and recommendations on the state's power plant licensing process requested by the Power Plant Siting Board in its October 20, 1992 resolution.
- The Florida Supreme Court rejects LEAF's appeal on the TECo need determination case. The Court's opinion states that the PSC acted properly in interpreting its own rules regarding the need for conservation and the definition of cost-effectiveness.
- July 7-8, 1993:** LEAF participates in PSC hearings concerning Gulf Power's Clean Air Act compliance plan, and argues that, among other issues, the company did not consider DSM options sufficiently.
- July 16, 1993:** DCA submits comments to DEP concerning the power plant licensing process. The comments address implementation of the statewide DSM study, interagency coordination related to energy planning, long range/strategic energy planning, promotion of energy conservation and renewables, and consideration of environmental externalities.
- July 20, 1993:** DEP releases its report "Comprehensive Review of the Florida Power Plant Licensing Process." The report includes such recommendations as: decoupling utility revenues from profits to promote energy conservation; taking DSM programs into consideration before new power plants are approved; allowing non-utility generators and energy service companies to compete with utilities to supply new resources; taking environmental factors into

consideration much earlier in the process; streamlining the siting process by eliminating some unnecessary steps; and determining which fuels should be allowed in new plants.

**August 1993:**

The PSC approves Gulf Power's Clean Air Act compliance measures. The plan includes lowering its nitrogen oxide emissions by using low nitrogen oxide burners and lowering its sulfur dioxide emissions by burning low sulfur coal. LEAF files a motion for reconsideration of this decision.

**August 12, 1993:**

The Power Plant Siting Board votes to adopt DEP's July 20 recommendations relating to the power plant licensing process and set in motion the process of forming a task force to consider how the recommendations should be implemented, to draft new legislation to carry them out, and to recommend rules and policies to various agencies.

**Fall 1993:**

LEAF's motion for reconsideration of Gulf Power's Clean Air Act compliance plan is rejected by the PSC.

**September 1993:**

PSC staff hold informal workshops on decoupling and incentives. Those attending include FPC, the other utilities, the Florida Industrial Power Users Group, and LEAF. Hearings are expected in December.

PSC Commissioner Tom Beard resigns from office. Governor Chiles begins looking for nominees to fill out the remainder of Beard's term and to start a new term in January 1994. Luis Lauredo is nominated for reappointment.

**October 20, 1993:**

The PSC holds the first workshop on the utilities' prospective conservation goals, addressing the various programs that the utilities can implement and their technical market potential.

**Late Fall 1993:**

Diane Kiesling's appointment to the PSC is contested in the Florida Supreme Court, because of controversy over the nominating process.



## GEORGIA COLLABORATIVE AND RELATED ACTIVITIES

### CHRONOLOGY

- 1987:** Georgia PSC prudency audit of the Vogtle Nuclear Power Plant results in a disallowance of over \$1 billion in construction costs.
- 1988:** Southern Company (Georgia Power's parent company) stockholder suit resulting from PSC disallowance leads Southern Company directors to state that no more construction will be undertaken by Georgia Power without prior PSC approval.
- December 1988:** Georgia PSC hosts workshop on LCP (now referred to as IRP) where Georgia Power presents its first Integrated Energy Plan.
- 1989:** LCP Task Force, made up of representatives from PSC staff, utilities, CUC, industrial trade groups, academics, and consumer activist/ environmental groups is formed under PSC direction to develop rules for LCP. PSC forms ad hoc staff committee to deal with related issues. Georgia Power explores the area of LCP, meeting with representatives from various knowledgeable organizations including the CLF. PSC continues to send staff to conferences and workshops for training in LCP. The Task Force, with help from the PSC staff committee, develops draft of LCP rules and the PSC issues rules for comment.
- December 1989:** Georgia Power distributes its second Integrated Energy Plan.
- April 1990:** During a meeting of the LCP Task Force, CPG proposes an "All Parties' Conference"-type forum for discussion of issues. The suggestion is rejected by the PSC Task Force chair as being outside the purview of the PSC rulemaking directive, but Georgia Power volunteers to host workshops in the "All Parties' Conference" style. PSC's LCP rules are tabled indefinitely to allow for improvement through the upcoming workshops. (Eventually, the Task Force dissolves.)
- May 1990:** Georgia Power hosts first workshop in LCP, which is open to the interested public. The company's forecasting and planning methodologies are reviewed and participants decide to meet again the following month.
- Summer-fall 1990:** Issues are identified during the workshop regarding regulatory barriers to the pursuit of DSM, and it is determined that some sort of legislation is needed to allow the PSC to grant incentives for DSM.

No specific plans for drafting legislation are discussed in the workshops. The utility presents preliminary DSM program designs for commercial high-efficiency lighting and new and existing residential structures for discussion by workshop participants; many changes are suggested.

**November 1990:** Georgia Power files its third Integrated Energy Plan, together with a proposal for a pilot High-Efficiency Lighting Program for the industrial and commercial classes and interruptible service tariffs for the industrial class.

**January 1991:** Legislation is introduced that provides for preapproval of plant construction and DSM programs, imposes limitations on prudence reviews by the PSC, and provides incentives to the utilities for DSM and power purchases. Some parties believe that the legislation as drafted emphasizes the reduction of utility risk without assurances of performance for ratepayers. Workshop participants cancel the January meeting to concentrate efforts on legislative lobbying for individual parties' interests, including attempts by CPG to include a funding mechanism for the ongoing workshops.

**February 1991:** Workshop is held, and Georgia Power receives severe criticism for its role in lobbying for legislation that many parties consider "one-sided." Georgia Power presents its revised proposal for a pilot Residential DSM Program and is criticized for not incorporating more workshop suggestions into the revision.

**March 1991:** Utility legislation containing significant amendments sought by workshop participants passes. However, no workshop funding mechanism is included. Georgia Power files a proposed pilot program for residential customers.

**April 1991:** Georgia Power files its rate case. Governor signs utility legislation which is scheduled to take effect in January 1992.

**May 1991:** Hearings are held on the High-Efficiency Commercial Lighting Pilot Program and Interruptible Tariffs. SELC, a new participant in Georgia utility matters, argues that the programs are not comprehensive, provide insufficient incentives to customers, and are not likely to achieve significant market penetration.

**June 1991:** Georgia PSC issues Notice of Intent (NOI) on IRP rulemaking to respond to the new utility ordinance passed in April. PSC approves Lighting Pilot Program (with modifications) but defers regulatory treatment of program as well as consideration of interruptible tariffs to upcoming rate case. Georgia Power and SELC favor compensation

for utility DSM programs that will encourage such investments; industrial and commercial intervenors are opposed to such measures.

**July 1991:**

Hearings are held on the pilot Residential DSM Program. PSC receives comments on NOI. Comments from CUC and CPG specifically identify need for formal mechanism to solicit public participation in the planning process. SELC comments focus on two critical issues: (1) economic screening test to determine cost-effectiveness of various resource options; and (2) principles to guide DSM program design to ensure that energy-efficiency's full potential is realized.

**Fall 1991:**

Georgia PSC holds hearings on proposed rules to enforce and administer the new utility legislation. SELC presents expert testimony in support of PSC staff's recommendations. PSC chairman says that newly mandated review will require approximately \$2 million and 20 additional staff members.

**Late 1991:**

Serious discussions begin between Georgia Power, SELC, CPG, and other NUPs about starting a DSM collaborative.

**December 10, 1991:**

Georgia PSC adopts rules (by a four-one margin) requiring all regulated Georgia electric utilities to develop and file Integrated Resource Plans that present alternative programs designed to achieve different policy objectives. Utilities also must develop and file applications for certificates for construction or sale of power plants, long-term purchases, and DSM expenditures. The final regulations contain the essential provisions of the April 1991 utility legislation and subsequent draft regulations, including the requirement that environmental impacts be considered and the acknowledgement that utilities are eligible to recover the prudent and reasonable costs of DSM programs and long-term power purchases. Lost revenues, if any, are to be considered by the PSC. In addition, utilities can receive an additional sum to encourage long-term power purchases and the use of DSM options.

**January 10, 1992:**

Georgia Power and SEPCo file electricity demand forecasts and 20-year IRPs with the Georgia PSC. The DSM programs included in the plans incorporate some, but not all, of the recommendations made in the 1991 IRP workshops.

**February 1992:**

The Georgia DSM Collaborative is officially formed with 10 parties signing an agreement creating the Demand-Side Working Group (DSWG). The involved NUPs are among the most active of the parties involved in Georgia Power's IRP workshops. The purpose of the DSWG is to work together "to reach a consensus in the

development and implementation of comprehensive demand-side programs;" however, the utilities "retain the right to develop and file their preferred programs." The collaborative's focus is on proposing consensus changes and additions to the utilities' 1992 filings, for use both in the upcoming 1993 filings and, if possible, in the more near-term certification hearings to be held on the 1992 filings. The participating utilities are Georgia Power Company and SEPCo. The NUPs signing the agreement are: SELC; Georgia CUC; OER; CPG; Georgia Textile Manufacturers' Association; GIG; U.S. DOE Atlanta Support Office; and the U.S. EPA, Region IV. Staff of the Georgia PSC also take part in the collaborative as observers, for information-gathering purposes. With the exception of CPG, all intervenor groups in the collaborative are represented by the same lawyers who handle their utility intervention. Even the CPG representative, while not a lawyer, does technical briefs and cross examinations. The utility representatives are vice presidents who testify in cases as expert witnesses and they generally are accompanied at DSWG meetings by company lawyers.

Jane Nelson is hired as technical coordinator for the NUPs in the DSWG. Together with the utilities' technical coordinator, Nelson will prepare a 1992 work plan, coordinate activities among utility staff and any consultants to the DSWG, prepare progress reports, and provide other technical assistance as necessary. Approximately \$40,000 is allotted for the hiring of any subcontractors to assist her, as needed. Any subcontractors to the NUPs' coordinator will be chosen from a list approved by the utilities, as was Nelson herself. Garey Rozier of Georgia Power is selected as the utilities' technical coordinator.

IRP workshops are to continue to be held every four to 6 weeks, to keep interested groups informed of the utilities' IRP progress and of the activities of the DSWG. Public input also is solicited at these workshops.

**March 1992:**

The technical coordinators jointly develop a one-page work plan for the DSWG.

**April 1992:**

The NUPs' technical coordinator develops a slightly expanded work plan for the NUPs. DSWG approves the jointly-developed work plan. The Governor's OER withdraws from the collaborative and the CUC stops attending meetings after gas utilities are not allowed to join the DSWG. The gas utilities claim that the DSWG meetings are closed because they (gas utilities) are denied access to group discussions involving certain confidential materials, raising the possibility that collaborative activities may violate the Georgia Open Meetings Law.

The PSC staff announces that it will not attend any meetings that violate that law.

**Spring 1992:**

Early efforts of the DSWG focus on identifying and investigating important issues for the DSWG to address. Work also begins on reviewing the demand-side certification applications filed by the utilities in January 1992, in order to identify areas in which the demand-side plans can be strengthened. The DSWG plans to complete its analysis of DSM programs for the two utilities by December 1992 in order to be available for use in the utilities' 1993 DSM certification applications.

PSC initiates proceedings on the utilities' IRPs. All of the nonfederal intervenor groups involved in the DSWG also are intervenors in these PSC proceedings.

**June 25, 1992:**

Many of the intervenors in the IRP proceedings, including most of the NUPs involved in the collaborative, file *Agreed Principles of Decisional Significance* with the PSC. This set of 18 principles includes the following: (1) cost-effective DSM is beneficial and should be pursued by the utilities; (2) costs of DSM programs (with the exception of those for low-income customers) should be recovered from the rate classes for which they are designed; (3) "undesirable" load-building should be avoided; (4) the utilities' forecast results are accepted for this docket and the need for 1994 peaking capacity is not opposed; (5) utilities were inadequate in their evaluation of purchased power and more consideration should be given to alternative energy resources; (6) NUPs disagree with utilities' proposal for recovery of DSM program costs through a demand-side rider, suggesting instead that this should be handled through rate cases; (7) the utilities' proposal regarding the recovery of lost revenues is not considered appropriate; and (8) any incentive mechanism (if such an approach is deemed appropriate) should be performance-based and should include provisions for penalties as well as rewards.

Despite the agreement on the general principles described above, NUPs still have not achieved consensus among themselves on the **specifics** regarding many important policy issues.

**July 8, 1992:**

PSC issues a ruling on the utility IRP proceeding for Georgia Power and SEPCo. The PSC comes out in support of "bold and aggressive" DSM programs that generate participation "at the most rapid possible rate and in the shortest possible period of time." The IRP approved for each utility is not the one proposed by the company, but rather is a modified version of the plan developed by the PSC staff's

consultants (known as "MSB 4" or "staff plan with moderate demand-side options"). The utilities are criticized for not taking advantage of DSM's full potential and are given until mid-September to revise their programs for the upcoming certification hearings in accordance with the PSC directive (which calls for increased residential incentives to achieve greater customer participation rates). This presents an opportunity for the DSWG to contribute to program revisions instead of waiting until the 1993 filing to have its first major input concerning DSM program design.

Other highlights of the PSC order include the following: the utilities are told that, in the future, they must use the SC test (including the use of monetized estimates, where possible, for externalities) as one of the tests used to screen resource options; the PSC announces its intention to establish detailed regulatory treatment policies in the upcoming demand-side certification application docket; the PSC goes on record as supporting, in principle, utility recovery of all prudent DSM program costs, recovery of lost revenues (possibly including "decoupling") to be examined in a separate docket, and the use of incentive rewards and penalties to reward or punish utilities for their performance relative to established DSM goals and objectives; the PSC states that DSM program costs, with the exception of low-income programs, should be recovered from the rate classes for which they are designed and implemented; and the utilities are directed to file with the PSC a proposal for custom demand-side options for industrial and commercial customers and government entities.

**August 1992:**

In light of the July PSC order and the September deadline for program revision, DSWG participants agree that their current top priority is to work together to revise DSM programs under the general guidelines established by the PSC. Toward this end, DSWG hires two consulting firms to work with the utilities to modify their residential programs. The program revision efforts involve the utilities and the DSWG consultants, but the collaborative participants themselves are not directly involved in these technical discussions. Because of the PSC's policy statement in its July 8, 1993, Order that "the cost of demand-side programs, with the exception of programs for low-income residential customers, should be recovered from the rate classes for which they are designed and implemented," the industrial parties take a "hands-off" approach toward residential program design.

**September 1992:**

Utilities file revised residential programs with PSC, which call for much greater spending on DSM than proposed in the January 1992 filing and incorporate most of the ideas suggested by the DSWG's

consultants. The Georgia Power filing also includes a proposal for a flat, per customer surcharge starting at \$1/month (to cover DSM program costs, lost revenues, and shared savings), which generates immediate opposition from the CUC. At the same time, the utilities propose an audit program and a standby generation program for the C&I sectors and withdraw their previously-filed C&I DSM programs from the certification proceeding, with the understanding that they will refile in December of this year.

After this filing, DSWG decides to hire additional consultants to work directly with utilities on revising their C&I DSM programs. Because of objections raised by the utility and industrial participants, no consulting firms originally suggested by the NUPs' coordinator were hired. Finally, a consultant was selected by the industrial parties and the other participants went along with this decision.

**Fall 1992:**

Collaborative (primarily DSWG consultants and utility staff) continues to work on revising C&I programs for December filing. Concurrently, most of the collaborative parties are involved in the more adversarial PSC Certification Hearings on those DSM programs filed by the utilities to date. At these hearings, there are some heated exchanges among many of the parties over the nature of the C&I programs to be offered by the utilities, since these yet-to-be-filed programs will be necessary to respond adequately to the utilities' demand forecasts. The PSC is expected to issue a decision based on these Certification Hearings in mid-December, 1992. One point on which many participants seem to agree is the desirability of continuing the collaborative.

**December 1, 1992:**

Georgia Power files revised C&I programs with the PSC. The utility proposes to offer programs to its large customers on a "customized" basis only, with participants bearing the full direct costs. The utility justifies this approach by citing the 7/8/92 ruling by the PSC in which it makes several statements indicating that cross-subsidization of DSM programs should be minimized, where possible. Small customers [those with less than 30 kilowatts (kW) of demand] are eligible for rebates to pay for energy efficiency measures to lighting, heating, and cooling systems. The company proposes two Demand Side Riders (one for small and one for large customers) to recover costs.

**December 8, 1992:**

SEPCo files its revised C&I programs.

**December 10, 1992:**

Georgia Power reaches an agreement (stipulation) with the PSC staff and two key intervenors—SELC and CPG—on a cost recovery system for its residential DSM measures that uses both capitalization (for all

direct costs) and expensing (for administrative costs). All costs will be recovered through a "Residential Demand Side Option Rider" [based on a charge per kilowatt hour (kWh)] to be adjusted annually. This mechanism replaces the \$1 per month surcharge proposed previously by the utility. A three year incentive mechanism also is included in the agreement, whereby the utility will receive shared savings if it achieves 50% of its projected energy savings but will pay a penalty if it achieves 40% or less of its target participation levels. The stipulated agreement was reached through a negotiating session, held separately from the regular collaborative meetings, that was open to all parties to the intervention.

No stipulation is filed for SEPCo.

**January 4, 1993:** PSC approves the McIntosh Project, which includes four 80 MW Combustion Turbines (CTs) for Georgia Power for 1994, two CTs for SEPCo for 1994, and two more CTs for Georgia Power for 1995.

**January 5, 1993:** PSC approves residential DSM and standby generation programs filed by Georgia Power, with certain modifications recommended by PSC staff. This decision incorporates key regulatory treatment specifics agreed to by Georgia Power, PSC staff, and two intervenors in December stipulation.

PSC also approves SEPCo's residential programs, in principle. The utility is directed to submit detailed implementation plans before going forward with its new DSM programs. The SEPCo ruling also includes a DSM Rider and an incentive mechanism (without penalty provisions).

**January 29, 1993:** Georgia Power asks PSC for certification of 160 MW of new CT capacity to be built at Warner Robins Air Force Base. In support of this request, the utility says its DSM programs (particularly in the C&I sector) will achieve substantially less demand reduction than predicted in its January 1992 IRP. The utility attributes these new, lower projections to the PSC's policy on minimizing cross-subsidization of DSM programs, penetration factors that were lower than expected, and new savings accounting methods.

**February and March 1993:** Intervenors in C&I DSM proceedings participate in series of meetings aimed at resolving differences over utility programs. These are negotiating sessions involving all parties to the case and are separate from collaborative working group meetings.

**Winter 1993:**

Bill is introduced and passed in Georgia state Senate (with strong industrial support) that would take away nearly all of the PSC's current staff and place the advocacy staff in a separate office.

**March 1, 1993:**

GIG files a case in state court to void PSC's 1/5/93 decision approving the Residential Demand Side Option Rider. GIG questions the PSC's authority to levy this surcharge and asserts that DSM costs should be recovered through rate cases. CUC also requests the opportunity to file briefs and make oral arguments in this case.

**March 25, 1993:**

Georgia Power, PSC staff, GIG, Georgia Textile Manufacturers' Association, U.S. Department of Defense, Atlanta Gas Light Company, Southern Natural Gas Company, and two other large C&I parties file a Joint Stipulation modifying the utility's 12/1/92 DSM filing. Under this agreement, rebates would be available to more C&I customers because the definition of "small" users is expanded to include all customers with up to 200 kW of load. However, rebates would be limited to \$1,200 per customer per year. For large customers, "customized" programs still are all that will be provided, although the interest rate for financing is reduced to prime plus one percent. Also, customers are allowed to use the auditor of their choice. The issue of the Demand Side Rider is not addressed, but cost recovery principles and incentives are specified. The stipulation also calls for the utility to file additional information on expanding the custom lighting program and to develop new rates to reduce peak demand, and for a PSC staff investigation of DSM issues related to fuel-switching.

As with residential programs, no stipulation is filed for SEPCo.

**March 29, 1993:**

SELC and CUC file testimony opposing the utility's initially-filed C&I DSM programs and the joint stipulation. The utility's proposal is called "discriminatory" because large C&I customers can choose not to participate in programs for their user class (and thereby avoid paying for the direct costs of these) but residential and small business customers must help pay for programs in their rate class whether or not they participate. The new C&I proposal is called a "major step backward" for the utility in the CUC-sponsored testimony. CPG, while not presenting its own witness, supports the position taken by SELC.

**June 1, 1993:**

CUC submits filing to PSC proposing that the Commission discontinue its current proceedings on Georgia Power's C&I DSM programs and initiate a new proceeding that would consider residential, commercial, and industrial programs simultaneously. CUC criticizes utility proposals as violating the spirit of integrated

planning because its residential programs represent a significant investment while its large-customer C&I programs—which emphasize the avoidance of cross-subsidization—do not.

SELC submits filing, calling on the PSC to reject Georgia Power's proposed C&I programs and to approve instead a broader array of programs proposed by its witness. According to SELC, these programs focus on maximizing energy savings while minimizing program costs, thereby addressing cross-subsidization concerns without sacrificing program effectiveness.

**Summer 1993:**

New DSWG Agreement is signed by all parties to collaborative, extending operations at least through the end of 1993. The terms of the agreement are unchanged from 1992, but there are some changes in membership. Specifically, SEPCo (which has not attended meetings all year) and OER (which withdrew in April 1992) are officially out of the collaborative and CUC is now officially an observer (like PSC staff) rather than a full participant.

Subcommittee of the Georgia House of Representatives holds meeting on proposed legislation to strip Georgia PSC of its staff; public comments are accepted at this time. No date is scheduled for the full House to consider the proposed measure but it could not occur before January 1994, which is the next time the Legislature convenes.

**August 5, 1993:**

PSC approves Georgia Power C&I programs, as proposed in the 12/1/92 filing and modified by the 3/25/93 Joint Stipulation. As specified in the stipulation, the Order requires the utility to expand the rebate program from customers with up to 30 kW demand to those with a demand of up to 200 kW. The rebates are capped at \$1200, the estimated total that a 30 kW customer could have obtained. The larger customers' custom financing interest rate also is dropped to prime plus one percent, and participants are allowed to choose their own auditor. By September 1 of this year, Georgia Power must file additional information on expanding the custom lighting program and to develop new rates to reduce peak demand. The Order also approves stipulated regulatory treatment provisions regarding cost allocation, capitalization of direct costs, and an incentive/penalty mechanism. The utility can collect up to 15% of DSM-induced savings but will be penalized if more than 40% of the planned measures are not installed. The PSC Order varies from the Joint Stipulation by approving use of DSM riders to recover program costs. The Order calls for two separate riders, one for small and one for large C&I customers. Finally, the order states that, if the "customized program" approach doesn't result in sufficient energy

efficiency, the PSC will require the utility to provide “the more traditional rebate programs” for large customers.

SEPCo C&I programs also are approved, along with a cost recovery rider and an incentive mechanism.

- September 1, 1993:** Georgia Power submits additional filing of information on C&I programs in compliance with August 5, 1993 Order. This filing contains information on the cost-effectiveness of expanding the custom lighting program to include motors, high-efficiency air conditioning, and ceiling insulation (without departing from the low-interest loan approach that characterizes the utility’s custom programs). This filing does **not** contain applications for certification of any of these/new program elements. The utility also files new time of use rates designed to reduce peak demand.
- September 7, 1993:** PSC certifies two 80 MW CT units to be built by Georgia Power at Warner Robins Air Force Base and approves updated IRP consistent with this certification. This approval is based in part on the company’s reduced C&I DSM savings estimates (compared to its January 1992 filing).
- September 8, 1993:** Georgia PSC issues Request for Proposals soliciting consulting firms to assist staff in monitoring and evaluating approved C&I programs, evaluating new rates, and evaluating the information filed on new custom C&I programs. Consultants are to be selected by mid-October of this year.
- Fall 1993:** Collaborative meetings continue, with the major topics consisting of avoided costs and the monitoring and evaluation of existing DSM programs.
- October 22, 1993:** In response to suit filed by industrial customers and CUC challenging Georgia Power’s use of rate riders to recover DSM program costs, the Fulton County Superior Court finds riders to be unlawful and invalidates previous PSC Orders establishing such mechanisms for residential and C&I programs.
- November 2, 1993:** Georgia PSC decides not to join Georgia Power in appealing the lower court ruling against the utility’s use of rate riders.
- Early Nov. 1993:** CPG and SELC inform Georgia Power of their intentions to withdraw from the DSWG at the end of the year. The utility and these two NUPs discuss the possibility of replacing the collaborative with some type of regular forum whereby Georgia Power and all interested non-utility groups could meet and exchange information

and ideas regarding the implementation of existing DSM programs and the development of the utility's new IRP. These meetings could be organized and run by PSC staff or by Georgia Power.

## **COLLABORATIVE PARTICIPANTS**

### **Utilities**

- Georgia Power Company

### **EEAGs**

- CPG
- SELC

### **Business/Industry Groups**

- GIG
- Georgia Textile Manufacturers' Association

### **Government Agencies**

- Georgia CUC (as observer)
- U.S. DOE, Atlanta Support Office
- U.S. EPA, Region IV

### **Regulatory Staff (as Observers)**

- Georgia PSC Staff (has stopped attending those meetings it sees as violating Georgia Open Meetings Law)

## NEW ORLEANS COLLABORATIVE AND ALLIANCE FOR AFFORDABLE ENERGY ACTIVITIES TO INFLUENCE DSM

### CHRONOLOGY

#### Early 1980s:

A decade-long battle begins between Middle South Utilities (now Entergy) and its service companies (which include NOPSI and LP&L), the state agencies responsible for regulating the utilities, and various public interest advocates [some of whom go on to form the Alliance for Affordable Energy (the Alliance)] over who should pay for the \$3.8 billion investment in Entergy's Grand Gulf Nuclear Plant (located in Mississippi).

#### 1981:

As the result of a utility-sponsored referendum, regulatory control of NOPSI is transferred from the City of New Orleans (which regulated NOPSI from its inception in 1922) to the Louisiana PSC.

#### 1983:

A referendum to return control of NOPSI to the City of New Orleans is held. The motion is narrowly defeated, and NOPSI remains under the regulatory control of the Louisiana PSC.

The City of New Orleans, with major encouragement from many in the community, including the precursors to the Alliance, begins exploring the possibility of buying NOPSI. The primary motivation for this effort is to avoid having the utility help pay for the Grand Gulf Nuclear Plant.

#### 1985:

After a vigorous campaign, City Council and its allies succeed in getting regulatory authority over NOPSI/LP&L operations in New Orleans transferred back to the Council. In this election, the vote is almost two to one in favor of the proposal.

Late in this year, the Alliance officially incorporates (from various individuals and groups who had been central to the utility debate in the first half of the decade).

#### 1986:

The New Orleans City Council disallows as imprudently incurred \$135 million in costs for the Grand Gulf Nuclear Plant, leading to five years of litigation with NOPSI in state and federal court.

The Alliance suggests that utilities should voluntarily invest in energy savings programs or that their regulators should order them to seek "least cost" energy sources and improve energy efficiency through LCP (also known as IRP).

- 1987:** An Alliance-sponsored study by Amory Lovins of Rocky Mountain Institute is published concerning the potential for DSM usage in New Orleans. The study shows the potential for substantial energy and monetary savings.
- Fall 1989:** Alliance launches **Education Outreach Program on Least Cost Energy Planning**, under sponsorship of Louisiana Department of Natural Resources. The purpose of this program (which will make use of workshops, community meetings, mass media events, a speakers bureau, and a periodic newsletter) is to educate local residents about the potential for saving money and energy through least cost energy practices.
- May 1990:** After years of study and discussion, City Council votes against having the City buy NOPSI. At this time, Council's consultants propose regional IRP to regulate system decisions and local LCP.
- October 1990:** Entergy holds a conference in New Orleans at which it commits itself to using LCP to determine future investments. This announcement follows the creation of a subcommittee by City Council's Utility Committee to study LCP.
- Early 1991:** The Alliance introduces an ordinance requiring NOPSI and LP&L to engage in LCP; the proposed ordinance is modelled closely after one designed by Cynthia Mitchell, a well-known energy consultant from Nevada. NOPSI, LP&L, the Alliance, New Orleans City Council, and representatives of the electrical-services contracting industry work together to tailor this ordinance to fit New Orleans.
- Spring 1991:** City Council hires MSB Energy Associates, Inc. to assist the City and work with its existing consultants on LCP issues.
- April 1991:** A state appeals court rules in favor of the Alliance, finding that City Council had no discretion to limit its disallowance to \$135 million of the approximately \$450 million actually deemed imprudent. In response, the U.S. Supreme Court accepts jurisdiction of a NOPSI appeal from a federal appellate court.
- May 1991:** A public hearing is held on the proposed LCP ordinance by New Orleans City Council. While many states require LCP, this ordinance would be the first of its kind adopted by an American city and the first adopted by any regulatory agency in this geographic region.
- Alliance publishes *Energy Investments for a Stronger Louisiana Economy: The Benefits of a Least-Cost Energy Policy*. This report presents an energy-efficiency investment strategy and models

economic and job-creating benefits to Louisiana that would result from displacing the need for 1,000 MW of electric generating capacity statewide.

**June 20, 1991:**

New Orleans City Council unanimously passes an ordinance requiring its electric utilities (NOPSI and LP&L) to file "complete" Least Cost Plans (also known as Integrated Resource Plans) with the City by December 1, 1992. These plans, to be prepared every two years, will address both the three-year and the 20-year planning horizon. The utilities are instructed to use both the SC Test (which considers the effects of environmental externalities) and the TRC Test (which does not) to screen potential options. Options passing either test are eligible for inclusion in a utility's preferred plan, but this preferred plan is to be selected only after comparing a variety of alternative plans that meet different demand forecasts and achieve different policy objectives. The ordinance states that utilities cannot get involved in energy service activities unless it would be cheaper for them to do so, a provision that was added to get contractors to drop their opposition to the earlier version of the bill. The ordinance also allows for utility recovery of prudent and reasonable planning expenses and DSM program costs, and provides for the possibility of lost revenue recovery and the receipt of financial incentives by utilities.

In addition, the ordinance creates a LCP Collaborative, consisting of two working groups (one for NOPSI's service area and one for LP&L's), to serve in an advisory capacity to the City Council and the utilities in the development of Least Cost Plans. The utilities, with the assistance of the other collaborative participants, are to develop alternative plans and a preferred plan for New Orleans, to be approved (or disapproved) by the City Council. In addition to utility members, the working groups are to have representatives of the following five constituencies: the City Council regulatory staff (the utility regulatory body in New Orleans); residential customers; industrial customers; commercial customers; and traditional providers of demand-side services (e.g., contractors, design professionals, suppliers). Specific organizations participating in the collaborative include the Alliance, Housing Energy Action Team, Seniors with Power United for Rights (SPUR), the AFL/CIO, the Sierra Club, and the Alliance Against Utility Competition (representing contractors).

The collaborative is to begin by addressing eight specific technical and policy issues and offering written recommendations on these topics to City Council and the utilities by March 1, 1992. The eight issues are: (1) development of principles and procedures for collaborative planning and program design efforts; (2) development

of appropriate resource selection criteria and processes for their application; (3) determination of the values that appropriately reflect avoided costs; (4) determination of a mechanism for the recovery of DSM program costs and recommendations of alternatives concerning recovery of lost revenues and utility financial incentives; (5) determination of the appropriate discount rate; (6) development of pilot DSM programs for implementation prior to filing of the initial plan; (7) development of a workplan and timetables for addressing all-source bidding and the role of DSM service providers in program implementation; and (8) determination of the appropriate percentage of DSM programs to be implemented by disadvantaged business enterprises.

Long-term objectives of the collaborative are to: (1) assess utility progress in developing Least Cost Plans and amendments; (2) assess utility progress in implementing three-year action plans and preparing applications for the authority to implement specific resource options; (3) determine whether key planning assumptions are reasonable and are consistently applied; (4) determine whether models and modeling techniques are reasonable and consistent; (5) determine whether key results are reasonable; (6) identify and discuss technical and policy alternatives proposed by working group members for use in utility resource plans; and (7) offer recommendations and suggestions as appropriate.

**July 1991:**

Collaborative working groups begin to meet and discuss the technical and policy issues on which they must present recommendations within eight months. During the first few meetings, committees are established to address issues that cannot be efficiently addressed by the entire working group.

**September 1991:**

Working groups file official Charter, presenting their mission, membership, meeting schedule and requirements, rules of order, and approach to paying for out-of-pocket expenses and outside experts.

Louisiana Supreme Court accepts three-way settlement between NOPSI, the City, and the Alliance of the Alliance's suit challenging the moderation of the City's Grand Gulf cost disallowance, of NOPSI's suit challenging the validity of the disallowance, and of the Council's declaratory judgment defending its action.

**October 31, 1991:**

NOPSI proposes an 18% gas rate hike, which is subsequently opposed by the Alliance and other local groups.

**December 1991:**

Collaborative proposes to City Council a pilot DSM program for NOPSI, to cost about \$250,000, that has the consensus approval of

the working group. The City Council refers this proposal to the Council's Utility Committee, which asks for programs aimed at the C&I classes also.

**March 1, 1992:**

Collaborative files its LCP recommendations in a report to the City Council, NOPSI, and LP&L. All organizations represented in the working groups, including City Council regulatory staff and the utilities, are signatories. These recommendations address the major issues set forth in the June 20 ordinance.

Key recommendations are as follows: (1) externality adders (described in some detail in the report) should be used during resource screening, where appropriate, to capture differences among available resources in terms of their effect on the environment and local economy; (2) the utilities should be allowed to recover planning/DSM program costs and lost revenues through a LCP Rider—no additional financial incentives are recommended but the right for additional incentives is not prohibited; (3) the Entergy System incremental weighted average cost of capital should be used as the official discount rate; (4) at least 33% of utility DSM programs should be implemented by disadvantaged business enterprises and 51% of the workforce of each DSM contractor should reside within Orleans Parish; (5) specific avoided cost values are to be calculated by the working groups by June 1, 1992; (6) one or more Pilot DSM programs should be implemented as soon as possible and prior to December 1, 1992; and (7) the issues of all-source bidding and the role of contractors, suppliers, and design professionals in DSM program development should be discussed by the full working groups by mid-year 1992, with detailed policy development occurring in the latter part of the year.

**Spring 1992:**

NOPSI reaches settlement with the Council's staff and the Alliance on its proposed gas rate increase. The agreement calls for a much smaller, and gradual, rate increase and contains a number of other provisions as well.

**May 8, 1992:**

Collaborative files a supplemental report presenting its recommendations on cost recovery, lost revenues, and incentives for the Algiers jurisdiction of New Orleans (served by LP&L).

**Spring-  
summer 1992:**

Collaborative deals primarily with the issues of pilot program design, avoided costs, and procurement/all-source bidding during this period. Much of the business addressed is technical, and is handled by the committees. While the full collaborative does not meet much during the summer, some of the committees maintain a more active meeting

schedule. The working group is able to reach agreement with the City Council's consultants on the concept of a larger (approximately \$1 million) NOPSI pilot program. No consensus is reached on the issues of procurement/all-source bidding or specific avoided cost values; one important controversy concerns whether NOPSI should use a system-wide avoided cost (as Entergy would like) or a New Orleans-specific avoided cost (which is preferred by City Council).

**July 1992:**

City Council's consultants present to the Council Utility Committee the revised NOPSI pilot program, based on recommendations developed by the working group. At this point, the Utility Committee seeks additional information on program costs and engages in discussions about cost allocation and the appropriate payment mechanism.

**September 1992:**

Alliance testifies on LCP before Louisiana PSC and proposes statewide LCP rules.

**Fall 1992:**

Utilities work on finalizing their Least Cost Plans (consisting of 20 year long-term plans and three year action plans) for the scheduled December 1, 1992, filings. The collaborative's Technical/Scheduling, Adherence, and Priorities Committee meets frequently to address policy issues (such as specific values for long run avoided costs). At the same time, the DSM Program Committee meets to assess potential DSM pilot programs for all customer classes. The technical experts from these committees provide information to the working groups and the working groups, in turn, respond to this and provide their input to the utilities for use in finalizing the December 1 filings. Key issues addressed during this period are avoided cost values, procurement/all-source bidding, and pilot programs to be presented to the City Council prior to implementation of the full plan. Important issues on which the utilities and NUPs cannot reach consensus will be decided in subsequent hearings before the City Council unless the involved parties can reach a post-filing settlement before hearings begin.

**December 1, 1992:**

Entergy files a Least Cost Integrated Resource Plan (LCIRP) for all its utilities, including NOPSI and LP&L. This plan is not a consensus filing, because the collaborative never reached agreement on avoided costs, procurement/all-source bidding, or program specifics. In fact, the collaborative working groups did not have direct input into program design (other than for the pilot program, which was not included in the Entergy filing).

**December 8, 1992:** Collaborative meets and Council Regulatory Staff, their consultants, and the NUPs express their reservations about Entergy's December 1 filing.

**Mid-December 1992:** City Council awards a contract to the Legend Consulting Group Ltd., which has worked for the city since 1990, to continue providing assistance on a broad array of regulatory issues—including LCP. At the same time, the city allows MSB's contract to expire and does not solicit a new bid for its services. This makes Legend the city's sole technical (non-legal) consultant on LCP issues.

**December 30, 1992:** The City Council's Utilities Regulatory Office staff issues a notice scheduling a working group meeting for January 15, 1993, to obtain comments from all collaborative members regarding the utility's December 1, 1992 filing.

**January 15, 1993:** Collaborative meets and members verbally critique the LCIRP in a "round robin" discussion. The Council's Regulatory staff and consultants, the Alliance, SPUR, and the representatives of traditional DSM service providers are among those submitting written comments. Areas of concern include: the magnitude of proposed DSM expenditures; the strong focus on load management as opposed to conservation; the alleged failure of the plan to incorporate the consensus recommendations of the collaborative; the plan's purported failure to address all areas required by the City's LCP Ordinance, notably the preparation of alternative plans; and the cost recovery and allocation methods proposed.

**Early Winter 1993:** Alliance publicly objects to MSB's being phased out and characterizes Legend as being as much less qualified in the LCP area. These concerns are expressed directly to the City Council's Utility Committee and in contacts with the local media.

Alliance also uses public records requests and the threat of legal action to get City Council to distribute copies of MSB's unsolicited December 1992 report on LCP in New Orleans and to make public the resumes of Legend employees. The report, for which the Utilities Regulatory Office refuses to pay, contains MSB opinions and recommendations that are contrary to those of the Council, its staff and advisors. This document is subsequently returned to MSB.

**February 4, 1993:** The Council passes a resolution which initiates regulatory proceedings and schedules the proposed LCIRP for investigation and hearings. The resolution documents the Council's consultants' opinion that the December 1, 1992 filing varies significantly with specific requirements of the LCP Ordinance and their concerns that

“aspects of the filing are contrary to the recommendations of the Collaborative Working Groups (CWGs), to which the Companies had agreed in the course of the CWGs’ consensual process.” The City Council approves the CWG Charter (first presented in the March 1, 1992 report) and thanks collaborative members for their work.

**March 16, 1993:**

The Council’s Utilities Regulatory Office holds focus group meetings to solicit direct input from C&I customers. The Alliance—seen by the City as primarily representing residential customers—is not invited to these meetings but its representatives attend anyway and ask questions despite being asked not to by the Regulatory Office representative. These meetings inform the attendees of the content of the December 1, 1992 filing and provide the Regulatory Office with important information, including the types of conservation measures already taken by the focus group attendees and their opinions of the LCIRP.

**Early Spring 1993:**

Entergy holds several information meetings in various parts of its service area (one in New Orleans and others in Baton Rouge, Louisiana; Jackson, Mississippi; and Little Rock, Arkansas) and a “summary technical conference” at its headquarters in Arkansas to elicit system-wide public response to the LCIRP.

A number of interested parties (e.g., Alliance, South Central Bell, Alliance Against Utility Competition, New Orleans Industrial Energy Users Group) file motions with the New Orleans City Council to intervene in the upcoming hearings concerning Entergy’s LCIRP. Several intervenors request that the upcoming hearings be postponed in order to allow the parties more time to evaluate the LCIRP or to wait until the pending merger of Entergy with Gulf States Utilities is completed; the Alliance opposes such an extension. Subsequently, the New Orleans City Council, the Alliance and other parties also intervene on the Entergy plan before the Louisiana PSC.

Louisiana PSC holds hearings on Entergy’s proposed merger with Gulf States Utilities. Some energy conservation advocates are concerned that this merger could slow the utility’s DSM efforts because it would add considerable supply-side resources to its portfolio. The Alliance intervenes in the merger case.

**April 22, 1993:**

The Council’s Utilities Regulatory Office attends a meeting of the Almonaster Michoud Industrial District (AMID) as requested at the March focus group meetings. At this meeting, AMID emerges as a major LCIRP opposition group objecting primarily to the utilities’ cost allocation proposals and the purported lack of appropriate pricing signals in the companies’ rate structure.

- May 3, 1993:** Louisiana PSC approves the proposed Entergy-Gulf States merger.
- May 4, 1993:** City Council convenes first hearing on the LCIRP, to establish a schedule and start defining relevant issues. No testimony is filed.
- May 13, 1993:** Alliance files motion for a rehearing on the Entergy-Gulf States merger.
- May 14, 1993:** NOPSI/LP&L file motion with City Council seeking permission to file "refined" three-year Action Plan on or before July 1 of this year. They further request a revised hearings schedule that would allow a decision to be reached on the new Action Plan by November 30, 1993 and a subsequent decision to be reached on the LCIRP by the end of May 1994.
- May 28, 1993:** NOPSI/LP&L and City Council's consultants reach agreement on additional information and analyses that the utilities will provide to satisfy consultants' concerns with the adequacy of the 12/1/92 filing. This agreement is reached at a special meeting (not related to the collaborative) involving the utilities, City Council's consultants, the Alliance, and a few other intervenors in the LCIRP case. Promised actions by the utilities include: providing the information and models needed by Council's consultants to assess impacts of proposed LCIRP on New Orleans ratepayers and develop "jurisdictional specific" (rather than Entergy-wide) plans; analyzing impact of the Entergy-Gulf States merger on the proposed LCIRP; developing a new plan (referred to in the agreement as an "alternative plan") that will adequately address major deficiencies and incorporate a range of sensitivity analyses; and fully addressing fuel switching and competition issues in the revised Action Plan. It is City staff's position that the December 1, 1992 filing is incomplete without this information. No parties other than the utilities and the City's consultants officially agree to the terms of the above-mentioned agreement.
- June 3, 1993:** City Council passes resolution postponing hearings on the LCIRP. The Council indicates that it will let Entergy refile its Three-Year Action Plan and requires the utilities to address the major deficiencies in the December 1, 1992 filing. This resolution postpones the start of hearings on the Action Plan until early fall, but does not directly rule on the utilities' proposal that a decision be reached on the Action Plan by November 30, 1993. A final decision on the LCIRP is to be reached by March 30, 1994, which is after upcoming City Council elections but before the new council takes office. No Council decisions on key policy issues (e.g., lost revenue recovery, environmental externalities) are expected prior to that time. The

order in which the plans will be considered (Action Plan first and then the LCIRP) is in line with the utilities' May 14, 1993 request, and the date established for a final decision on the long-range plan is similar (but not identical) to that proposed by the utilities. The stated reason for ruling on the Action Plans before the full LCIRP is considered is to allow DSM programs to be implemented more quickly than would be possible if the entire case were delayed until March 1994.

**June 9, 1993:**

City Council Utilities Regulatory Office notifies collaborative participants that Entergy will file a refined Action Plan and intends to schedule a meeting to discuss this revised document in mid July.

**June 10, 1993:**

Hearing officer establishes a revised schedule, which calls for NOPSI/LP&L to file a "refined" Action Plan by July 1 of this year and requires a decision on this new document by the end of November. A decision on the LCIRP is scheduled for the end of March 1994. The hearings on the two documents (Action Plan and LCIRP) will proceed separately, with direct testimony on the IRP to begin after a decision is issued on the Action Plan.

**June 29, 1993:**

Louisiana PSC rejects Alliance's motion for a rehearing, and the Order approving the Entergy-Gulf States merger becomes final.

**July 1, 1993:**

Entergy files revised Action Plan, reportedly in response to input received at the 1/15/93 collaborative meeting and the previously-mentioned system-wide public meetings. The revised plan reduces the number of DSM programs proposed in the earlier plan and emphasizes pilot (rather than full-scale) programs. System-wide, the revised plan is projected to realize less than half the peak reduction of the earlier plan but slightly greater energy savings. Customer-Controlled Load Management (CCLM) is the dominant element of the plan, and fuel-switching is not addressed because the utility says it has inadequate information on this topic. The utilities suggest that consideration of cost recovery be postponed. The CCLM program will involve the installation of a fiber optics telecommunications network in the New Orleans service area to service "black box" technology provided by First Pacific Networks, a company in which the utility owns approximately a 10% interest.

**July 13, 1993:**

Collaborative meets to discuss Entergy's new Action Plan. This is the first collaborative meeting in about six months. Alliance and several other participants express strong dissatisfaction with the product and the process by which it was developed. Specific criticisms include the new plan's emphasis on customer-controlled load management, the purported overall inadequacy of DSM program design, and the

utility's alleged disregard of major provisions of the LCP regulations. Alliance and others suggest that NOPSI/LP&L provide funds for NUPs (other than regulatory staff) to hire consultants to examine new Action Plan and propose ways to strengthen it. Utilities and Utilities Regulatory Office staff reject this proposal; they argue that the interests of the collaborative participants are too disparate for them to reach agreement and that examination of the Refined Action Plan should occur in the context of the established legal docket. In light of this and the contention by some groups that the collaborative is not allowed sufficient voice in plan development, some participants suggest that the collaborative not meet again until May 1994.

**July 16, 1993:**

Final date for filing of direct testimony on refined Action Plan by NOPSI/LP&L.

**August 13, 1993:**

Alliance files suit against Louisiana PSC related to the Entergy-Gulf States Utilities merger, contending that regulators did not consider environmental consequences in their decision approving the merger (in violation of the state constitution) and failed to follow the state's Administrative Procedures Act. Entergy and Gulf States Utilities also are named as defendants in the suit.

**September 1993:**

Intervenors file direct testimony on NOPSI/LP&L Action Plan. This testimony includes an alternative Action Plan by the City's consultants, which includes more full-scale programs than does the utility plan and does not include CCLM. The Alliance does not file expert testimony, reportedly due primarily to financial limitations. However, many other interested parties (including the Alliance Against Utility Competition, South Central Bell, Cox Cable, and a citizen intervenor) do file testimony at this time.

**September 30, 1993:**

Utility files additional information (commonly referred to as a "Reintegration Analysis"), consisting largely of sensitivity analyses related to the Entergy-Gulf States Utilities merger.

**October 6, 1993:**

City Council and Louisiana PSC jointly sponsor public hearing in New Orleans about the Entergy plan, in conjunction with upcoming decision on Action Plan (due in November of this year). Most public comments express opposition to the utilities' plan for not pursuing DSM aggressively enough and for promoting Customer-Controlled Load Management to such a large extent. Among those opposing the plan are the local cable television and telephone companies, who presumably are troubled by the utility's proposed fiber optics network. The Alliance is criticized by one Council member for not filing testimony and officially putting into the record its criticisms of the Entergy plan.

**Mid-October 1993:** Parties to Action Plan proceedings file rebuttal testimony; the Alliance does not file testimony at this time. Utility files motion to withdraw its CCLM program (the major component of its revised Action Plan) from consideration in the Action Plan hearings and to consider this instead in the later proceedings on the LCIRP. This motion is opposed by the Alliance and some other intervenors, but it is approved by the Council.

**October 25, 1993:** Evidentiary hearings begin on Action Plan. Even without addressing the CCLM program, these hearings last six days. Alliance questions utilities about their failure to propose alternative plans and to develop gas DSM programs. It also is critical of what it sees as utility load-building efforts and a purported failure by the utility to include all DSM programs that passed the screening test.

**Mid-November 1993:** Post-hearing briefs are filed with the City Council.

**November 22, 1993:** City Council issues a resolution adopting—with a few modifications—the DSM programs suggested by the City’s consultants in their September testimony. This plan nearly doubles the local DSM expenditures and capacity savings proposed for the next three years by the utility in its revised Action Plan of July 1993 and it more than triples projected energy savings. The utility is required to submit additional information within 60 days on several different topics; this supplementary package is to include a gas fuel-switching pilot program as well as more detail on the utility’s plans for DSM program implementation. Entergy’s proposed CCLM program will be addressed in the upcoming proceedings on the LCIRP, which is scheduled for a final decision on April 7, 1994.

## **COLLABORATIVE PARTICIPANTS**

### **Utilities**

- NPSI
- LP&L

### **Nonprofit Groups**

- Alliance
- SPUR (representing low-income senior citizens)
- Housing Energy Action Team (representing low-income residents)
- Sierra Club
- Other residential customers (no formal organization)
- Other senior citizens (no formal organization)

**Business/Labor Groups**

- Martin Marietta Corporation
- AFL/CIO
- Alliance Against Utility Competition (umbrella organization for traditional suppliers of DSM services and technologies)
- Commercial customers (no formal organization)
- Minority vendors (no formal organization)

**Regulatory Advisory Staff**

- New Orleans City Council Utilities Regulatory Office and consultants



## PACE ENERGY PROJECT—NEW YORK EFFORTS

### CHRONOLOGY

- 1984:** A New York PSC opinion states that conservation should be placed on equal footing with supply-side options.
- 1986:** The PSC directs Long Island Lighting Company to develop full-scale DSM programs to help deal with Long Island's capacity shortage.
- 1987:** PEP is started in order to promote utility use of energy efficiency measures and renewable resources.
- Five new members are named to the seven-member PSC.
- The PSC directs all utilities to move from DSM research to implementation, and to prepare their first long-range DSM plans by April 1988.
- 1988:** The PSC directs the utilities to end exclusive reliance on the unit cost test to evaluate DSM programs. In addition, the PSC invites the utilities to design and submit suggested DSM incentive mechanisms for consideration.
- Governor Cuomo directs the State Energy Office (SEO), the Department of Public Service (the staff arm of the PSC), and the Department of Environmental Conservation to develop a state energy plan.
- May 1989:** The PSC orders "core" DSM programs to be implemented statewide in 1990.
- Fall 1989:** The state energy plan is finalized. It sets a goal of an 8-10% reduction in forecasted energy use by the year 2000.
- To correct for financial and operational difficulties experienced by NMPC in the late 1980s, the PSC approves a Global Settlement Agreement which requires NMPC to undertake a management self-assessment and establishes a negotiating framework for settling rate proceedings involving NMPC. A shared-savings incentive mechanism for NMPC is also approved by the PSC. The mechanism includes recovery of lost revenues attributable to DSM, and a bonus computed as a percentage share of the net resource savings from DSM programs.

- Early 1990:** The PSC's decision to allow rate incentives for successful DSM programs is challenged by Multiple Intervenors, an association of large industries. PEP submits an amicus curiae brief supporting the PSC's decision. That decision is upheld by the lower court. An appeal is filed, but the decision is subsequently upheld at the appellate level.
- April 1990:** A collaborative between New York State Electric and Gas Company and CLF, PEP, the SEO, and Multiple Intervenors begins. It results in a 1991-92 DSM plan, supported by all but Multiple Intervenors, which substantially expands the utility's DSM programs. The collaborative is disbanded in the spring of 1991 following the PSC's approval of the plan.
- September 1990:** PII, led by PEP, submit detailed comments on the 1991-1992 annual and long-range DSM plans of six of the seven New York investor-owned electric utilities (all but New York State Electric and Gas, with whom PEP is in a collaborative). PII asks the PSC to mandate a collaborative information exchange process between intervenors and the utilities.
- November 1990:** The PSC issues an order requiring the six utilities to review the comments of PEP and other intervenors on the 1991-92 DSM plans, meet with them, and report the results of their deliberations to the PSC by March 1991. In addition, PSC states that all of the utilities should attempt to reach the state energy plan goals concerning DSM savings, within the limits of maintaining cost-effective programs.
- Spring 1991:** The utilities' responses to comments on their 1991-92 DSM plans are submitted, accompanied with revised DSM plans showing slightly increased levels of spending. PII, joined by the Environmental Planning Lobby (a coalition of 100 New York environmental groups), then files a second round of comments with the PSC, urging the PSC to require the utilities to go further.
- June 1991:** The PSC approves a NMPC Financial Recovery Agreement which sets new rates and ties an incentive plan to implementation of the results of its self-assessment—including providing lower rates and better service. The agreement also encourages NMPC to adopt cost-effective DSM by decoupling profits from sales and tying them to achievement of annual DSM goals.
- August 1991:** PEP contacts NMPC, proposing a cooperative program design effort to develop DSM programs for C&I customers.

Governor Cuomo announces that New York will suspend, for one year, contracts for the sale of \$17 billion of HydroQuebec electric power to New York, pending further study of environmental impacts on Canada and economic impacts on New York. In a July rate case, PEP had provided economic testimony and a brief concerning Long Island Lighting Company's purchase of Canadian power. In March 1992, a contract for 1000 MW of power from HydroQuebec is cancelled. However, as of late 1993, a contract for 800 MW remained in place.

The PSC issues an order regarding the utilities' revised 1991-1992 DSM plans. The order indicates that it will consider more aggressive DSM program goals when it reviews the utilities' 1993-94 DSM plan filings.

**February 1992:**

PEP, with its consultants, meets with targeted utilities to discuss their DSM plans; it also inquires again about a possible cooperative arrangement between NMPC and PEP.

**March 1992:**

PEP and NMPC reach agreement on a cooperative arrangement to develop a DSM program for new building construction in the C&I sectors. The contract for \$30,000 covers consultants hired by PEP to work on the effort. The resultant program is to be included in NMPC's 1993-94 DSM plan.

Partly in response to the 1990 Clean Air Act amendments, a revised state energy plan is issued which preserves the prior plan's principles but places increased emphasis on renewable resources and environmental impacts.

**April 1992:**

At a meeting with both NMPC and SEO staff, PEP consultants deliver a detailed program design to NMPC.

**May 1992:**

The utilities are required to file IRPs and their 1993-94 and long-range DSM plans by May 15. NMPC files its draft plans. Because agreement has not been reached on program issues, including market penetration rates, PEP does not endorse the program it has helped to design.

**July 1992:**

The PSC approves a \$22.8 million incentive award for NMPC, based on the company's success in meeting a wide range of performance goals between June 1 and December 31, 1991.

A state law is enacted which revises the state energy plan process. State agencies are to be bound by the goals established in subsequent plans, with the next plan due in mid-1994.

Following an extensive proceeding, the PSC issues an order lowering the values approved in 1990 for long-run avoided cost estimates, arguing in part that the process of measuring avoided costs should better reflect the prices being quoted under the newly-instituted competitive bidding system.

**September 1992:**

NMPC, Multiple Intervenors, and PSC staff execute a settlement agreement on an NMPC case concerning new rates effective January 1993. This settlement includes a substantial reduction in NMPC's 1993 DSM budget; it also includes a provision allowing large C&I customers to receive lower rates by participating in a "subscriptive service" program, rather than the DSM programs for which they would otherwise be eligible. PEP has been a party to the settlement discussions but does not sign the agreement because it objects to the subscriptive service program.

PII files detailed comments on the seven utilities' 1993-94 DSM plans, as do Multiple Intervenors and others.

**October 1992:**

NMPC files a revised 1993-94 DSM plan. With respect to its C&I New Construction Program, the program's budget is down slightly and its rates of participation are down significantly, but its projected energy savings are up by about 10 percent.

The PSC institutes a proceeding to examine the utilities' IRPs.

**November 1992:**

The PSC institutes a proceeding to examine plans for implementation of renewable resources.

After taking extensive testimony both supporting and opposing the NMPC rate case settlement, Administrative Law Judge Frank Robinson recommends that the PSC approve the settlement agreement, but with the subscriptive service program deleted.

**December 1992:**

The PSC decides to follow the PSC staff's recommendation and approve NMPC's revised 1993-94 DSM plan. However, a decision concerning the proposed subscriptive service program is postponed until the PSC's decision on NMPC's rate settlement, and NMPC is directed to provide further details on this program, including its goals and an expanded evaluation program.

The PSC institutes a proceedings concerning the values that should be placed on environmental externalities in estimating long run avoided costs.

**January 1993:** The PSC reaches a decision on the NMPC rate settlement. It accepts the proposed subscription service program, but with several modifications that had been sought by PEP, including limiting the approach to NMPC during a trial period.

**February 1993:** Governor Cuomo reduces the membership on the PSC to five commissioners, and the PSC thereby loses both a DSM critic and a DSM advocate. (The commission had seven members for two decades, but only five are required by law.) Despite recent membership changes, the tenor of the commission remains pro-DSM, but tempered by a growing concern about economic competitiveness.

**Spring 1993:** PEP and others meet with the utilities to discuss comments concerning the utilities' 1993-94 DSM plans.

PEP, which had put considerable effort into combating NMPC's proposed subscription service program, works to negotiate an alternative approach with Rochester Gas & Electric. In the latter, the amount contributed for DSM by large industrial customers in their rates is set aside to fund their energy efficiency projects, but if the funds are not used, they are made available to other customers.

**June 1993:** The PSC approves the utilities' IRPs from a procedural standpoint, to satisfy the stipulation of the 1990 Clean Air Act Amendments; it continues the proceeding in order to allow further examination of the utilities' IRP processes.

The Natural Resources Defense Council, acting on behalf of PII, files a position paper in the renewable resources proceeding.

**July 1993:** The SEO, acting as the lead agency for 1994 update of the state energy plan, holds a series of issues forums in preparation for plan revisions.

PEP, acting on behalf of PII, files a position paper on policy issues in the environmental externalities proceeding.

**October 1993:** A settlement is reached on the renewable resources proceeding and is sent to the PSC for its consideration. The settlement is opposed by Multiple Intervenors but agreed to by other parties to the proceeding, including PEP.

## **COOPERATIVE ARRANGEMENT PARTICIPANTS**

### **Utilities**

- NMPC

### **EEAGs**

- PEP

## PSCO COLLABORATIVE AND OTHER LAW FUND ACTIVITIES

- 1989:** PSCo begins DSM pilot programs.
- 1990:** CO PUC initiates general inquiry to establish policies regarding DSM (Docket no. 90I-227EG).
- March 1990:** OCC files complaint against PSCo claiming its rates are unreasonable (90F-226E).
- April 1990:** PSCo files motion to dismiss complaint by OCC.
- November 1990:** CO PUC approves a Stipulation and Settlement Agreement establishing a cost recovery mechanism for DSM programs and providing utilities with incentives for achieving DSM savings. The Commission also approves 100 MW of DSM bidding.
- December 1990:** PSCo issues a request for proposals for DSM savings of 50 MW.
- January 1991:** PSCo files request for \$13.4 million rate increase with CO PUC, but it includes a 0.82% decrease in electric rates (Docket no. 91S-091EG).
- LAW Fund intervenes in a PSCo rate case for the first time.
- June 1991:** Settlement Agreement I between PSCo & OCC is written. The agreement covers refunds to customers and rate reductions.
- Settlement Agreement II is made by OCC, PSCo, LAW Fund, and the state Office of Energy Conservation (OEC). It addresses the need to consider decoupling rates from profits, incentive regulation, other DSM issues, IRP, and low-income weatherization.
- July 1991:** CO PUC approves settlement of rate case (Decision no. C91-918), combines Settlement Agreements I and II with minor revisions, and opens four dockets to address the following topics:
- (1) Establishment of a DSM collaborative to identify and implement cost-effective DSM programs.
  - (2) Decoupling and other DSM incentives.
  - (3) IRP to consider demand- and supply-side options and environmental externalities.
  - (4) Low income customer assistance.

Non-signatory parties to the settlement agreements (e.g., Multiple Intervenor Group, Unocal Corp, and Climax Molybdenum) are satisfied with their ability to participate in the activities required by the four dockets.

In Decision no. C91-919, the CO PUC closes the Generic Demand Side Management Docket (Docket no. 90I-227EG).

**August 1991:**

OEC sponsors testimony of David Moskowitz, a nationally renowned expert in energy and regulatory matters, on decoupling of revenues from sales and establishing regulatory incentives for utilities to encourage the implementation of DSM programs.

**October 1991:**

Workplan for the DSM collaborative process (which was established in July, 1991, in the CO PUC's approval of the rate case settlement agreement) is submitted to the CO PUC (Docket no. 91A-481EG) by the collaborative participants. The workplan results from meetings of collaborative participants and subcommittees and from briefings by participants in other collaborative proceedings.

The workplan defines four separate and sequential activities of the collaborative that are called Milestones (projected completion dates are noted in parentheses):

- Milestone I (October, 1991): research other collaboratives and establish structure and guiding principles for Colorado collaborative
- Milestone II (December, 1991): select DSM program opportunities and perform preliminary assessment;
- Milestone III (April, 1992): perform more detailed assessment of the selected DSM opportunities
- Milestone IV (October, 1992): develop selected DSM programs and submit applications to CO PUC

CO PUC hears expert testimony on energy efficiency financial incentives. Supplemental direct testimony on decoupling and incentives docket is filed, modifying original proposals.

**November 1991:**

Answering testimony on the decoupling and incentives docket is filed: LAW Fund submits testimony supporting a financial incentive proposal that was developed by David Moskowitz.

PSCo proposes a decoupling mechanism based upon total revenue, use of future test year, and a three-year trial period.

OCC and Multiple Intervenors file testimony opposing decoupling.

CO PUC staff's position is that it is not appropriate to implement decoupling.

**December 1991:**

Collaborative participants finish the DSM program identification process outlined in the DSM collaborative workplan (Milestone II).

**January 1992:**

The Collaborative's Milestone II report is submitted to CO PUC. It identifies DSM program opportunities for further analysis during Milestones III and IV.

CO PUC approves a collaborative process budget of \$400,000, which was included in the work plan submitted October 1991.

**February 1992:**

Collaborative begins reporting monthly to CO PUC. Collaborative meets three times this month.

LAW Fund and OEC submit a proposed IRP rule to CO PUC that provides a detailed outline for developing an IRP and specifies the contents of the final report. They propose that an Integrated Resource Plan should be produced every three years, with annual progress reports made in the intervening years. PSCo does not want the CO PUC to approve the IRP, wants considerably less opportunity for public input in the process, and wants environmental externalities excluded from the cost-effectiveness test.

**April 1992:**

The collaborative participants complete their study of DSM programs selected for further analysis in December, 1991 (Milestone III).

Rebuttal testimony on decoupling, financial incentives, and other issues in the docket is filed.

**June 1992:**

CO PUC holds hearings on the decoupling and financial incentives docket. During the hearings, several proposals are made: the LAW Fund and OEC propose that growth in utility revenues be based on growth in the number of customers; the CO PUC staff and OCC propose delaying the consideration of decoupling and financial incentive mechanisms for DSM until it is determined in an IRP that DSM is a cost-effective and significant resource; PSCo files a statement of position on decoupling and financial incentives withdrawing its support for decoupling revenues from electricity sales. PSCo supports incentives for DSM that recover DSM induced lost revenues, provide recovery of expenses, and provide a premium to compensate the utility for risk. OCC opposes financial incentives, stating that PSCo should not need incentives for implementing cost-effective energy-efficiency programs. OCC states that if it is determined by the CO PUC that there is a disincentive for utilities to

implement DSM programs, then an Allowance for Funds used for Demand Side Management should be adopted. Multiple Intervenors oppose financial incentives, stating that if PSCo is offered such incentives, the rewards should be linked to measured energy savings and not based on engineering estimates.

**July 1992:**

The collaborative files its Milestone III report ( a study of selected DSM opportunities) outlining the six DSM programs identified for final analysis.

**Summer 1992:**

CO PUC holds hearings on low-income assistance and IRP dockets.

**September 1992:**

CO PUC holds additional hearings on proposals for recovery of lost revenue and related DSM incentives (non-decoupling proposals). The day of the hearing, all parties except LAW and OEC reach agreement on a cost recovery mechanism. LAW and OEC object strongly to the proposal in hearings.

**October 1992:**

CO PUC approves a motion to allow the collaborative 30 days after the decoupling/incentives order is made to submit applications for DSM programs (allowing the deadline established in the work plan to slip).

**December 1992:**

CO PUC issues electric utility IRP rules to be effective February 1993 requiring IRPs to be filed every three years. Rule closely follows the LAW Fund's proposal.

CO PUC issues final order on low-income assistance docket.

**January 1993:**

Because parties have failed to reach agreement on decoupling/incentives, CO PUC adopts, for collaborative DSM programs only, a short-term performance-based shareholder incentive plan proposed by PSCo, OCC, CO PUC staff, and industrial concerns. The plan awards PSCo a \$200 bounty for each kW saved minus a percentage of utility rebates offered to customers.

CO PUC also opens a new decoupling/incentives docket (93I-199EG).

**February 1993:**

Collaborative submits its final report to CO PUC (Milestone IV) proposing six DSM programs: residential new construction, residential equipment replacement, residential installations, C&I new construction, C&I replacement, and industrial process efficiency improvements.

**April 1993:**

CO PUC approves DSM programs proposed by collaborative.

**Spring-  
summer 1993:**

CO PUC receives testimony regarding decoupling/incentives. LAW proposes statistical recoupling, an approach geared to leave risks associated with fluctuations in the economy and weather with utilities and their shareholders. PSCo files performance-based incentive plan.

PSCo conducts public involvement process as it prepares its IRP.

**October 1993:**

PSCo files its first IRP with the CO PUC.

CO PUC rules on PSCo rate case, allowing the utility virtually no rate increase (PSCo had requested \$80 million).

**Fall 1993:**

PSCo's evaluation of the first round of IRP proposals finds that none are better than its proposal to convert the decommissioned Fort St. Vrain nuclear power plant to a gas combined-cycle plant.

Hearings to select a DSM decoupling/incentives mechanisms are expected in February 1994, and a CO PUC decision on PSCo's IRP is expected in May 1994.

## **COLLABORATIVE PARTICIPANTS**

### **Utilities**

- PSCo<sup>12</sup>
- Colorado Interstate Gas Company
- Colorado-Ute Electric Association
- Colorado Rural Electric Association

### **Nonprofit Groups**

- LAW Fund
- Colorado Business Alliance Against Unfair Utility Practices
- Energy Conservation Association

### **Business/Industry Groups**

- CF&I Steel
- Climax Molybdenum Company
- EN Energy Inc.
- Multiple Intervenor Group
- Unocal Corporation

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<sup>12</sup>PSCo is the utility around which the collaborative focused.

**Government Agencies**

- Colorado State Attorney General (AG)
- Colorado OEC
- Colorado OCC
- City and County of Denver

**Regulatory Staff**

- CO PUC Advocacy Staff

## THE PUGET POWER COLLABORATIVE AND RELATED NCAC ACTIVITIES

### CHRONOLOGY

- 1978:** Puget Power begins offering conservation programs.
- 1980:** WUTC allows an additional 2% return on common equity for conservation expenditures, as required by state statute (RCW 80.20.025).
- 1982:** WUTC establishes Energy Cost Adjustment Clause, providing for recovery of actual variable power costs that are determined by the WUTC to be prudently incurred.
- 1987:** WUTC requires electric utilities to do LCP (WAC 480-100-251). In several orders, WUTC notes a need to provide financial incentives to utilities for obtaining cost-effective resources.
- Puget Power prepares its first Least Cost Plan. The planning process is aided by a technical advisory group of outside experts.
- 1989:** WUTC issues competitive bid rule establishing a competitive bidding system for proposals to supply needed generation and DSM resources (Chapter 480-107 WAC).
- Puget Power issues its first competitive bid.
- January 1990:** WUTC eliminates Puget Power's Energy Cost Adjustment Clause, encouraging Puget Power to seek other means of cost recovery.
- May 1990:** WUTC issues NOI: Examining Whether There Are Regulatory Barriers to LCP for Electric Utilities (Docket No. UE-900385).
- Purpose of NOI is to receive comments on how to remove disincentives to cost-effective purchases of power and investments in conservation. Additionally, it seeks comments on what incentive mechanism(s) should be used to promote least cost supply- and demand-side acquisitions.
- July 1990:** NRDC, Puget Power, Assistant AG's Office, and NCAC write joint letter to the Commission stating their intention to work together over the next 6 to 8 weeks to prepare a Puget-specific joint proposal addressing regulatory reform issues. This signals the beginning of the Puget Power Collaborative.

**October 1990:**

In response to the NOI, Puget Power files two cases: petition for approval of a Periodic Rate Adjustment Mechanism (Docket No. UE-901184-P) and a tariff revision (Docket No. UE-901183-T) requesting a revenue increase of \$19.2 million for 9 months.

In briefs filed, four general proposals are made: separate proposals by Puget Power and Public Counsel for slightly different methods to decouple Puget's profits from energy sales and tie profits to the number of customers served; a proposal by Washington Industrial Committee for Fair Utility Rates to reinstate Energy Cost Adjustment Clause with modifications; and a WUTC staff proposal for a LCP tracker: a prospective rate that would adjust loads for estimated impacts of DSM programs.

NCAC and Public Counsel oppose the rate increase.

Collaborative participants form two working groups: the Policy Collaborative working group is established to investigate financial issues, to set shareholder incentives, and to set policy for the Technical Collaborative working group. The Technical Collaborative working group sets DSM targets, evaluates DSM programs, and develops a DSM measurement and evaluation plan.

**December 1990:**

The Technical Collaborative working group begins working to establish annual DSM performance targets for 1991, to develop a measurement and evaluation plan, to serve as a technical resource concerning Puget Power's conservation programs, and to review and provide input on these programs.

**February 1991:**

Technical Collaborative working group holds two-day meeting and agrees to set 1991 conservation target of 16 average megawatts with a target cost of \$2.267 million per average megawatt, for a total budget of \$36 million.

**April 1991:**

WUTC issues order on the two rate cases Puget Power filed in October 1990. Puget Power's rate increase is denied, but Puget Power's proposal (with modifications) for recovering costs on a per customer basis is adopted as an experiment, to be implemented for three years beginning October 1, 1991. This is commonly referred to as the PRAM (Periodic Rate Adjustment Mechanism) or decoupling experiment.

**May 1991:**

Technical Collaborative working group presents its DSM targets to Policy Collaborative working group, which accepts them.

**June 1991:**

Policy Collaborative working group proposes an experimental demand- and supply-side incentive mechanism program (i.e., dollar amounts of penalties and rewards) to Commission. This is a consensual proposal, except for the issue of whether the amounts of rewards or penalties are stated in before- or after-tax amounts.

This filing includes a charter developed by the collaborative to formalize the collaborative's framework. Charter calls for institutionalizing the current practice (i.e., Policy Collaborative working group and Technical Collaborative working group) until the end of the three-year decoupling experiment.

Technical Collaborative working group develops measurement and evaluation plan for activities proposed over next three years (1991-1993).

Puget Power makes first annual PRAM filing. Company requests an increase in rates of about 4.2%.

**September 1991:**

To comply with the Commission directive in dockets No. UE-901183-T and UE-901184-P, a Rate Design Collaborative working group is established and begins meeting. The parties have fewer common goals than the other collaborative groups; it is perceived that if one party's rates are reduced another party's rates will rise.

WUTC suspends additional return on conservation expenditures first authorized in 1986.

**October 1991:**

Per WUTC's April 1991 decision, Puget Power's rates are decoupled from electricity sales: about one-half of revenues from this date are tied to customer growth.

Puget Power forms a rate design task force to assist it in preparing for the rate design case. Selected members also sit on the Rate Design Collaborative group.

**January 1992:**

WUTC issues order on incentive plan. It accepts demand-side incentives for 1991 only, instead of for all three years of the PRAM experiment. In the order, WUTC resolves the dispute among collaborative participants by ruling that incentive amounts are in before-tax dollars.

WUTC rules against institutionalizing the Policy Collaborative group. Commission states, "we find ourselves uncomfortable with the structure and consequences of this particular process." Commission

states it prefers the collaborative approach used in the decoupling proposal (where parties presented independent views) over the joint proposal on incentives (where parties presented one view).

The Policy Collaborative group participants are dismayed by the commission's negative response to their joint proposal on incentives. Henceforth, the Policy Collaborative group meets only a few times and is unproductive.

- March 1992:** By this date, Rate Design Collaborative working group has met 16 times to discuss cost of service, rate spread and rate design issues.
- April 1992:** Puget Power files rate design case with WUTC as ordered in April, 1991.
- June 1992:** Puget files second annual PRAM rate adjustment, requesting \$97.4 million rate increase (9.8%).
- September 1992:** WUTC allows Puget Power a \$67 million PRAM rate increase. Though the Technical Collaborative working group had agreed to using the Utility Cost Test, Public Counsel's witness proposes in his testimony that the TRC Test should be used to determine cost-effectiveness. In its order, the commission mandates the TRC Test and orders Puget Power to file a general rate case by October 30.
- October 1992:** Puget Power files a general rate case (UE-921262) asking for a \$117 million general rate increase and a \$76 million PRAM request. The majority of the PRAM request is the result of PURPA cogeneration projects being put into the rate base. Puget Power's financial witness argues that DSM is risky because the company does not build equity but incurs debt.
- Spring 1993:** NCAC files testimony in Puget Power's general rate case arguing the merits of collaborative processes and suggesting the use of a third party facilitator. NCAC also argues that Puget Power's computation of equity should include the benefits and reduced risk of DSM.
- August 1993:** WUTC rules on the rate design case (UE-920499) that had been rolled into the general rate case (UE-921262).
- September 1993:** WUTC rules on Puget Power's general rate case. It allows Puget Power a \$22 million rate increase and a \$33 million PRAM increase; recovery of the latter is deferred until the June 1994 PRAM filing. In its ruling, WUTC extends the PRAM experiment for another three years, but alters the mechanism by moving some fixed resource costs out of base costs and into the resource category. Puget Power is also

ordered to collaborate with interested parties to examine whether PRAM or another cost recovery mechanism should be used, to suggest interim adjustments to PRAM, and to examine rate design issues. The WUTC directs collaborators to examine the use of a facilitator, but it does not formalize a specific collaborative process.

**November 1993:** The revitalized collaborative, now a single group led by Puget Power, meets.

## **COLLABORATIVE PARTICIPANTS**

### **Utility**

- Puget Power

### **Nonprofit Groups**

- NCAC
- Natural Resources Defense Council<sup>13</sup>
- Evergreen Legal Services

### **Business/Industry Groups**

- The Boeing Company
- Northwest Cogeneration and Industrial Power Coalition
- Industrial Customers of Northwest Utilities
- Washington Industrial Committee for Fair Utility Rates
- Building Owners and Managers Association

### **Government Agencies**

- Northwest Power Planning Council
- Washington SEO
- Washington State Public Counsel
- U.S. Department of the Navy

### **Regulatory Staff**

- WUTC Rate Staff

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<sup>13</sup>NRDC was a founding member of the collaborative, but subsequently allowed its interests to be represented by NCAC.



## VIRGINIA'S CLM TASK FORCE AND RELATED ACTIVITIES

### CHRONOLOGY

- 1980:** Virginia Power implements its first two DSM programs: one is a conservation program and one is a direct load control program.
- 1990 onward:** SELC appeals issuance of Air Quality Permits on a number of new power plants that would either be co-owned by Virginia Power or would sell electricity to the utility, suggesting more aggressive pursuit of DSM opportunities as an alternative.
- 1990:** The staff of the SCC, the agency responsible for regulating utilities, recommends that the SCC initiate a comprehensive examination of its policy influencing electric and gas utility DSM programs. SELC initiates discussion with the State Secretary of Natural Resources and the SCC about the need for increased reliance on DSM by state utilities. The Governor of Virginia and the State Secretary of Natural Resources recommend that the SCC open an Inquiry/Proceedings on DSM and rate reform.
- January 1991:** The SCC opens a policy investigation on DSM and requests comments from the public on a broad spectrum of related issues. SELC, the Secretary of Natural Resources, American Lung Association of Virginia (ALAV), and others take the position that increased use of DSM is an attractive alternative to further power plant construction.
- February 1991:** Virginia Power urges the SCC to remove disincentives and establish incentives for utilities' implementation of DSM programs. In comments submitted as part of the SCC inquiry, the company urges the SCC to examine steps such as ratebasing DSM expenditures, allowing lost revenue adjustments, and allowing a higher rate of return on DSM expenditures. Virginia Power also asks the SCC to overturn its 1970 ban on promotional allowances by electric companies, since such allowances can stimulate the adoption of DSM measures. At this same time, Virginia Power hires a consultant to begin a review of its DSM programs.
- Early 1991:** Virginia Power engages in separate, informal discussions with SELC, the Virginia Department of Natural Resources, and the AG's office concerning the utility's DSM efforts.
- Spring 1991:** The SCC staff reviews public comments and prepares a report recommending specific rules and policies regarding DSM programs.

Key recommendations of the report are: (1) promotional allowances should be allowed for cost-effective DSM programs, (2) recovery of DSM program costs and lost revenues should be addressed in individual rate cases, and (3) Virginia Power should be directed to use a DSM bidding program on an experimental basis. The report also suggests that it might be time for the SCC to implement formal review of utilities' entire Integrated Resource Plans. The report does not take a stand on the treatment of environmental externalities, suggesting that new legislation might be the appropriate vehicle to address this issue. On the topic of DSM cost-effectiveness tests, it is stated that more information is needed and that a series of technical conferences or a task force should be organized in this area.

**May 1991:**

An all-day workshop on electric utility planning options and consumer responses is held in Richmond under the sponsorship of the Institute for Environmental Negotiation. More than seventy participants from industry, government, consumer, environmental, and health groups attend. Among other things, workshop speakers explain and recommend the DSM collaborative process as practiced in Massachusetts and Georgia. SELC informally asks Virginia Power to participate in a DSM collaborative, but Virginia Power is not interested at this time.

In response to the SCC staff report on DSM, Virginia Power files comments reiterating its belief that promotional allowances are an essential part of a cost-effective DSM program. Virginia Power also restates its position that the SCC should allow utilities to request special rates to promote DSM during expedited, as well as general, rate proceedings and to submit filings for such rate schedules when no rate cases are pending. Virginia Power expresses its willingness to undertake the experimental demand-side bidding program recommended by the staff if the SCC requires them to do so.

Virginia Power makes an agreement with the Department of the Interior to participate in conservation and load management discussions with recognized conservation groups, aimed at considering DSM programs that would be beneficial to the state.

**June 1991:**

ALAV writes the Governor of Virginia advocating changes in state policy that would encourage the increased use of DSM resources. Specifically, ALAV expresses its desire for the establishment of a DSM collaborative in Virginia and suggests that permitting for new generation facilities should wait until DSM strategies are fully considered.

- July 1991:** SELC formally suggests a DSM collaborative with Virginia Power as part of a proposed settlement to the Clover Air Quality Permit appeal. The proposed arrangement would involve Virginia Power funding of \$300,000 to \$400,000 annually for experts to serve the NUPs during the collaborative process. Virginia Power declines.
- Summer 1991:** Public groups comment on the SCC staff report.
- August 1991:** Virginia Power submits its consultant's review of its DSM programs to the SCC. The report states that the utility's DSM programs are well planned and effective, but several changes are suggested, including better coordination of the design and implementation of the utility's DSM efforts.
- September 1991:** Virginia Power increases electric rates with the understanding that any overpayments by consumers will be refunded in the event that the full increase is not approved. The AG's Office, the Committee for Fair Utility Rates (CFUR)—an industrial group, the Virginia Citizens Consumer Council, SELC, and other interested parties intervene in the rate case.
- October 29, 1991:** The SCC, at the request of SELC, receives oral arguments on the DSM issues raised in the SCC staff report issued the previous spring. SELC and other environmental groups contend that the way the SCC sets electric rates should be revised to reward utilities for using DSM options.
- 1991-1992:** SELC helps form informal coalition of environmental, consumer, and health organizations to push DSM and cosponsor a report describing untapped DSM potential (written by SELC), like New England's "Power to Spare." The groups approached by SELC to cosponsor the report include the Virginia chapter of the Sierra Club, the Virginia Conservation Council, the Virginia League of Women Voters, Virginia Wildlife Federation, and ALAV. SELC hopes to use the report to generate public interest in DSM and possibly stimulate the state legislature to pass a law like those in Georgia or South Carolina requiring genuine IRP and attention to DSM; SELC believes that such a law may be necessary to spur the SCC towards adopting regulations requiring aggressive pursuit of DSM.
- Jan.-Feb. 1992:** The SCC holds hearings on Virginia Power's recent rate increase. Those testifying against the increase include the state AG's Office, CFUR, and Virginia Citizens Consumer Council. SELC does not oppose the rate increase per se; instead, it presents expert testimony supporting the need for Virginia Power to more aggressively pursue DSM options.

**March 1992:**

Virginia Power announces a new long-range (10 year) plan which includes a 79% expansion of its DSM efforts. The utility's programs are now expected to reduce the summer peak electricity demand by 735 MW in 2000; this represents a savings of 300 MW more than projected in Virginia Power's 1991 conservation plan.

The SCC issues an Order related to its DSM policy investigation. In its discussion of the issues, the SCC states that cost-effective DSM programs are essential components of a balanced utility resource portfolio, but that cautious movement is necessary to avoid promoting uneconomic programs. The Order calls for establishment of a working group (either a voluntary task force or a series of technical conferences) to study the issue of cost-effectiveness tests, but it specifically states that this effort should **not** involve the question of how to quantify environmental externalities. The Order endorses staff findings that promotional allowances for cost-effective DSM programs are appropriate, that recovery of DSM program costs and lost revenues should be addressed in rate cases, and that Virginia Power should institute an experimental DSM bidding program. The Order declines to institute a formal review of utilities' long-range IRPs, but calls for formal review and approval of utility DSM programs, involving the filing of formal applications by Virginia utilities. Finally, the SCC staff is directed to survey the information currently available on DSM and to identify additional methods to aid the dissemination of appropriate data regarding DSM options.

**June 1992:**

The CLM Task Force (the working group called for in the March SCC order) meets for the first time. The task force is expected to study and discuss the various available cost-effectiveness tests so that the SCC staff can recommend an appropriate test or tests and submit an interim report to the SCC by July 31, 1992. Because of the SCC's instruction to avoid the issue of how to quantify environmental externalities, the Societal Cost Test is eliminated from consideration. The task force aims at consensus, but it is understood that even consensus decisions will not be binding on the SCC. The task force consists of seven utilities and seven NUPs. The utilities are: Virginia Power; Virginia Natural Gas; Washington Gas Light; Commonwealth Gas Services; APCo; Potomac Edison; and Old Dominion Electric Cooperative. The NUPs are: the SCC staff (who run the Task Force); SELC; the Secretary of Natural Resources; Office of the AG; CFUR; ALAV; and SYCOM Enterprises (an energy service company). Virginia Citizens Action was invited to participate but did not join the task force.

Virginia Power requests the SCC's permission to offer its first promotional allowances in more than 20 years. These payments

would be made for the inspection and repair of heat pumps in order to increase their energy efficiency.

**July 31, 1992:**

The SCC staff issues interim report on the workings of the CLM Task Force. This report identifies task force members, describes key issues addressed in task force meetings, and promises a final report by the end of October 1992. It also includes minutes of all five task force meetings held to date. A key finding is that all four widely-used DSM cost/benefit methodologies examined by the task force provide valuable information. Therefore, it is agreed that the focus of the task force will be on "the interactions of the various tests with each other and their implications upon policy decisions." The report suggests that, after the task force completes its work on cost-effectiveness tests, it may continue to meet in an attempt to resolve other issues.

Virginia Power informs the SCC that it plans to conduct its first DSM bidding program in late 1993 or 1994, depending on the needs of the company. A company report filed with the SCC says that Virginia Power prefers to hold a joint supply-demand side bid solicitation. The utility, however, will conduct a smaller, experimental DSM bidding program if the next long-range plan does not identify new capacity needs that warrant a solicitation during 1993 or 1994.

**September 10, 1992:**

The SCC approves Virginia Power's proposal to pay allowances for the inspection and repair of heat pumps.

**September 26, 1992:**

Conservation Council of Virginia sponsors conference in Richmond entitled Air/Energy '92: New Directions for Virginia. The purpose of the conference is to "explore reforms to help clean the air, and cost-effective energy conservation measures that can help the economy as well as the environment." Session topics include: "Effective Citizen Participation in Air and Energy Issues;" "New Options in Energy Efficiency;" "Electric Utilities and Energy Conservation in Virginia;" and "The New England Collaborative Experience." Speakers include many of the members of the CLM Task Force.

**Fall 1992:**

Virginia Power establishes a new Energy Efficiency Department to promote the efficient use of electricity through the use of cost-effective DSM programs. Utility also initiates a new rate case in which it addresses, for the first time, its DSM efforts in support of its rate increase request.

CLM Task Force does not meet, but the SCC staff works on report discussing four major cost-effectiveness tests.

**December 1992:** SELC releases *Energy 2000: A Blueprint for an Energy Efficient Virginia*, which it wrote on behalf of the Virginia Energy Coalition—a group of 31 public interest organizations. The report analyzes the environmental, economic, and health impacts of Virginia’s current energy use trends and discusses the potential of energy efficiency improvements.

APCo initiates rate case in which it seeks annual recovery of program costs and recovery of lost revenues for a set of proposed pilot programs. The utility also suggests that incentives might be appropriate in the future for its full-scale DSM programs.

**January 15, 1993:** The SCC staff sends its draft report on the uses, advantages, and disadvantages of four major cost-benefit tests for assessing DSM measures to CLM Task Force members for review.

**Late January 1993:** The SCC staff receives comments on its draft report from task force members. This review marks the end of the CLM Task Force.

**February 9, 1993:** The SCC Staff files its final report on cost-benefit tests with the SCC. While many of the positions discussed in the Task Force meetings are reflected in this document, it is not presented as a consensus filing. The staff report recommends that Virginia utilities be directed to conduct all four of the tests that were considered (Participant, Utility Cost, RIM, and TRC) since no single test provides all necessary information and each of the tests has its own unique strengths.

**February–April 1993:** Task force members and other interested parties file written comments on the staff’s February report, and some parties also present oral testimony to the SCC. While there is much support for the multi-perspective approach, some participants recommend the establishment of a “threshold test” for determining DSM programs’ cost effectiveness; if a program were to fail this test, it would not be considered further and no other tests would be run on it. Those advocating the use of a threshold test differ among themselves on whether the TRC or RIM Test should be used for this purpose.

**April 20, 1993:** Virginia Power files its 1993 DSM Plan, which it calls “ConserVision”, as part of its 20 year Plan. According to the description of the planning process contained in this document, the utility required its package of DSM measures to provide opportunities for all customer classes, to support all types of DSM programs (e.g., conservation, load management), and to not cause the bills of nonparticipants to increase. The programs contained in this plan are expected to reduce peak demand by nearly 300 MW in 1993, a 25%

increase over the savings specified for the first year of the 1992 plan. Combined with programs already in place, Virginia Power's new DSM efforts are expected to reduce demand by almost 1,000 MW by the end of the century. These savings could increase substantially if proposed pilot programs are successful and are subsequently expanded.

The overall plan does not require the SCC's approval, but applications must be made to the Commission for the approval of individual programs contained therein to allow cost recovery by the utility. At this time, Virginia Power asks for approval of two pilot programs: (1) a program to provide low-interest financing for energy efficiency improvements in 6,000 residential units and 1,100 C&I units; and (2) a program to conduct field testing and analysis of certain new electric energy technologies in the residential, commercial, and industrial sectors.

**April 26, 1993:**

Virginia Power applies to the SCC to initiate a variable rate (peak day pricing) pilot program for 60 residential customers.

**June 1993:**

Virginia Power files for continuation of heat pump customer assistance program that was begun in 1992. The SCC grants approval.

**June 28, 1993:**

The SCC issues an Order finding that "a multi-perspective approach to evaluating proposed DSM programs is in the public interest." Accordingly, utilities are ordered to conduct cost/benefits analyses using (at a minimum) the Participants, Utility Cost, RIM, and TRC Tests. The Commission rejects the use of a threshold test because this could "prematurely eliminate programs that may ultimately prove to be in the public interest." It establishes a set of minimum guidelines for utility data input and modeling assumptions (as recommended by the SCC staff) and requires utilities to provide a cost/benefit analysis for each individual DSM program, even if an entire package of programs is filed. In addition, the Order states that utilities may conduct limited pilot programs (provided they do not involve rates or promotional allowances) without prior approval by the SCC. It is further ruled that utilities will be required to evaluate the effects of their DSM programs. Finally, the SCC asserts its support for cost-effective DSM programs in Virginia but states that "it is not prudent, in our judgment, to establish fixed requirements which our utilities must meet at any cost."

**July 1993:**

Hearings are held on APCo rate case, in which the annual recovery of program costs and lost revenues is discussed. SELC is an intervenor in this case and presents expert testimony supporting

APCo's request for regulatory reform that allows dollar-for-dollar recovery of DSM program costs and recovery of revenues verified to have been lost as a result of DSM programs. A recommendation by the hearing officer is expected in the Fall, and this could provide an important indicator of how the SCC intends to treat these issues. A final SCC decision on this is not expected until early 1994.

**August 16, 1993:** The SCC approves Virginia Power's field testing pilot program at the funding level proposed by the utility. A large gas utility filed written testimony in this case but SCC hearings were not held.

**August 17, 1993:** The SCC approves Virginia Power's energy efficiency financing program for half the number of units proposed by the utility. Again, a gas utility intervened but no SCC hearings were held.

**September 13, 1993:** The SCC staff files brief on APCo rate case. In it, staff recommends against recognition of lost revenues in this case and against the proposed cost recovery mechanism.

**October 1993:** Hearings are held on Virginia Power's proposed variable rate pilot program.

## **TASK FORCE PARTICIPANTS**

### **Utilities**

- APCo
- Commonwealth Gas Services
- Old Dominion Electric Cooperative
- Potomac Edison
- Virginia Power
- Virginia Natural Gas
- Washington Gas Light

### **Nonprofit Groups**

- ALAV
- SELC

### **Business/Industry Groups**

- SYCOM Enterprises
- Virginia CFUR

**Government Agencies**

- Virginia Department of Natural Resources
- Virginia Office of the AG

**Regulatory Advisory Staff**

- Virginia SCC Staff



## THE WMECO COLLABORATIVE AND RELATED CLF ACTIVITIES

### CHRONOLOGY

- 1984-1987:** CLF, the Massachusetts AG's Office, the Massachusetts Division of Energy Resources (DOER), and Massachusetts Public Interest Research Group (MASSPIRG) criticize—in rate cases and other proceedings such as outage hearings and facility siting cases—the Massachusetts electric utilities for their lackluster DSM efforts, and the Massachusetts DPU issues orders which are increasingly critical of utility DSM efforts.
- Summer 1987:** The New England Energy Policy Council—a coalition of 26 consumer and environmental groups, including CLF—releases *Power to Spare*. This report argues that New England's total projected electricity demand in 2005 could be cut 37 to 57 percent through adoption of DSM measures.
- Massachusetts experiences a series of brownouts due to widespread electric utility capacity shortage. Prompted by petitions from the AG and DOER, the DPU investigates the brownouts. It subsequently issues an order reiterating the utilities' obligation to pursue all cost-effective DSM.
- May 1988:** During a hearing before the DPU on DSM, as part of its Integrated Resource Management (IRM) rulemaking process, the Executive Director of CLF requests the DPU to order the eight investor-owned electric utilities in Massachusetts to enter into a collaborative process to design and implement DSM programs and to provide funding for intervenor groups to secure outside technical consultants.
- June 1988:** The Massachusetts utilities volunteer to participate in a collaborative process with NUPs.
- July 1988:** A proposed collaborative agreement is jointly submitted to the DPU by CLF, DOER, the AG, MASSPIRG, and seven of the eight utilities. WMECO—a retail company of Northeast Utilities (NU)—is included in this arrangement. The remaining utility, Mass. Electric—a retail company of NEES—is included in a two-party collaborative established in June between NEES and CLF.
- August 1988:** The DPU approves the proposed multi-utility "Agreement for Collaborative DSM Program Design and Implementation" submitted in July by the utilities and NUPs.

- November 1988:** The DPU issues an order requiring electric utilities to expand the cost-effectiveness test to include externalities, customer costs, and other societal effects. This makes possible DSM program preapproval, and ratebase treatment and lost revenue adjustment for DSM investment.
- December 1988:** The participants in the multi-utility collaborative complete their joint Phase I and file a consensus report with the DPU detailing 25 different generic DSM program designs.
- January 1989:** The DPU holds a hearing on the Phase I filing and agrees to provide comments, but does not issue an order because the filing is deemed informational.
- March 1989:** DPU staff issue a letter to the collaborative participants stating that the DPU was impressed with the collaborative process to date and emphasizing several areas needing more attention during the next phase.
- Individual collaboratives begin between the NUPs and each utility except Fitchburg Gas & Electric, a small utility which declines to continue beyond Phase I. In each of the separate collaboratives, the utility provides the NUPs with funds to secure outside technical consultants. (Of the collaboratives established as an outgrowth of the multi-utility collaborative, all but two terminated within a couple of years. The WMECO and Boston Edison collaboratives continue, as does NEES's collaborative with CLF.)
- September 1989:** Despite a lack of consensus among the collaborative participants, WMECO files with the DPU for preapproval of its DSM programs and cost-recovery, requesting financial incentives. CLF and the AG intervene, expressing their concern about WMECO's commitment to pursue all cost-effective DSM. Subsequently, DOER, the AG, and MASSPIRG recommend against providing WMECO with financial incentives. CLF, in contrast, decides to support WMECO's request for cost recovery and incentives.
- June 1990:** The DPU approves all of WMECO's programs except two that are not found to be cost-effective, and directs WMECO to enrich the customer incentives in several of its programs and to accelerate and expand other programs.
- Summer 1990:** The WMECO collaborative temporarily falls apart due to disagreement among collaborative participants surrounding the Phase II filing and hearings, but restarts in time to prepare for the next preapproval filing.

Technical and lead coordinators are added to the WMECO collaborative, to coordinate the activities of the NUPs and their consultants. At CLF, the primary responsibility for representation on the collaborative is shifted from Armond Cohen, a senior attorney, to a staff attorney.

**August 1990:**

The DPU requires utilities to factor in the cost of such externalities as air and water pollution as they weigh options for new power supplies. It issues IRM rules adopting an all-resource solicitation process with an environmental adder method, based on the cost of control, with the highest values used in the country at the time.

**Early 1991:**

Governor William Weld, a Republican, takes office following the eight-year Democratic administration of Michael Dukakis and appoints new commissioners to the DPU. By law, one of the three commissioners must be of the opposition party. There is also a lot of turnover in the Electric Power Division's senior staff during this time. The new commission inherits a set of strongly pro-DSM policies, but begins to make clear that DSM programs that necessitate further rate increases will not be viewed favorably.

**March 1991:**

WMECO, in contrast to its previously contested filing, files for its second DSM program preapproval with the consensus of the collaborative participants.

**July 1991:**

The DPU issues an order approving the WMECO collaborative filing basically as proposed, with only minor modifications.

**February 1992:**

A third DSM preapproval filing is submitted by WMECO and the collaborative participants. An \$18.6 million 1992 DSM budget is proposed. (Its DSM budget had grown from \$4.2 million in 1989 to \$9.4 million in 1990 and an estimated \$16 million in 1991.)

**April 1992:**

WMECO, AG, CLF, DOER, and DPU settlement staff file a settlement agreement with the DPU in order to resolve issues surrounding WMECO's filing. (Due to other pressures on its limited staff resources, MASSPIRG was not able to be actively involved in this settlement. Subsequently, however, it resumed an active role in the collaborative.) Because of pressures from industrial ratepayers and others, WMECO's 1992 DSM budget is reduced to \$17 million.

**May 1992:**

In response to a request from the DPU commission, the parties to the WMECO DSM settlement agree to amend it to double the amount of amortization in 1992, as a means of reducing the 1992 cost recovery.

- June 1992:** NU acquires Public Service of New Hampshire, which has primary responsibility for the Seabrook 1 nuclear power plant.
- Power to Spare II*, a report outlining how the six New England states can grow economically through energy conservation, is released by CLF with 37 allied organizations.
- July 1992:** NU officials file a draft IRM plan for WMECO. At a technical session held by the DPU to discuss the filing, NU staff stress that the utility has a capacity surplus and is not likely to need new capacity for at least another ten years or more. Shortly thereafter, the DPU decides that an IRM filing is not needed for WMECO until January 1994, but that another DSM filing should be done in 1993.
- Fall 1992:** The DPU issues a ruling on the values to be used in calculating environmental externalities, reaffirming the values adopted in August 1990.
- Robert Yardley, chair of the DPU commission since January 1991, resigns and is replaced, in January 1993, by Kenneth Gordon, a former member of the Maine Public Utilities Commission.
- William Ellis, NU's CEO, resigns and is replaced by its second-in-command.
- Early 1993:** CLF hires a consultant to help staff develop and implement political initiatives concerning DSM. Initiatives undertaken include entering into a dialogue with key industries, publishing articles in business journals, arranging for industrial representatives to speak to Governor Weld in advocacy of DSM, strengthening ties to consumer and environmental groups, etc.
- April 1993:** CLF and the Foundation for International Environmental Law and Development (an EEAG based in England) submit *Down to Details*, a report responding to the UK Director General of Electricity Supply's request for comments on energy efficiency performance standards. This report lays out arguments for DSM in a climate of utility competition.
- Mid-1993:** Deborah Smith, a staff attorney at CLF who has been its representative to the WMECO collaborative for several years, leaves and is replaced by Jeanne Solé, a CLF staff attorney formerly located in Vermont. John Manning, one of DOER's two representatives to the collaborative, also leaves and is replaced by another DOER staff member.

Armond Cohen develops arguments against retail wheeling and presents a paper, "Retail Wheeling and Rhode Island's Energy Future: issues, Problems, and Lessons from Europe," to the Rhode Island Energy Coordinating Council. (As of late November, CLF expected that the RI Public Utilities Commission would reject the retail wheeling proposal before it.)

Intensive negotiations are conducted concerning WMECO's DSM programs: their evaluation, changes in their orientation, and overall budget levels. NU and the NUPs agree that WMECO's DSM portfolio should place increased emphasis on market transformation programs over retrofit programs, but they disagree over the proposed budget levels. NU, concerned about its high rates and their effects on its competitiveness, proposes deep cuts in DSM spending. Top management at NU and CLF subsequently work out a compromise: DSM spending for 1993 would be \$14.8 million, with a \$15.8 million budget for 1995. A tiered financial incentives arrangement geared to achieved energy savings is also worked out.

**Fall 1993:**

NU submits its DSM filing for WMECO with the consensus of the collaborative participants.

CLF staff participate in discussions concerning the possibility of utility industry restructuring at Harvard University's Center for Business and Government. (CLF also has participated in other regional and national fora on this topic.)

**COLLABORATIVE PARTICIPANTS**

**Utilities**

- NU (for WMECO)

**Nonprofit Groups**

- CLF
- MASSPIRG

**Government Agencies**

- AG's office
- DOER



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