

BEFORE THE DEPARTMENT  
OF PUBLIC SERVICE REGULATION  
OF THE STATE OF MONTANA

In the Matter of the Proposed ) NOTICE OF PUBLIC HEARING  
Adoption of Rules I - XVI ) ON PROPOSED ADOPTION  
Pertaining to Default )  
Electricity Supply Procurement )  
Guidelines )

TO: All Concerned Persons

1. On January 7, 2003, at 1:30 p.m., a public hearing will be held in the Bollinger Room, Public Service Commission (PSC) offices, 1701 Prospect Avenue, Helena, Montana, to consider the adoption of new Rules I - XVI.

2. The PSC will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation contact the PSC no later than 5:00 p.m. on January 3, 2003, to advise us of the nature of the accommodation that you need. Please contact Rhonda Simmons, PSC Secretary, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601, telephone number (406) 444-6170, TTD number (406) 444-6199, fax number (406) 444-7618, email rsimmons@state.mt.us.

3. The proposed new rules provide as follows:

RULE I INTRODUCTION AND APPLICABILITY (1) These guidelines provide policy guidance to default supply utilities (DSU) on long-term default electric supply resource planning and procurement. The guidelines do not impose on DSUs specific resource procurement processes nor mandate particular resource acquisitions. Instead, the guidelines describe a process framework for considering resource needs and suggest optimal ways of meeting those needs. Electric default supply resource decisions affect the public interest. A DSU can better serve the public interest if it involves the public in the portfolio planning process. The DSU must ultimately make electric resource acquisition decisions based on economics, reliability, management expertise and sound judgment, although management should consider these guidelines and public input.

(2) A DSU should thoroughly document its default supply portfolio planning processes, resource procurement processes and management decision-making so that it can fully demonstrate to the commission and stakeholders the prudence of default supply-related costs. A DSU should routinely communicate with the commission and stakeholders regarding on-going default supply portfolio planning and resource procurement activities.

(3) These guidelines will provide the basis for commission review and consideration of the prudence of a DSU's default supply resource planning and procurement actions. As such, the

guidelines should assist DSUs in making prudent decisions and in fully recovering default supply-related costs. Successful application of the guidelines will require a commitment from the commission, DSUs and stakeholders to honor the spirit and intent of the guidelines.

(4) These guidelines are applicable to any public utility designated by the commission or Montana law as the default supplier of electricity to retail customers in its distribution service territory. These guidelines do not apply to public utilities that are not required to restructure pursuant to Title 69, chapter 8, MCA.

(5) These guidelines supercede the commission's electric least cost planning rules (ARM 38.5.2001 through 38.5.2012) solely with respect to a DSU's default supply resource planning and procurement functions.

AUTH: 69-8-403, MCA

IMP: 69-8-403, MCA

RULE II DEFINITIONS For the purpose of this subchapter, the following definitions are applicable:

(1) "Default supply costs" means the actual electricity supply costs of providing default supply service, including but not limited to: capacity costs, energy costs, fuel costs, ancillary service costs, demand management and energy efficiency costs, transmission costs (including congestion and losses), billing costs, planning and administrative costs, and any other costs directly related to the purchase of electricity, management of default electricity supply costs and provision of default supply and related services.

(2) "Default supply resource" means:

(a) a wholesale power transaction, including bilateral contracts, however structured, and spot energy purchases;

(b) a demand management activity, including energy efficiency and conservation programs, load control programs and pricing mechanisms; or

(c) a combination of wholesale power transactions and demand management activities.

(3) "Default supply utility or DSU" means a distribution services provider regulated by the commission.

(4) "Environmentally responsible" means explicitly recognizing and incorporating into default supply portfolio planning, management and procurement processes and decision-making the policy of the state of Montana to encourage utilities to acquire resources in a manner that will help ensure a clean, healthful, safe and economically productive environment.

(5) "External costs" means costs incurred by society but not incorporated directly into electricity production and delivery activities, or retail prices for electricity services directly paid by consumers.

(6) "Long-term" means a time period at least as long as DSU's planning horizon. Long-term should also be considered that time period in which a DSU can reasonably expect to provide default service.

(7) "Planning horizon" means the longer of:

(a) the longest remaining contract term in a DSU's current default portfolio; or

(b) the longest contract term being considered for a new resource acquisition, but at least 10 years.

(8) "Rate stability" means minimal price variation, both month-to-month and year-to-year, and minimal price inflation over time.

(9) "Stakeholder" means a member of the public (individual, corporation, organization, group, etc.) who may have a special interest in, or may be especially affected by, these rules.

AUTH: 69-8-403, MCA

IMP: 69-8-403, MCA

RULE III GOALS (1) The goals of these default supply resource planning and procurement guidelines are to:

(a) facilitate a DSU's provision of adequate and reliable default electricity supply services, stably and reasonably priced, at the lowest long-term total cost;

(b) promote economic efficiency and environmental responsibility;

(c) facilitate a DSU's on-going financial health;

(d) facilitate a process through which a DSU identifies and cost-effectively manages and mitigates risks related to its obligation to provide default supply service in a retail choice environment;

(e) foster an environment in which meaningful retail customer choice and workable competition can develop, where feasible; and

(f) build on the fundamental rate making relationship between the commission and the DSU to advance these goals.

AUTH: 69-8-403, MCA

IMP: 69-8-403, MCA

RULE IV OBJECTIVES (1) In order to satisfy its default supply responsibilities, a DSU should pursue the following objectives in assembling and managing an electricity supply portfolio. The DSU should:

(a) provide default supply customers adequate and reliable default supply services, stably and reasonably priced, at the lowest long-term total cost;

(b) design rates for default supply service that promote rational, economically efficient consumption and customer choice decisions;

(c) assemble and maintain a balanced, environmentally responsible portfolio of power supply and demand-management resources coordinated with economically efficient cost allocation and rate design that most efficiently supplies the daily, weekly and seasonal capacity and energy requirements of default supply customers over the planning horizon;

(d) maintain an optimal mix of power supply sources with respect to underlying fuels, generation technologies and associated environmental impacts, and a diverse mix of long, medium and short duration power supply contracts with staggered start and expiration dates; and

(e) maximize the dissemination of information to default customers regarding the level of emissions associated with default supply service through itemized labeling and reporting of the default supply portfolio's energy products.

(2) These objectives are listed in order of importance, but no single objective should be pursued such that others are ignored. Simultaneously achieving these multiple objectives will require a balanced approach. A DSU should apply the recommendations in [Rules V through XV], in addition to relevant commission orders, to achieve these goals and objectives.

AUTH: 69-8-403, MCA

IMP: 69-8-403, MCA

RULE V DEFAULT SUPPLY UTILITY SERVICE RESPONSIBILITIES

(1) A DSU's default service responsibilities are:

(a) to plan and manage its resource portfolio in order to provide adequate, reliable and efficient annual default electricity supply services at the lowest total cost. (During and after the transition period, some customers that participate in retail markets will occasionally rely on default service for countless reasons. Retail customers may subscribe to default service while they study market supply alternatives. Customers may return to default service after their contracts with a licensed electricity supplier expire until they find new suppliers. Or customers may become permanent default service customers if their licensed competitive supplier exits the market.);

(b) to provide adequate, reliable and efficient long-term default electricity supply services at the lowest total cost. (Some retail customers may subscribe to default supply service for a very long time, perhaps perpetually. Retail markets may never develop for all customer segments, and markets with the potential to benefit customers will take time to mature. Some customers may resist choosing alternative suppliers. Others may have trouble finding market suppliers willing to serve them because of poor payment histories or undesirable consumption characteristics.); and

(c) to provide all or a substantial amount of the emergency electricity supply requirements of retail customers who have electricity supply service contracts with a licensed electricity supplier or marketer that has failed to deliver the required electricity supply. (A DSU is not required to maintain a reserve of electricity supply to fulfill its emergency supply responsibilities. To the greatest extent practicable, a DSU should recover the costs of providing emergency service from the supplier or marketer that failed to deliver the required electricity or the customers that directly benefited from the DSU's provision of emergency service. A DSU must provide

emergency service according to commission-approved tariff schedules.)

(2) The DSU may establish an optional retail electricity product composed of power generated by renewable resources. For purposes of this rule, "renewable resources" means biomass, wind, solar or geothermal resources.

AUTH: 69-8-403, MCA

IMP: 69-8-403, MCA

RULE VI MODELING AND ANALYSIS (1) A DSU's default supply portfolio planning, resource procurement and decision-making processes should incorporate proven, cost-effective computer modeling and rigorous analyses. A DSU should use modeling and analyses to:

(a) evaluate and quantify probable default supply load characteristics, including trends in load shapes, load growth, load migration to choice and price elasticity of demand;

(b) evaluate the potential effect of various rate designs and demand management methods on future loads and resource needs;

(c) evaluate and quantify projected portfolio resource requirements over the planning horizon;

(d) develop competitive resource solicitations, including associated bid evaluation and selection criteria;

(e) develop methods for weighting resource attributes and ranking bid offers. Resource attributes may include, but are not necessarily limited to:

(i) underlying fuel source and associated price volatility and risk, including risks related to future regulatory constraints on environmental emissions such as carbon dioxide, sulfur dioxide, nitrogen oxides and mercury;

(ii) contributions to achieving the lowest, long-term portfolio cost;

(iii) total life cycle resource costs;

(iv) contributions to achieving optimal resource diversity;

(v) external costs related to environmental emissions and intrusions;

(vi) direct or indirect transmission costs and/or benefits;

(vii) project feasibility, including engineering, development and financing;

(viii) resource availability, reliability and dispatchability;

(ix) supplier/developer creditworthiness; and

(x) supplier/developer experience;

(f) evaluate the performance of alternative resources under various loads and resource combinations through:

(i) scenario analyses;

(ii) portfolio analyses;

(iii) sensitivity analyses; and

(iv) risk analyses;

(g) help the DSU's managers inject prudent and informed judgments into the portfolio planning and resource acquisition process;

- (h) optimize the mix of portfolio resources in the context of the goals and objectives of these guidelines; and
- (i) meet the DSU's burden of proof in prudence and cost recovery filings before the commission.

AUTH: 69-8-403, MCA

IMP: 69-8-403, MCA

RULE VII RESOURCE NEEDS ASSESSMENT (1) Before soliciting new multi-year wholesale power contracts for inclusion in the default supply portfolio, a DSU should evaluate its existing default supply resource portfolio and analyze future resource needs in the context of the goals and objectives of these guidelines. A DSU should use an annual planning horizon that covers the longer of:

(a) the longest remaining contract term in its portfolio;  
or

(b) the longest contract term the DSU would consider signing, based on the analyses described in these guidelines. (An annual planning horizon of at least 10 years is reasonable.)

(2) A DSU's default supply portfolio resource needs assessment should include:

(a) analyses of default customer loads including base load, intermediate load, peak load and ancillary service requirements, seasonal and daily load shapes and variability, the number and type of default customers, load growth, trends in customer choice and retail markets, technology that may lead to substitutes for grid-based electricity service and price elasticity of demand;

(b) an assessment of the types of resources that are available and could contribute to meeting portfolio needs, including demand-side resources, supply-side resources, distributed resources, and rate design improvements;

(c) an assessment of the types of electricity products that could contribute to meeting portfolio needs including base load, heavy load, peak, dispatchable, curtailable, assignable, firm, full requirements, load following, unit contingent, slice of the system (fixed percentage of hourly system load requirements), and others;

(d) an assessment of the resource diversity of the existing portfolio with respect to generation fuel and generation technology (e.g., conventional coal, clean coal, hydro, natural gas combined cycle, natural gas simple cycle, wind, fuel cell, etc.) in the context of the goals and objectives of these guidelines; and

(e) an assessment of the flexibility of the existing portfolio with respect to generation resources, demand-management resources, electricity products, contract lengths, contract terms and conditions.

[The commission proposes to include in these rules either Rule VII(3) and (4) - Alternative A or Rule VIII - Alternative B]

[ALTERNATIVE A]

(3) A DSU's resource needs assessment should include analyses of how cost allocation and rate design decisions might impact future loads and resource needs. A DSU's cost allocation and rate design practices should support and complement the goals and objectives of these guidelines. A DSU should evaluate and consider the following items when assessing its resource needs and developing cost allocation and rate design proposals:

(a) the ability of opportunity cost-based prices to increase economic efficiency;

(b) cost allocation among customer segments and services based on cost causation;

(c) customer desire for long-term rate stability and understandable price structures;

(d) costs and benefits of implementing various rate types/structures, including:

(i) time-of-use;

(ii) seasonal;

(iii) blocked;

(iv) tiered;

(v) commitment-based; and

(vi) other structures as may be reasonable and consistent with the goals and objectives of these guidelines;

(e) the potential for retail demand-response to cost-effectively enhance economic efficiency and promote the other goals and objectives of these guidelines; and

(f) the potential for direct load control to cost-effectively contribute to retail demand response.

(4) A DSU must ensure that all default supply-related costs are recovered through default supply service prices, not in transmission or distribution service prices. An analysis of the sources of default supply costs might support the recovery of some costs through non-bypassable prices.

AUTH: 69-8-403, MCA

IMP: 69-8-403, MCA

[ALTERNATIVE B]

RULE VIII COST ALLOCATION AND RATE DESIGN (1) A DSU's cost allocation and rate design practices should support and complement the goals and objectives of these guidelines. A DSU should evaluate and consider the following items when allocating costs and designing rates:

(a) the ability of opportunity cost-based prices to increase economic efficiency;

(b) cost allocation among customer segments and services based on cost causation;

(c) customer desire for long-term rate stability and understandable price structures;

(d) costs and benefits of implementing various rate types/structures, including:

(i) time-of-use;

- (ii) seasonal;
  - (iii) blocked;
  - (iv) tiered;
  - (v) commitment-based; and
  - (vi) other structures as may be reasonable and consistent with the goals and objectives of these guidelines;
- (e) the potential for retail demand-response to cost-effectively enhance economic efficiency and promote the other goals and objectives of these guidelines; and
- (f) the potential for direct load control to cost-effectively contribute to retail demand response.
- (2) A DSU must ensure that all default supply-related costs are recovered through default supply service prices, not in transmission or distribution service prices. An analysis of the sources of default supply costs might support the recovery of some costs through non-bypassable prices.

AUTH: 69-8-403, MCA  
IMP: 69-8-403, MCA

RULE IX RESOURCE ACQUISITION (1) A DSU should apply industry accepted procurement practices to acquire default supply resources. The commission cannot prescribe in advance the precise industry accepted practices a DSU must apply since industry accepted practices vary depending on context and circumstances. Generally, an industry accepted approach to resource procurement should encompass the following basic steps:

- (a) explore a wide variety of alternative supply and demand resources, products and prices;
- (b) collect proposals from various parties offering supply and demand resources and products;
- (c) analyze the proposals or offers with respect to price and non-price factors in the context of the goals and objectives of these guidelines;
- (d) select the best proposals and develop a short-list;
- (e) negotiate the best contract; and
- (f) anticipate changing circumstances and remain flexible.

(2) Although these basic steps could be achieved through a variety of methods, a DSU should use competitive solicitations with short-list negotiations as a preferred method of procuring default supply resources. A DSU should design requests for proposals based on its resource needs assessment. Competitive solicitations should treat bidders fairly, promote transparency in a DSU's default supply portfolio planning and resource procurement processes and contribute to achieving the goals and objectives of these guidelines. A DSU's resource acquisition process should conform to the following principles:

- (a) A DSU should clearly define the resources, products and services it needs, including any predetermined price to beat, before issuing a resource solicitation and clearly communicate these needs to potential bidders in the request(s) for proposals. Multiple solicitations and/or solicitations for multiple resources, products and services may be necessary to



obtain information sufficient for prudent analyses and decision-making;

(b) A DSU should establish bid evaluation and bidder qualification standards and criteria it will use to select from among offers before issuing a resource solicitation and clearly communicate these standards and criteria to potential bidders in the request for proposals. Once bids are received, a DSU should apply its bid evaluation and bidder qualification standards and criteria firmly and consistently. A DSU should develop a systematic rating mechanism that allows it to objectively rank bids with respect to price and nonprice attributes;

(c) A DSU should establish a short-list of offers from bidders with which the DSU will pursue contract negotiations. A DSU should complete due diligence regarding bid qualifications, bidder credit worthiness and experience and project feasibility before selecting an offer for the short-list. A DSU should not indicate to a bidder that its offer is being considered for the short-list while performing initial due diligence;

(d) If, in evaluating offers, a DSU determines that a previously unidentified resource attribute should be considered in the bid evaluation, or that additional evaluation criteria should be used, all bidders should be given an opportunity to supplement their offering to address the DSU's desire for the new attribute or the new criteria. The DSU should attempt to minimize such occurrences;

(e) A DSU should not "flip" default supply contracts. That is, contracts should not be reassigned or secured by an additional third party(ies) after the original bid activity;

(f) During competitive solicitation and resource acquisition processes a DSU should not publicly disclose specific information related to particular bids, including price, before the DSU completes its resource acquisition process and has signed contracts with the selected bidder(s);

(g) An independent third party should review the contract terms and conditions in any power purchase agreement between a DSU and an affiliate before the DSU signs the agreement. A DSU should consult with its advisory committee before selecting the independent third party and should evaluate the third party's findings with the advisory committee; and

(h) A DSU should not provide any information to an affiliate with respect to the DSU's resource needs assessment, evaluation criteria, bidder qualification criteria, due diligence or any other relevant resource procurement information unless such information is simultaneously provided to all other prospective bidders.

(3) To the extent a DSU does not use competitive solicitations to acquire default supply resources it should thoroughly document the exercise of its judgment in evaluating and selecting resource options, including the decision not to use competitive solicitations.

(4) Use of competitive solicitations as the preferred method for procuring default supply resources may not adequately achieve the goals and objectives of these guidelines with respect to demand-side resources. A DSU should design programs

and associated marketing and verification measures, as necessary, to ensure that its procurement of demand-side resources is optimized in the context of the goals and objectives of these guidelines.

AUTH: 69-8-403, MCA

IMP: 69-8-403, MCA

RULE X. DEMAND-SIDE RESOURCES (1) Energy efficiency and conservation measures can effectively contribute to serving total default electricity load requirements at the lowest long-term total cost. A DSU should develop a comprehensive inventory of all potentially cost-effective demand-side resources available in its service area and optimize the acquisition of demand-side resources over its planning horizon.

(2) A DSU should evaluate the cost-effectiveness of demand-side resources and programs based on its long-term avoidable costs. Cost-effectiveness evaluations of demand-side resources should encompass avoidable electricity supply, transmission and distribution costs.

(3) A DSU should strive to achieve steady, sustainable investments in cost-effective, long-term demand-side resource targets. A DSU's investment in demand-side resources should be coordinated with and complement its universal system benefits activities.

(4) Prudently incurred costs related to procuring demand-side resources are fully recoverable in rates. The commission will evaluate the prudence with which demand-side resources are procured, including resources acquired through programs, sub-contractors, and competitive solicitations consistent with evaluations of supply-side resources.

(5) A DSU's development of demand-side resources should include an examination of innovative methods to address cost recovery issues related to demand-side resource investments and expenses, including undesirable effects on revenues related to the provision of transmission and distribution services.

AUTH: 69-8-403, MCA

IMP: 69-8-403, MCA

RULE XI RISK MANAGEMENT AND MITIGATION (1) Prudent default supply resource planning and procurement includes evaluating, managing and mitigating risks associated with the inherent uncertainty of electricity supply markets and default supply load characteristics. A DSU should identify and analyze sources of risk using its own techniques and judgment. Sources of risk may include, but are not limited to:

<u>Underlying Risk Factor</u>	<u>Price Uncertainty Risk</u>	<u>Load Uncertainty Risk</u>
(a) Fuel prices and price volatility	X	X
(b) Environmental regulations & taxes	X	X

(c) Default supply rates		X
(d) Competitive suppliers' prices		X
(e) Transmission constraints	X	
(f) Weather	X	X
(g) Supplier capabilities	X	X
(h) Supplier creditworthiness	X	
(i) Contract terms and conditions	X	X

(2) A DSU's strategy for managing and mitigating risks associated with the identified risk factors should be developed in the context of the goals and objectives of these guidelines and include an evaluation of relevant opportunity costs.

(3) A DSU should manage and mitigate risk through adequate utility staffing and technical resources (e.g., computer modeling), diversity (fuels, technology, contract terms), and contingency planning.

(4) A DSU should use cost-effective resource planning and acquisition techniques to manage and mitigate risks associated with the above identified risk factors, including, but not limited to:

(a) modeling and analyzing the relative risks of alternative resources, individually and integrated with all portfolio resources;

(b) acquiring resources which enhance scheduling flexibility;

(c) acquiring an optimal mix of small, short lead-time resources that better match load requirements;

(d) diversifying the resource portfolio to accommodate a broad range of future outcomes; and

(e) maintaining a transparent planning and procurement process (i.e., one which produces resource plans that can be reasonably understood by the public and the commission.)

AUTH: 69-8-403, MCA

IMP: 69-8-403, MCA

RULE XII TRANSPARENCY AND DOCUMENTATION (1) A DSU should thoroughly document the exercise of its judgment in implementing all aspects of the guidelines, including any deviations from the framework set forth in these guidelines.

(2) A DSU must procure and manage a portfolio of power purchase contracts and demand resources to serve the full load requirements of its default supply customers. The commission must allow a DSU to recover through default supply rates all costs it prudently incurs to perform this function. Whether the costs a DSU incurs are prudent is, in part, directly related to whether its resource procurement process was conducted prudently. It is vital that a DSU document its default supply portfolio planning, management and procurement activities to justify the prudence of its resource procurement decisions. The better a DSU documents the steps involved in its resource procurement process and explains how and why decisions were made, the easier it is to satisfy its burden of proof. When a

DSU requests cost recovery related to the procurement of new power purchase contracts it should:

(a) document and explain all due diligence regarding the qualification of bidders and resource offers, including why selected bidders were sufficiently qualified financially and technically to warrant further evaluation of the offer based on the resource needs assessment;

(b) list and describe all resource attributes considered in evaluating resource alternatives and how the attributes are relevant to the evaluation of potential resources based on the resource needs assessment;

(c) explain how the identified resource attributes were weighted as part of the resource evaluation and discuss the trade-offs between alternative resources that have different attributes and various weights;

(d) document and explain the use of the ranking methodology and decision criteria used to evaluate resource alternatives;

(e) document and explain computer modeling and analysis designed to assess how various potential resources fit with existing resources and contribute to optimizing the overall portfolio;

(f) document relevant industry practices observed in other utilities in the western electricity coordinating council regarding portfolio design, to the extent such practices form the basis for a DSU's decisions;

(g) document and explain how and when management injected its judgment onto analyses of resource alternatives, final selection and contract negotiations, and the impact of management judgment; and

(h) document the discussion and recommendations of the DSU's advisory committee.

AUTH: 69-8-403, MCA

IMP: 69-8-403, MCA

RULE XIII AFFILIATE TRANSACTIONS (1) The commission subjects transactions between a DSU and any of its corporate affiliates to close scrutiny. A DSU should not acquire resources involving affiliate transactions except through competitive solicitations that are consistent with these guidelines. DSUs should sufficiently demonstrate through transparent, documented modeling, analysis and judgment that any resource acquired from an affiliate corresponds to a predetermined portfolio need.

(2) To the extent a DSU procures resources involving affiliate transactions it should respond to the following primary regulatory concerns:

(a) A DSU should demonstrate that it has not subordinated its default supply obligations in favor of an affiliate corporate entity;

(b) The burden of proof is on a DSU to demonstrate that costs it incurs through any affiliate transactions are just and reasonable and in the public interest and, as such, are

recoverable through regulated rates. Since affiliate transactions could be conducted on a less-than-arms-length basis, leaving room for gaming, self dealing and certain subsidies, the commission will subject these transactions to greater scrutiny to reasonably protect ratepayers served under regulated rates from harm. This higher level of protection is referred to as the "no harm to ratepayer" standard. This standard has evolved over time from long standing regulatory practices and policies that require affiliated transactions to be fair, reasonable and in the public interest before the associated costs are recoverable through rates. In keeping with the "no harm to ratepayer" standard, the commission will judge the reasonableness of affiliate transactions-related costs in relation to the lower of cost or market. For purposes of this rule, cost, by definition, is the applicable regulated cost structure, including a return on the capital invested, to provide the relevant affiliated services;

(c) A DSU must reasonably assure that costs and revenues are accurately and properly segregated between regulated and non-regulated affiliated entities in order to protect captive customers served under regulated rates, and avoid subsidies to, and excess charges by, non-regulated affiliates;

(d) The "no harm to ratepayer" standard requires that the books of account and related records of any affiliate transacting business with the DSU must be available for audit and review purposes. A DSU should impute the estimated costs of necessary audit activity into affiliate resource costs when evaluating resource alternatives according to these guidelines. As reasonable and necessary and when lawful, the commission will protect affiliate information through confidentiality agreements;

(e) In order to provide for ongoing regulatory review, a DSU should separately report on its on-going affiliated transactions and relationships in the context of the issues identified in this rule. Such reporting should be sufficient to allow the commission to adequately monitor whether on-going affiliate transactions-related costs are prudent and, therefore, recoverable through regulated rates; and

(f) A DSU must implement a code of conduct to guide management and other employees regarding standards for day-to-day business activities with affiliates and to guard against self-dealing, gaming and resulting subsidies.

AUTH: 69-8-403, MCA

IMP: 69-8-403, MCA

RULE XIV STAKEHOLDER INPUT (1) A DSU should maintain a broad-based advisory committee to review, evaluate and make recommendations on technical, economic and policy issues related to a DSU's default supply portfolio management and resource procurement process. Maintaining an effective advisory committee could involve funding certain member participation. A DSU should also facilitate processes that provide opportunities for

a broader array of stakeholders to comment. Such processes could include:

- (a) public meetings;
- (b) customer surveys (large and small customers); and
- (c) other processes that may provide a DSU information about public opinion on resource procurement matters.

AUTH: 69-8-403, MCA  
IMP: 69-8-403, MCA

RULE XV DEFAULT SUPPLY RESOURCE PLANNING AND PROCUREMENT FILINGS (1) As necessary, a DSU's cost tracking filings should include the information, analyses and documentation recommended in these guidelines to support its request for cost recovery related to default supply resource additions or changes.

(2) A DSU's annual cost tracking filing should document the status of on-going default supply portfolio planning, management and resource procurement activities and include rolling three-year action plans. Action plans should include a discussion of activities involving transmission and distribution functions and services.

(3) The commission may implement a DSU's annual cost recovery request on an interim basis, subject to retroactive adjustment, to allow adequate time to process such requests and render a final order.

AUTH: 69-8-403, MCA  
IMP: 69-8-403, MCA

RULE XVI REWARD FOR SUCCESSFUL DEFAULT SUPPLY SERVICE

(1) The commission will evaluate a DSU's performance in providing default service pursuant to the goals and objectives of these guidelines and may reward the DSU for superior performance at a level commensurate with such performance.

AUTH: 69-8-403, MCA  
IMP: 69-8-201, 69-8-210 and 69-8-403, MCA

4. The commission may designate a public utility or distribution services provider as a default supplier of electricity to those persons not served by a competitive supplier of electricity, or those persons who choose to be served by the public utility. 69-8-201(2), MCA. The commission has designated a regulated distribution utility (NorthWestern Energy, f/k/a The Montana Power Company) as the default supplier (DSU) of electricity in its service territory. ARM 38.5.6007. It is possible that the commission could designate other public utilities as default suppliers in the future. A default supplier is responsible for procuring electricity supply to meet the needs of its customers. The prudent costs of procurement are recoverable in rates. The procurement of default supply is a difficult and challenging task for a DSU, involving a risk of underrecovery of costs on commission review. These rules are reasonably necessary to provide a DSU with guidance on the

procurement of supply. Following these procurement guidelines should reduce the risk of underrecovery to a DSU, which will benefit the DSU and, ultimately, DSU customers.

5. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments (original and 10 copies) may also be submitted to Legal Division, Public Service Commission, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601, and must be received no later than January 7, 2003, or may be submitted to the PSC through the PSC's web-based comment form at <http://psc.state.mt.us/PublicComment/PublicComment.htm> no later than January 7, 2003. (PLEASE NOTE: When filing comments pursuant to this notice please reference "Docket No. L-02.11.5-RUL.")

6. The PSC, a commissioner, or a duly appointed presiding officer may preside over and conduct the hearing.

7. The Montana Consumer Counsel, 616 Helena Avenue, P.O. Box 201703, Helena, Montana 59620-1703, phone (406) 444-2771, is available and may be contacted to represent consumer interests in this matter.

8. The PSC maintains a list of persons who wish to receive notices of rulemaking actions proposed by the PSC. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding: electric utilities, providers, and suppliers; natural gas utilities, providers and suppliers; telecommunications utilities and carriers; water and sewer utilities; common carrier pipelines, motor carriers, rail carriers, and administrative procedures. Such written request may be mailed or delivered to Rhonda Simmons, Public Service Commission, Legal Division, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601, faxed to Rhonda Simmons at (406) 444-7618, emailed to [rsimmons@state.mt.us](mailto:rsimmons@state.mt.us), or may be made by completing a request form at any rules hearing held by the PSC.

9. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

  
Gary Feland, Chairman

  
Reviewed By Robin A. McHugh

CERTIFIED TO THE SECRETARY OF STATE NOVEMBER 18, 2002.