

**A SURVEY OF RECENT STATE INITIATIVES ON
EPACT AND FERC ORDER 636**

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INTRODUCTION

In the last few years, there have been several significant changes in federal legislation and regulation regarding the production, transportation, and consumption of natural gas. Two of the most important ones are the Energy Policy Act of 1992 (EPAct) and the Federal Energy Regulatory Commission (FERC) Order No. 636 (the Restructuring Rule). Among many other things, the EPAct amends Section 303 of the Public Utility Regulatory Policies Act of 1978 (PURPA).¹ It requires state public utility commissions (PUCs) to consider two new energy-efficiency standards for local gas distribution companies (LDCs). One standard requires the consideration of Integrated Resource Planning (IRP) by comparing supply and demand-side options on a systematic and comparable basis. Another requires the consideration of cost-recovery procedures for utility conservation and other demand-side management (DSM) activities that will make these activities at least as profitable as traditional supply-side investments.

As for FERC Order 636, it deals mainly with the unbundling and restructuring of services provided by interstate pipelines. It does not "directly" affect the planning and operation of LDCs. Nevertheless, given that interstate pipelines were the main gas suppliers to most LDCs and the intensive competition existed among all gas suppliers, the LDCs and state PUCs need to take on additional responsibilities and devise new ways of doing business. The Restructuring Rule contains four broad categories of policy initiatives: (1) mandating the unbundling of pipeline transportation and merchant services; (2) promulgating specific conditions for providing comparable transportation services to all shippers and adopting a straight-fixed-variable transportation rate; (3) instituting new secondary capacity assignment mechanisms in place of existing capacity brokering and "buy-sell" programs; and (4) allowing interstate pipelines to pass through all transition costs to their customers subject to a prudence

¹ More detailed discussions about the main provisions of the EPAct and their implications to state PUCs can be found in Kenneth Costello et al., *A Synopsis of the Energy Policy Act of 1992: New Tasks for State Public Utility Commissions* (Columbus, OH: The National Regulatory Research Institute, 1993).

review by the FERC.² The implications of the Restructuring Rule to the state PUCs and LDCs are well-known and will not be repeated here.

The EPAct and the Restructuring Rule accelerate the transformation of the natural gas market. The regulation and provision of local distribution services are profoundly altered in the new market environment where gas services are substantially unbundled, obligation-to-serve significantly relaxed, and service options greatly expanded. But, these two federal regulatory initiatives, although containing substantial new initiatives, are a continuation of previous regulatory reforms aimed at improving the efficiency and degree of competition in gas delivery and consumption. State PUCs and LDCs have responded successfully to the previous regulatory reforms and market restructuring. Their responses varied considerably because of the diversity in gas demand and supply and existing regulation among the states. With these two federal initiatives, regulatory reforms in state gas regulation will continue. Many new policies still need to be formulated and implemented, and there are reasons to believe that state PUCs will respond actively to these many new challenges. Actually, it has been argued that, as federal regulatory reforms are largely in place, state regulatory reform would be the focus of the natural gas industry at the present time and in the foreseeable future.³

Up to now, the state PUCs' responses to the EPAct and FERC Order 636 are somewhat restrained and there is only scant information available about the state initiatives. This is not surprising as these two federal regulatory reforms were implemented only for a short period of time. The full effects of these reforms are still to be determined, and many state PUCs are waiting for clearer indications on how the gas market will respond to the changes in federal regulation before developing their definite policies and procedures. Furthermore, a number of state PUCs might also be preoccupied with the pipeline compliance

² See Daniel Duann, *The FERC Restructuring Rule: Implications for Local Distribution Companies and State Public Utility Commissions* (Columbus, OH: The National Regulatory Research Institute, 1993) for more discussion on the rationales, provisions, and effects of FERC Order 636.

³ See Daniel Duann, *Restructuring Local Distribution Services: Possibilities and Limitations* (Columbus, OH: The National Regulatory Research Institute, 1993).

proceedings before the FERC and the judicial review of the FERC Order. As the FERC proceedings are largely completed and the compliance deadlines specified in the EPAct are fast approaching, the state PUCs' activities in formulating appropriate responses are likely to intensify considerably. At the same time, a number of commission staffs, primarily through the NARUC Staff Subcommittee on Gas, have expressed strong interest in obtaining more information about recent gas initiatives and activities in response to EPAct and FERC Order 636 by other states so that some reference points and guidelines can be established in their commissions' efforts toward resolving the many complex tasks required in complying with new federal regulation.

In order to derive a more complete picture about current state gas initiatives in response to the EPAct and FERC Order 636, the NRRI sent out a survey questionnaire to the PUCs of the fifty states and the District of Columbia in May 1994. Two rounds of follow-up telephone calls were made after the indicated deadline to obtain more responses. Thirty six responses were received by the end of July 1994. The content of the survey questionnaire was developed by the NRRI with many useful suggestions provided by several state PUC staffs. The survey questionnaire consists of three parts. Part A has twelve questions that concern mainly with the development of new regulation in response to the implementation of FERC Order 636. Part B has three questions that deal with the compliance of the two new energy-efficient standards contained in the EPAct. Part C has nine questions that relate specifically to the implementation of IRP by local gas utilities. The survey questionnaire is included in the Appendix.

SUMMARY OF FINDINGS

Generally speaking, the results of this survey tend to conform to information obtained from other sources.⁴ Specifically, a large number of state PUCs are adopting a wait-and-see

⁴ See, for example, "Survey of States Uncovers No Radical Effort to Reform LDC Regulations This Winter," *Foster Natural Gas Report* (February 10, 1994): 12-20; and "Order 636 Restructuring," *Fortnightly* (February 1, 1994): 47.

attitude before the full impacts of the federal reforms are settled and the indicated deadlines for state actions are getting closer. In addition, the states' efforts up to now have largely been a continuation of the reform policies that were already in place before the promulgation of the two federal initiatives, namely the more stringent oversight of gas purchases and some form of incentives regulation for lowering costs of gas supply. Few states are engaged in the more drastic reform efforts such as distribution services unbundling and restructuring, utilization of new risk-management instruments, and sharing of costs and revenues from transportation capacity release. Also, a large majority of states indicate that the reliability of distribution services are not adversely affected by the implementation of FERC Order 636. Even those states that report some negative effects, they point out that the negative effects are limited to certain customer groups within their jurisdictions.

As for the implementation of two new energy-efficiency standards, many states have either started the process of adopting or rejecting the two standards or have already made the determination. Only a small number of states has not yet indicated the initiation of the process. However, a large number of state PUCs feels that it is probably too early to reliably assess the impact of the EAct on local distribution companies. A few states report that the EAct has some limited impact, such as the increased interest in natural gas vehicles by LDCs, increased interest in bypass, more consideration of demand-side alternatives, and higher gas costs to LDCs and municipalities.

In terms of the states' current implementation of IRP, seventeen states indicate that they either have formulated specific regulations or are in the process of doing so. Cost-effectiveness and reliability of gas supply sources are identified as the main factors for requiring the LDCs to conduct IRP. In a few states, some exemptions to the IRP requirements are specified. As for the format for implementing the IRP process, the pilot-program approach is the one most widely used. Special IRP hearing and workshop are the most widely used forum for reviewing and approving IRP plans.

Detailed discussions of the survey results are provided in the following sections. It should be emphasized here that the discussions and tabulations provided here are based solely on the actual survey responses and attached documents. No attempt was made to verify, through extensive review of state statutes and commission regulations, the information

provided. Consequently, the study only reflects a best-effort interpretation made on the responses received from a large majority of states. The purpose here is to derive an overall understanding of the process and status of state initiatives in responding to EPAct and the FERC Restructuring Rule. Anyone who is interested in the initiatives of a particular state should contact the state PUC directly for more detailed information.

STATE RESPONSES TO FERC ORDER 636

In this survey, the state PUCs' responses to the implementation of FERC Order 636 are categorized as the following: the extent and procedure of developing new policies, the allocation of transition costs, the unbundling and deregulation of distribution services, the review of gas procurement, the treatment of transportation capacity release, and the effects on distribution service reliability and other issues.⁵ A summary of the states' responses is shown in Table 1. Obviously, these six issues are not the only relevant issues to the state PUCs and LDCs. Some other generic issues may also need to be considered, and a particular state will undoubtedly have its own specific issues to be resolved.

Extent and Procedures of Developing New Regulatory Policies

Out of the thirty-six states that responded to this survey, sixteen indicate that they have developed new regulatory policies in response to FERC Order 636. They use either a case-by-case approach or a generic proceeding in developing their new regulatory policies. There are advantages and disadvantages associated with either one of these two approaches. A generic proceeding usually can provide a comprehensive, deliberative and methodical

⁵ See Duann, *The FERC Restructuring Rule*, and Daniel Duann and David Hatcher, "Pipeline Gas Service Comparability Rule: What Can State Regulators Do Now?" *NRRQ Quarterly Bulletin* 13 (September 1992): 265-82, for more detailed discussion on the issues and constraints facing state PUCs in developing new regulatory policies in response to FERC Order 636.

TABLE 1
SUMMARY OF STATE RESPONSES TO FERC ORDER 636

State	Regulatory Changes in Response to FERC 636	New Policies/Regulation on Allocation of FERC-636 Related Transition Costs	LDCs Required to Share Some of the Transition Costs	Any Customer Groups Exempted from the Sharing of Transition Costs
Alabama	Y	N	N	N
Alaska	N	N	N/A	N/A
Arkansas	N	N	N	N
California	Y	N	N	N
Colorado	N	N	N	Y
Connecticut	Y	N	N/A	N/A
Delaware	N	N	N/A	N/A
District of Columbia	N	N	N	N/A
Florida	Y	N	N	N
Georgia	Y	N	N	N
Hawaii	N	N	N	N
Idaho	N	N	N	N
Illinois	Y	Y	N	N
Iowa	N	N	N	Y
Kentucky	N	Y	N	Y
Maryland	Y	N	N/A	N/A
Massachusetts	Y	N	N/A	N/A
Michigan	Y	N	N	N
Minnesota	N	N/A	N/A	N/A
Mississippi	N	N	N	N
Missouri	Y	N	N	N
Nevada	N	N	Y	N

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State	Regulatory Changes in Response to FERC 636	New Policies/Regulation on Allocation of FERC-636 Related Transition Costs	LDCs Required to Share Some of the Transition Costs	Any Customer Groups Exempted from the Sharing of Transition Costs
New Jersey	Y	N	N/A	N/A
North Carolina	Y	N	N	N
North Dakota	Y	N	N/A	N/A
Ohio	Y	Y	Y	Y
Oklahoma	N	N	N	N
Oregon	N	N	N	Y
Rhode Island	N	N	N	N
South Carolina	N	N	N	N
South Dakota	N	N	N	N
Tennessee	N	N	N	N
Utah	Y	N	N	N
Virginia	N	N	N	Y
West Virginia	Y	N	N/A	N/A
Wyoming	N	N	N	N

Source: NRRRI Survey, 1994.

N/A = Not applicable or not known at the present time.

TABLE 1--Continued

SUMMARY OF STATE RESPONSES TO FERC ORDER 636

State	New Initiatives Concerning Restructuring of Distribution Service	Adopted New Gas Cost Review Process	Separate Regulation on Transactions Between an LDC and Its Affiliates	New Incentive Regulations Regarding LDC Gas Procurement
Alabama	N	N	N	N
Alaska	N	N	N	N
Arkansas	N	N	Y	N
California	Y	N	Y	Y
Colorado	Y	Y	N	N
Connecticut	Y	N	N	N
Delaware	N	N	N	N
District of Columbia	N	N	N	N
Florida	Y	N	N	N
Georgia	N	N	N	N
Hawaii	N	N	Y	N
Idaho	N	N	N	N
Illinois	Y	N	N	N
Iowa	Y	N	N	N
Kentucky	Y	N	Y	N
Maryland	Y	N	N	N
Massachusetts	Y	N	N	N
Michigan	Y	N	N	N
Minnesota	N	N	N	N
Mississippi	N	N	N	N
Missouri	N	N	N	N
Nevada	N	N	N	N

--Continued--

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SUMMARY OF STATE RESPONSES TO FERC ORDER 636

State	New Initiatives Concerning Restructuring of Distribution Service	Adopted New Gas Cost Review Process	Separate Regulation on Transactions Between an LDC and Its Affiliates	New Incentive Regulations Regarding LDC Gas Procurement
New Jersey	Y	N	N	N
North Carolina	N	Y	Y	N
North Dakota	Y	N	N	N
Ohio	Y	N	N	N
Oklahoma	N	N	N	N
Oregon	Y	N	N	Y
Rhode Island	N	Y	N	N
South Carolina	N	N	N	N
South Dakota	N	N	N	N
Tennessee	N	Y	N	N
Utah	N	N	Y	N
Virginia	Y	N	N	N
West Virginia	N	N	N	N
Wyoming	Y	N	N	N

Source: NRRJ Survey, 1994.

N/A = Not applicable or not known at the present time.

TABLE 1--Continued
SUMMARY OF STATE RESPONSES TO FERC ORDER 636

State	LDCs Allowed to Use Risk- Management (Hedging) Instruments	LDCs Allowed to Share Costs and Revenues Associated With Capacity Release	Effects of FERC 636 on Gas Service Reliability in the State
Alabama	Y	N	No Effect
Alaska	N	N	No Effect
Arkansas	N	N	No Effect
California	Y	N	No Effect
Colorado	N	N	Do Not Know
Connecticut	Y	N	No Effect
Delaware	N	N	No Effect
District of Columbia	N	N	No Effect
Florida	Y	N	Some Negative Effect/ Some Positive Effect
Georgia	N	N	Some Negative Effect
Hawaii	N	N	No Effect
Idaho	N/A	N/A	No Effect
Illinois	N/A	N/A	Do Not Know
Iowa	N	N	No Effect
Kentucky	N	N	Do Not Know
Maryland	N	N/A	No Effect
Massachusetts	N/A	N/A	No Effect
Michigan	N	N	Some Positive Effect
Minnesota	N	N/A	No Effect
Mississippi	N	N	Some Negative Effect
Missouri	N/A	N	Do Not Know
Nevada	N/A	N/A	Some Negative Effect
			--Continued--

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SUMMARY OF STATE RESPONSES TO FERC ORDER 636

State	LDCs Allowed to Use Risk-Management (Hedging) Instruments	LDCs Allowed to Share Costs and Revenues Associated With Capacity Release	Effects of FERC 636 on Gas Service Reliability in the State
New Jersey	Y	Y	Some Positive Effect
North Carolina	Y	N/A	Some Negative Effect
North Dakota	N/A	N/A	N/A
Ohio	Y	Y	Some Negative Effect
Oklahoma	N	N	No Effect
Oregon	N/A	Y	Some Negative Effect
Rhode Island	Y	N/A	No Effect
South Carolina	N	N/A	No Effect
South Dakota	Y	Y	No Effect
Tennessee	Y	Y	No Effect
Utah	N	Y	No Effect
Virginia	N/A	N	Do Not Know
West Virginia	N/A	Y	No Effect
Wyoming	N/A	N	No Effect

Source: NRRRI Survey, 1994.

N/A = Not applicable or not known at the present time.

investigation of all major issues associated with a particular subject. But because it is intended to be comprehensive, a generic proceeding could be very time-consuming. Furthermore, as a generic proceeding, only the more common issues are considered and the details and circumstances of a particular LDC may not be adequately addressed. The policy developed may be unresponsive to the situations of individual LDCs.

As for the case-by-case approach, it has the advantage of focusing on the specific and relevant issues of one particular LDC, and resolving them in a more expeditious manner. However, the best policy for a particular LDC may not be best for the state as a whole. There could also be some inconsistencies or conflicts between the policy guidelines developed for different LDCs. In addition, certain issues that are common to different LDCs may have to be contested and deliberated again and again. The total time and resources spent in developing regulatory guidelines for all LDCs within the state may actually be more than those used in a generic proceeding if there are a large number of LDCs within the state PUC's jurisdiction.

The states are evenly divided as seven use the case-by-case approach and seven use the generic proceeding. North Carolina and Ohio use both approaches. (See Table 2). This finding does not necessarily indicate other states are less than active in responding to the FERC Order 636. Many of them are currently in the process of developing new regulatory policies. However, these policies had not been formalized at the time the survey was conducted.

Allocation and Sharing of Transition Costs

Transition costs refer to the costs incurred by interstate pipelines either as a direct consequence of implementing the FERC Restructuring Rule or as a consequence of actions taken by pipeline customers. There are four kinds of transition costs identified by the FERC: Account 191 balance, gas supply realignment costs, stranded costs, and new facilities costs.⁶

⁶ A detailed explanation of the nature of these transition costs and the estimations of the sizes of the transition costs can be found in Duann, *The FERC Restructuring Rule*.

TABLE 2

PROCEDURES USED IN DEVELOPING NEW REGULATORY POLICIES

A Case-by-Case Approach	A Formal Generic Proceeding	Both
Alabama	California	North Carolina
Florida	Connecticut	Ohio
Maryland	Georgia	
Michigan	Illinois	
Missouri	Massachusetts	
North Dakota	New Jersey	
Utah	West Virginia	

Source: NRRRI Survey, 1994.

Among these four, the gas supply realignment cost is the largest item, as well as the most difficult to define and quantify. Various estimates about the eventual size of the transition costs have been put forward, but they should be used with caution.

Cost shifting caused by the pass through of transition costs (as well as the adoption of the straight-fixed variable rate design) is probably the most urgent concern for most state PUCs. Based on the FERC's previous record in the handling of transition costs incurred as a result of other regulatory reforms (such as the take-or-pay liabilities in the 1980s), it is no surprise that the LDCs and their customers will absorb most of the transition costs.⁷ In general, two avenues are available in moderating the cost shifting: one is to actively participate in FERC proceedings and court cases to limit the amount of transition costs that can be passed through from pipelines to LDCs; and the other is to develop state policies that can fairly allocate transition costs among LDCs and their customers. At the present time, the Order 636-related proceedings before the FERC are largely completed while the court cases

⁷ See Duann and Hatcher, "Pipeline Gas Service Comparability Rule."

are still in progress. Furthermore, as a result of federal preemption, once the FERC has set the amount of and mechanisms for recovering transition costs by pipelines from their customers, the state PUCs can not reduce the amount of transition costs in most instances. Thus, at the present time, the states have little, if any, influence on the total amount of transition costs to be allocated within the state.

However, a state PUC does have some influence in allocating the transition costs between the LDCs and their customers and among the different end-use customers. In the past, the state PUCs would typically allow the LDCs to pass through all the transition costs the LDCs had to absorb as pipeline customers. There are few reasons to expect that the state PUCs will drastically change this established practice of full pass through. The survey results seem to confirm this as very few states, Illinois, Kentucky, and Ohio, responded that they have adopted new policies regarding the allocation of transition costs. In a few states, certain customer groups (mostly interruptible transportation customers) are exempted from the sharing of transition costs. (See Table 3.)

TABLE 3
EXEMPTION OF CUSTOMER GROUPS
FROM THE SHARING OF ALL OR PART OF TRANSITION COSTS

State	Description
Colorado	Transportation customers (assuming they do not use any back-up gas).
Iowa	Interruptible transportation customers.
Kentucky	Interruptible transportation customers.
Ohio	Transportation customers if they can document direct transportation cost payment to pipelines.
Oregon	Services provided through market-based (i.e., oil and bypass competitive) rates are exempted because margin contributions are not cost-based per se, and might become unmarketable if transition cost surcharges were added.
Virginia	LDC transition costs are recovered as a purchased gas cost. Consequently, transportation-only customers are exempted.

Source: NRRI Survey, 1994.

Service Unbundling and Deregulation

Over the long run, unbundling and restructuring of local distribution service will be the focus of LDCs and state PUCs. This is a natural development as the restructuring process is moving from wellhead market to interstate market and from interstate to local distribution market. In addition to the restructuring at upstream markets, the shifting of coping strategies and emergence of a balanced gas market also heightened the importance of distribution service restructuring.⁸ Distribution service restructuring could also be the most important state regulatory initiative for most end users as they are affected directly by the costs and reliability of such services. The FERC Order 636 provides a good model for the distribution service restructuring efforts. But the unique features of the distribution market, namely, the existence of a large number of captive customers and strong monopolistic characteristics of the local market, must be explicitly considered. Sixteen states have developed or initiated efforts in instituting some regulatory guidelines regarding distribution service restructuring. Not surprisingly, the emphasis of restructuring and the extent of implementation vary considerably among the states. (See Table 4.)

Review of Gas Procurement

Direct gas procurement by LDCs is not a new phenomena. Many LDCs were actively involved in buying gas from sources other than interstate pipelines ever since the FERC promulgated the open-access interstate transportation programs in the mid-1980s.⁹ After the implementation of FERC Order 636, the trend of direct gas purchase is likely to intensify as

⁸ A detailed discussion on the approach, criteria, constraints, and critical issues of distribution service restructuring can be found in Duann, *Restructuring Local Distribution Services*.

⁹ See Daniel J. Duann et al., *Direct Gas Purchases By Gas Distribution Companies: Supply Reliability and Cost Implications* (Columbus, OH: The National Regulatory Research Institute, 1989).

TABLE 4
STATUS AND FEATURES OF DISTRIBUTION SERVICE UNBUNDLING AND RESTRUCTURING

State	Description
California	Comprehensive and progressive unbundling of gas utility services has been underway since 1984.
Colorado	Flexible regulation is provided (See 40-30-104.3, CRS), and banded rate (max/min) is used for transportation service.
Connecticut	Indicated in a draft decision that service unbundling will start no later than November 1, 1995.
Florida	Restructuring is done on a case-by-case basis, and all gas costs have been removed from base rates since the early 1980s.
Illinois	Unbundled services were available for several years.
Iowa	Several working groups were formed to examine all relevant issues.
Kentucky	Generic fact-finding proceeding is currently underway.
Maryland	Commission staff has begun a restructuring proceeding.
Massachusetts	Unbundling for some transportation services and interruptible transportation and capacity release are allowed.
Michigan	Revised transportation rates that unbundle traditional sales services have been in place for several years.
New Jersey	An order, "Guidelines for further unbundling of New Jersey's Natural Gas Service," has been issued and restructuring is in progress.
North Dakota	No specific restructuring docket. However, as approved by the Commission, the LDCs have offered transportation service at competitive rates.
Ohio	Continuation of informal working group process. Company-specific tariff changes to improve balancing for transporters are approved, but no deregulation of sales, yet.
Oregon	Noncaptive customers have open access transportation on LDC distribution systems and can buy their gas commodity in a competitive market. A new state law (ORS. 757.516) enables LDCs to individually negotiate confidential sales prices with noncaptive customers, subject to PUC oversight.
Virginia	Unbundling was supported in earlier proceeding that responded to FERC Order 436, not in response to FERC 636.
Wyoming	A core/noncore rate spread is instituted where noncore customers are allocated no costs and the rates for these customers are flexible to compete with market alternatives. All noncore revenues are credited to core customers cost of service.

Source: NRRRI Survey, 1994.

LDCs can no longer buy a bundled gas service from interstate pipelines at FERC-set prices. As the LDCs gain complete control over their own procurement of gas and at the same time the FERC relinquishes its oversight of gas commodity cost, state PUCs must then apply a higher degree of scrutiny to the LDCs' procurement decisions. A number of procedures and guidelines have been proposed and used. They include the review of procurement contracts, incentive regulation through purchased gas adjustment (PGA), least-cost purchase requirement, and prudence review. In this survey, the focus is on the safeguards for transactions between LDCs and their affiliates, incentive regulation, and use of new risk-management tools.

Few new review procedures and guidelines have been instituted for LDCs' gas procurement decisions. A large number of states indicate that, in reviewing gas procurement, they rely mostly on existing statutes and regulations. (See Table 5.) Only four states (Colorado, North Carolina, Rhode Island, and Tennessee) indicated the adoption of a new gas review process. It should be emphasized that this does not mean that only these states have some forms of gas procurement review in place. Actually, almost all states do. But the new procedures have been widely used for a number of years, and the implementation of FERC Order 636 has not yet changed the fundamental nature of the review or led to drastic changes of the review procedure. To some extent, similar conclusions may be drawn concerning the oversight of transactions between an LDC and its affiliates. There are well-established guidelines and procedures in place concerning affiliated transactions, and very few states (Arkansas, California, Hawaii, Kentucky, North Carolina, and Utah) reported that they have adopted separate guidelines for these transactions. (See Table 6.)

The use of incentive to promote better gas procurement decisions is another area for possible new policy development. There are advantages and disadvantages associated with the use of incentive regulation.¹⁰ In some instances, the additional benefits derived may not be

¹⁰ A detailed discussion of the main kinds of incentive regulation available to the state PUCs and the evaluation of these options can be found in Muhammad Harunuzzaman et al., *Incentive Regulation for Local Gas Distribution Companies Under Changing Industry Structure* (Columbus, OH: The National Regulatory Research Institute, 1991).

TABLE 5
CONSIDERING OR ADOPTING NEW GAS COST REVIEW PROCESS

State	Description
Colorado	Prudence review of GCA/PGA costs.
Florida	No. But a review of possible changes is in process.
Iowa	Gas cost review rules have been in place for years.
Maryland	No. But Commission staff has begun a restructuring process.
Missouri	No. But looking into it.
New Jersey	No. But this will likely become a priority after the conclusion of the unbundling proceedings.
North Carolina	The gas purchasing practices of each LDC are reviewed on an annual basis. These reviews are for one year and are backward-looking.
North Dakota	No. But PGA rules are proposed and now in the hearing stage.
Ohio	No. Currently under review, including incentive-purchasing programs and other proposals.
Rhode Island	Informal data survey on supplies, demands on LDC's system is in process. But data will be received from LDCs informally--not through a Commission docket.
South Carolina	No. Have had annual review process for several years.
South Dakota	No. But under consideration.
Tennessee	Annual consultant prudence review of gas costs.
West Virginia	The Commission has requested comments on recommended changes.

Source: NRRI Survey, 1994.

TABLE 6

SEPARATE REGULATIONS REGARDING THE GAS TRANSACTIONS BETWEEN
AN LDC AND ITS AFFILIATES

State	Description
Arkansas	In a November 1993 order, the Commission found that an LDC's gas purchases, under a contract with its parent company, were in violation of Arkansas Statute. The Commission ordered that the contract price be index to appropriate market price. Under another affiliated gas contract, the Commission ordered Staff to monitor contract purchases and notify the commission of any purchases in violations of the Statute.
California	Affiliate transactions are subject to particular scrutiny in reasonableness reviews. Recent restructuring to eliminate affiliated sales (PG&E) and resolve excess gas cost problems (SoCal Gas) and adopt incentive mechanisms will reduce or eliminate need for CPUC of affiliate transactions in future.
Hawaii	Hawaii revised Statutes 269-19.5 requiring all utilities to file purchase agreements with affiliates for Commission approval.
Illinois	Illinois Public Utilities Act already provides for the regulation of such transactions.
Iowa	No. Rules have been in place for some time.
Kentucky	Affiliate transactions subject to more stringent review due to an existing statute; not a new development.
Minnesota	Affiliate transactions have always been regulated under Minnesota law and the Commission's rules.
Nevada	No. But Docket No. 92-7029 proposes regulations for all affiliate transactions.
Utah	Not a new regulation but transactions with affiliates are to be "arm length" transactions.

Source: NRRI Survey, 1994.

sufficient to offset the costs incurred.¹¹ At the present time, only two states, California and Oregon, indicate that they have established explicit incentive mechanisms for gas procurement. A number of states, however, indicates that they are experimenting or in the process of developing some form of incentive regulation for gas procurement. (See Table 7.) This seems to show that, once the state PUCs are gaining more experience with the use of incentive regulation, it may be more widely used as a regulatory tool to promote better gas procurement decisions.

Another issue related to gas procurement review is the treatment of losses and profits incurred by the LDCs in using various risk-management or hedging instruments such as futures and options to control the price and quantity risks of gas supply. These risk-management tools were developed only recently and many state PUCs were not yet familiar with their full implication. Consequently, most states have not yet formulated any specific policies regarding their use and regulation. In many instances, the state PUCs do not encourage the use of these risk-management tools. But they do not specifically forbid the use of these instrument, either. A few states, such as California and Ohio, review the use of these financial instrument in the overall context of prudence and reasonableness reviews. (See Table 8.)

Capacity Release

The FERC Restructuring Rule institutes certain new transportation capacity allocation and reassignment mechanisms. For example, it requires downstream pipelines to assign their firm transportation capacity on the upstream pipelines on a nondiscriminatory basis to their firm shippers (including the LDCs) that desire upstream capacity. It also requires all open-access pipelines to provide a capacity-releasing mechanisms through which all shippers can voluntarily resell all or part of their transportation capacity to any person who wants to

¹¹ Ibid.

TABLE 7

INCENTIVE REGULATIONS REGARDING GAS PROCUREMENT

State	Descriptions
California	A "Gas Cost Incentive Mechanism" was adopted for SoCal Gas in 1984, while a "Performance Based Ratemaking for Gas Procurement" was adopted for SDG&E in 1993.
Maryland	No. But Commission staff has begun a restructuring process.
Minnesota	No. But the Minnesota PUC plans to convene a work group to look at gas purchasing incentive mechanisms.
Missouri	No. But the Commission is looking into it.
New Jersey	There are no new regulations, but the Commission has proposed an 80/20 ratepayer/LDC sharing mechanism for off-system sales and capacity release.
North Carolina	No. However, with regard to adding additional interstate pipeline capacity, the Commission changed its PGA rule to allow the pass through of new interstate pipeline demand charges.
North Dakota	No. But may be considered in an informal investigation in 1995.
Ohio	No. But incentive regulation is currently under review.
Oregon	PUC Order 8901946 was issued on August 4, 1989. It governs the current gas procurement rate recovery mechanism, and provides a 20 percent risk/reward incentive for differences between actual gas cost and the last known and measurable gas costs that were embedded in rates.

Source: NRRI Survey, 1994.

TABLE 8
USE OF RISK MANAGEMENT INSTRUMENTS IN GAS PROCUREMENT

State	Descriptions
Alabama	Allowed in the sense that they have not been disallowed.
California	SoCal Gas and SDG&E share risk and rewards through incentive mechanism. Other LDCs remain subject to reasonableness review.
Connecticut	Draft decision would allow up to 10 percent of gas demand.
Florida	Not specifically disallowed.
New Jersey	There is no prohibition on the LDC for using risk management techniques. The LDCs are currently exploring their use.
North Carolina	They are allowed in the sense that their use has not been forbidden. Treatment of profits and losses has not been considered.
Ohio	Commission hasn't issued policy, but would review it in the prudence audit. No LDC has attempted to pass through hedging cost, yet.
Rhode Island	Commission has not specifically approved or disapproved any "hedging" activities.
South Dakota	The LDCs are just possibly starting.
Tennessee	There are no restrictions on how gas is acquired.

Source: NRRI Survey, 1994.

obtain that capacity.¹² These pipeline capacity release mechanisms have significant implications to the operation of LDCs. They will not only affect the LDC's access to alternative suppliers but also how and at what costs the excess interstate transportation capacity is disposed. The state PUCs are currently facing many complex decisions on how to fairly and efficiently allocate the LDC-owned and contracted transportation capacity among the many LDC customers.¹³ This survey focuses on only one small aspect of the transportation capacity release issue, that is, the treatment of costs and revenues associated with the disposition of those pipeline capacity that the LDC had contracted for but do not currently need.

Seven states indicate that they have some sharing mechanisms in place where the revenues and costs above or below a projected level are shared between the LDC and its customers. There are some variations (such as the sharing percentages, the definition of target levels, and the amount of sharing) to the sharing mechanisms among the states. (See Table 9.)

Service Reliability and Other Issues

The two remaining questions in Part A of the survey deal with the perceived effects on service reliability after the implementation of FERC Order 636 and specific issues being considered by state PUCs at the present time. A large majority of states (twenty-one out of thirty-five responding states) indicates that the FERC Order has no effect on the reliability of distribution service within their own jurisdictions. Seven states indicate that the FERC Restructuring Rule has some negative effects on service reliability, at least to certain

¹² There were some strong criticism of the FERC capacity release mechanisms as unduly influencing the free competition in the secondary transportation market. See Duann and Hatcher, "Pipeline Gas Service Comparability Rule," and Duann, *The FERC Restructuring Rule*.

¹³ See Duann, *Restructuring Local Distribution Services*.

TABLE 9
SHARING OF COSTS AND REVENUES ASSOCIATED WITH
PIPELINE CAPACITY RELEASE

State	Descriptions
California	Generally no. The costs are passed through to ratepayers. As California has considerable excess costs of stranded capacity. Sharing of revenue is not an issue at the present time.
New Jersey	In three cases, a sharing of 80 percent to the ratepayer and 20 percent to the LDCs for revenues received has been approved. But the LDCs have no cost responsibility yet.
North Carolina	A docket is currently on the sharing of costs and revenues for grandfathered buy/sell transactions. The Commission is also considering the proper accounting and distribution of capacity release revenues.
Ohio	Proposals were made on a 90 percent customer / 10 percent LDC revenue sharing mechanism and a sliding scale, where, as revenue increases, the utility's percentage of sharing increases.
Oregon	Capacity release revenues are generally credited 100 percent to system ratepayers. In some cases where utility marketing efforts are involved, the utility stockholders can keep 20 percent of revenues.
South Dakota	A 50/50 sharing of profits on the gas commodity portion of "buy/sell" transactions is currently used.
Tennessee	One utility gets 10 percent of revenues while other utilities have no sharing mechanism.
Utah	A stipulation has been reached under which a specific risk-reward sharing mechanism was adopted for one gas company.
West Virginia	One LDC has a revenue sharing agreement for a variety of programs, including capacity brokering.

Source: NRRI Survey, 1994.

customers. Three states indicate the FERC Restructuring Rule has some positive effects. Five states indicate that they do not have sufficient information to assess the effect of the FERC Order on the reliability of distribution service within their states. These results seem to show that, at least up to now, the reliability of distribution service has not been a main concern to state PUCs when they are devising proper responses to FERC Order 636. (See Table 10.)

TABLE 10
SERVICE RELIABILITY EFFECTS OF FERC ORDER 636

Impact	States
Some Negative Effect	Florida, Georgia, Mississippi (for municipal gas companies), Nevada (little or no rate decreases), North Carolina, Ohio, and Oregon.
No Effect	Alabama, Alaska, Arkansas, California, Connecticut, Delaware, District of Columbia, Hawaii, Idaho, Iowa, Maryland, Massachusetts, Minnesota, Oklahoma, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, West Virginia, and Wyoming.
Some Positive Effect	Florida, Michigan, New Jersey.
Do Not Know	Colorado, Illinois, Kentucky, Missouri (no severe weather conditions present yet), and Virginia (too early to tell).

Source: NRRI Survey, 1994.

The states were also asked to identify specific issues (not specifically addressed in the prior survey questions) that are being considering as they are responding to FERC Order 636. Eighteen states responded. The issues identified vary and there does not appear to have one or two overriding issues that are of critical importance to all or most of the states. Examples of the issues identified include the application of straight-fixed-variable rate design, the continued usefulness of the purchased gas adjustment (PGA) review, off-system gas sales, LDC rate design, gas IRP, and revising gas transportation rules. (See Table 11.)

STATE RESPONSES TO EPACT

The main requirement of the EPAct on state PUCs is to consider, by October 1994, whether to mandate their jurisdictional LDCs to implement Integrated Resource Planning (IRP) that will compare supply- and demand-side options on a systematic and comparable basis, and cost recovery procedures for conservation and other DSM activities that will make these activities at least as profitable as traditional supply side investments.¹⁴ A state PUC's decision must follow a prescribed procedure. The PUC must issue a public notice and conduct a public hearing. The determination on whether to apply these two requirements must be in writing, based on the evidence presented at a hearing, and made available to the public.

Almost all responding states indicated that they have started the process in compliance with the EPAct requirements. But the procedure used and the progress made are quite different among the states. (See Table 12.) Certain states, such as California, Oregon, Hawaii, and District of Columbia, have adopted either IRP or DSM requirements or both before the enactment of the EPAct. One state, Connecticut, choose to institute these requirements through legislation rather than through PUC rulemaking. The remaining states are in the various stages of PUC rulemaking. It is difficult at the present time to predict how many states will eventually adopt these two requirements. Regarding the effects of the EPAct

¹⁴ See Costello et al., *A Synopsis of The Energy Policy Act of 1992*.

TABLE 11

OTHER SPECIFIC ISSUES BEING CONSIDERED IN RESPONSE TO FERC ORDER 636

States	Issues Considered
Arkansas	In a rate case involving Arkansas Louisiana Gas Company, the Commission has considered issues related to additional staff and gas supply and accounting systems needed as a result of Order 636. The Commission also approved a settlement involving the level of services Arkansas Louisiana Gas Company will receive from its interstate pipeline transporter after the implementation of Order 636.
California	Straight Fixed Variable Rate Design protects pipelines from virtually all risks of excess capacity and stranded costs. CPUC is challenging SFV in the U.S. Court of Appeals.
Colorado	Generic GCA/PGA docket to investigate: (1) whether the GCA/PGA mechanism continues to play a role; (2) what modifications would be required, e.g., what should be included as gas costs; (3) whether GCA/PGA incentives would be appropriate; (3) whether annual GCA/PGA reviews (prudence reviews) are necessary.
Connecticut	Off-system sales, changes to PGA, state energy policy, recommendation for legislative changes, and streaming.
Delaware	Hedging, capacity release and recovery of transition costs.
Georgia	Unbundling, SFV, capacity brokering and transition costs as they relate to competitive position and cost-shifting.
Kentucky	Confidentiality of supply contracts' minimum-take requirements, maximizing benefits of firm pipeline capacity, and defining interruptible transport service.
Massachusetts	Change in submission requirements for Forecast & Resource Plans. Interruptible transportation-capacity release.

TABLE 11--Continued

OTHER SPECIFIC ISSUES BEING CONSIDERED IN RESPONSE TO FERC ORDER 636

States	Issues Considered
Missouri	Thorough review of LDC rate designs, reviewing and possibly redefining LDCs obligation to serve, and updating LDC contingency and curtailment plans.
New Jersey	Gas purchasing strategies.
North Carolina	Bypass. North Carolina has a grossly underdeveloped gas infrastructure. Only one interstate pipeline crosses the state. Extending LDC services to eastern and western counties is a major economic development goal. FERC 636 strips the state of control over gas expansion. It will tend to concentrate gas use along the existing pipeline.
Ohio	Curtailed, information sharing (LDC bulletin boards), and real-time meeting/gathering.
Oregon	More dependence on storage.
South Carolina	Scheduling conferences for this summer and may necessitate formal proceedings.
South Dakota	Gas IRPs, and LDC agency function vs. system supply.
Utah	Treatment of gathering.
Virginia	The Commission staff is informally considering gas purchasing incentives, greater gas procurement oversight and the recovery of transition costs.
West Virginia	Revising gas transportation rules.

Source: NRR Survey, 1994.

TABLE 12

ADOPTING EPACT IRP AND DSM REQUIREMENTS

State	Description
Alabama	No.
Alaska	No. Order issuing Notice of Inquiry and establishing filing and hearing schedules to be issued after 6/22/94 public hearing.
Arkansas	Yes. The Commission has issued a Notice of Inquiry in two pending proceedings which address the two EPAct standards.
California	No. CPUC had already established DSM programs and incentive mechanisms for funding DSM. CPUC uses "market decide" policies rather than mandating IRP through regulation.
Colorado	No. Docket 92R-287G--oral decision rendered on May 26, 1994, final written decision pending: the Colorado PUC decided that gas IRP is not needed at this time and, therefore, the issue of DSM becomes moot.
Connecticut	No. IRP and DSM are currently legislated.
Delaware	Yes. PSC Order 3731 and PSC regulation Docket 40.
District of Columbia	Yes. "EPAct" standards were adopted prior to EPAct in PSC review. They include collaborative working groups and litigations of the plan.
Florida	Yes. Hearing notice was issued.
Georgia	Yes. Hearing is in process (docketed cases).
Hawaii	Yes. The state's IRP framework docket was initiated independently of EPAct, but the adopted commission policy on IRP and DSM that is very similar to the standards in section 115 of EPAct.
Idaho	Yes. IRP--hearing and Order 25342. DSM--comment and Order 25341.
Illinois	Yes. Docketed proceedings.
Iowa	No. Not at this time. An inquiry is underway.
Kentucky	Yes. Under consideration.
Maryland	Yes. Under consideration. Comments from all interested parties followed by "legislative" type hearing.
Massachusetts	Yes. Rulemaking instituting IRP is in progress and a secondary purpose is to deal with the issue of investment in conservation and demand management.
Michigan	No. But in the process of requesting public comments.
Minnesota	Yes.
Mississippi	No.
Missouri	Yes. A Stipulation and Agreement was submitted and approved by the Commission. The parties to the S&A agreed: (1) the MoPSC had attained compliance with section 115 of EPAct and section 303 of PURPA, and (2) gas IRP will be implemented through a future rulemaking. (It is anticipated this rulemaking process will continue into 1995.)

--Continued--

TABLE 12

ADOPTING EPACT IRP AND DSM REQUIREMENTS

State	Description
Nevada	Yes. Written comments and public hearings.
North Carolina	Yes. A docket is open to consider these issues.
North Dakota	Yes. Open investigation, workshops for industry and interested parties, comments, and "legislative"-type hearing with no sworn testimony.
Ohio	Currently under consideration. The Commission's 4/14/94 entry solicited initial reply comments to be filed in this case, with a workshop to be scheduled later.
Oklahoma	No. The Commission will be issuing a notice of inquiry to consider IRP.
Oregon	Yes. IRP was adopted by Commission investigation proceeding even before enactment of EPAct. Investment in conservation was adopted by Commission rulemaking (Oregon PUC Order 94-075 issued January 11, 1994) after enabling legislation was passed in 1993 (ORS 757.262).
Rhode Island	No. Not formally under EPAct. Gas companies are required by statute to file plans but have not yet incorporated DSM.
South Carolina	No. But have established dockets for each gas company to address IRP and DSM.
South Dakota	Yes. Decision is pending now. Public hearing.
Tennessee	No. Plans are underway to open a "generic" docket to consider this.
Utah	No. Mountain Fuel Supply Company does have an IRP planning process. DSM was discussed in the most recent plan.
Virginia	Yes. Current proceeding to consider IRP policies. Formal hearing has been scheduled.
West Virginia	In progress. General investigation proceedings.
Wyoming	No formal Commission rule on IRP. Case-by-case consideration of IRP.

Source: NRRRI Survey, 1994.

on their jurisdictional LDCs, most states indicate that there is simply not enough information available to make any determination. (See Table 13.)

STATE CONSIDERATION AND IMPLEMENTATION OF IRP

Part C of the survey questionnaire deals with the current status and implementation of IRP by local distribution companies. Specific issues included in the survey are the state requirement of IRP, the exemption of certain LDCs from the IRP requirement, the number of LDCs that have developed and implemented IRP, the key factors in PUC's consideration of IRP requirement, the tests used in determining the effectiveness of IRP, and the methods used in determining the avoided cost of gas. A summary of responses to Part C is shown in Table 14. More detailed discussions of individual issues will follow.

State Requirement and Exemption of IRP

Currently, ten states PUCs indicate that they have either statutes and regulations in place that would require their jurisdictional LDCs to conduct IRP, and a number of states are in the process of doing so. A description of their current considerations is included in Table 15. As for the key factors the state PUCs consider in mandating the IRP requirement, cost-effectiveness and reliability of gas supply sources seem to be the most important ones. Twenty states identify cost effectiveness as a possible factor in the consideration for requiring IRP, while thirteen states indicate the reliability of supply sources as a factor. The promotion of demand-side options is identified as a factor by six states. The options for fuel-switching is cited by one state. (See Table 16.)

As the IRP is a resource-intensive procedure where the LDCs typically need to hire additional staff or consultants to prepare the plan, the IRP requirement may be too burdensome or infeasible for some LDCs. Consequently, six states have prescribed certain conditions under which an LDC may be exempted from the requirement. For example,

TABLE 13
 IMPACTS OF EPACT AND RELATED STATE RESPONSES

State	Descriptions
Alaska	The only major impact would be forcing LDCs to implement DSM measures.
Arkansas	Do not have sufficient information to determine.
California	Difficult to assess impact of EPAct.
Colorado	None.
Connecticut	Unknown at this time.
District of Columbia	Increased interest in NGV natural gas vehicles by the LDC. Increased competition between LDC and local electricity company in the interstate natural gas market. Increased interest by the LDC in bypass.
Florida	None.
Georgia	A thorough rethinking of company goals/objectives and dedication of resources to both IRP and DSM.
Hawaii	Caused the utility to more fully consider the potential benefits of demand-side resources.
Idaho	Requires IRP for LDCs.
Illinois	Unknown.
Maryland	Limited impact.
Massachusetts	Almost none.
Mississippi	Higher gas cost to small LDCs and municipalities.
Missouri	Unsure. It may result in a more formalized, documented, and consistent planning process by the LDCs.
Nevada	None.
North Carolina	None so far.
Ohio	Unknown at this time.
Oklahoma	Cannot be determined at this time.
Oregon	Little impact.
Rhode Island	It will have an effect on next filed plans.
South Carolina	Under study.

--Continued--

TABLE 13
IMPACTS OF EPACT AND RELATED STATE RESPONSES

State	Descriptions
South Dakota	To be decided.
Tennessee	None.
Utah	Minimal impact.
Virginia	Do not know at this time.
Wyoming	IRP and improved supply-side considerations.

Source: NRRRI Survey, 1994.

TABLE 14

SUMMARY OF RESPONSES TO CURRENT STATE IRP IMPLEMENTATION

State	Rules/Regulations Requiring LDCs to Conduct an IRP	Exemption of Some LDCs From IRP Requirements	Number of LDCs That Have Developed/ Implemented IRP	Specific Benefit/Cost Test for Assessing IRP Programs	Specific Method in Determining the Avoided Cost of Gas
Alabama	N	N	0	N	N
Alaska	N	Y	0	N	N
Arkansas	N	Y	0	N/A	N/A
California	N	N	1	N	Y
Colorado	N	N	0	N	N
Connecticut	Y	N	3	Y	N
Delaware	N	N/A	N/A	N/A	N/A
District of Columbia	Y	N	1	Y	N
Florida	N	N	0	N/A	N/A
Georgia	N	N	1	N	N
Hawaii	Y	N	1	N	N
Idaho	Y	Y	0	N	N
Illinois	N	N/A	7	N/A	N/A
Iowa	Y	Y	5	Y	Y
Kentucky	N	N	N/A	N/A	N/A
Maryland	N	N/A	1	N	N
Massachusetts	Y	N	4	N	Y
Michigan	N	N/A	N/A	N/A	N/A

--Continued--

TABLE 14

SUMMARY OF RESPONSES TO CURRENT STATE IRP IMPLEMENTATION

State	Rules/Regulations Requiring LDCs to Conduct an IRP	Exemption of Some LDCs From IRP Requirements	Number of LDCs That Have Developed/ Implemented IRP	Specific Benefit/Cost Test for Assessing IRP Programs	Specific Method in Determining the Avoided Cost of Gas
Minnesota	N	N/A	N/A	N/A	N/A
Mississippi	N	N	0	Y	N
Missouri	N	N/A	0	N/A	N/A
Nevada	Y	Y	2	N	N
New Jersey	N/A	N/A	N/A	N/A	N/A
North Carolina	N	N/A	0	N/A	N/A
North Dakota	N	N/A	1	N/A	N/A
Ohio	N	N/A	N/A	N/A	N/A
Oklahoma	N	N	0	Y	N/A
Oregon	Y	N	3	Y	N
Rhode Island	N	N	0	Y	N
South Carolina	Y	N	N/A	N	N
South Dakota	N	N/A	1	N	N
Tennessee	N	N/A	0	N/A	N/A
Utah	N	Y	1	N	N
Virginia	Y	N	1	N	N
West Virginia	N	N/A	N/A	N/A	N/A
Wyoming	N	N	6	N	N

Source: NRRRI Survey, 1994.

N/A = Not applicable, not known at the present time, or no response.

TABLE 15
STATE CONSIDERATION OF IRP REQUIREMENT FOR LDCs

State	Descriptions
California	Generally no. One exception is that the CPUC has ordered PG&E to develop long run plans and LRMC cost analysis to assess core customers' future storage requirements relative to pipeline capacity to provide least cost system reliability.
Connecticut	By statute.
District of Columbia	By energy plan.
Hawaii	The Commission order in the IRP docket requires the utility to conduct an IRP.
Idaho	See Commission Order 25342.
Iowa	Statutes and rules provide for "energy efficiency plans" by LDCs. These plans contain forecasts, assessment of supply options, calculation of avoided costs, screening of DSM options and design of DSM programs. The Board approved the plans with respect to the implementation of DSM options, but does not approve supply-side options.
Massachusetts	Sitting Council regulations.
Missouri	No. But are in the process of drafting rules.
Nevada	See NRS 704.755 and NAC 704.953 - 704.973.
North Carolina	No. But a docket is open.
Oklahoma	No. But the Commission will be addressing IRP this fall.
Oregon	Oregon PUC Order 89-507 was issued on April 20, 1989. It directed all energy utilities in Oregon to undertake least cost planning. Utilities least cost plans must cover a twenty-year planning horizon and be updated every two years.
Rhode Island	No. But regulations under statute are being developed.
South Carolina	By order of the Commission.
Utah	No. It is not covered by a rule or regulation, but the major LDC, Mountain Fuel Supply Co., has an IRP planning process whose plans are presented to the Commission. Plans resubmitted every two years with updates submitted on the off years.
Virginia	Gas utilities are required to submit five-year forecasts and resource plans. No formal review or acceptance.
West Virginia	In progress.

Source: NRRI Survey, 1994.

TABLE 16

KEY FACTORS IN MANDATING IRP FOR LDCs

Factors	Used by the State of
Cost Effectiveness	Alaska, California (for PG&E's storage services only), Connecticut, District of Columbia, Florida, Georgia, Hawaii, Idaho, Iowa, Massachusetts, Mississippi, Missouri, Oklahoma, Oregon, Rhode Island, South Carolina, Tennessee, Utah, Virginia, and Wyoming.
Reliability of Supply Sources	California (the CPUC's view is that in a competitive market gas supply shortages should not be a significant problem). Georgia, Hawaii, Massachusetts, Mississippi, Missouri, Oklahoma, Rhode Island, South Carolina, Tennessee, Utah, Virginia, and Wyoming.
Options for Fuel-Switching	Florida.
Promoting Demand-Side Options	Alaska, Connecticut, District of Columbia, Idaho, Iowa, and Oregon.
Others	Nevada (required by statute).

Source: NRRI Survey, 1994.

Alaska and Iowa indicate that municipal and cooperative gas companies that are not subject to PUC rate regulation will be exempted from the IRP requirement. In Utah, small LDCs will not not be required to do an IRP, and multi-jurisdictional LDCs are exempted in Idaho. (See Table 17.)

Certain Current Implementation Issues of IRP

As there is only a limited number of states that have an IRP process or are in the process of setting up such a process, the results derived here may be of limited value in projecting the condition that may prevail if and when the IRP process is widely used by states. The first implementation issue is regarding who is better in preparing the IRP plan. Four states indicate that the consulting firm can do a better job. On the other hand, five states indicate that the LDC is better equipped to do the job. However, more than half of the responding commissions do not see any difference in terms of the performance between the entities. One commission indicates that the IRP plans are generally developed jointly by the LDCs and consulting firms. (See Table 18.)

As for the methods used in testing the cost-effectiveness of a particular IRP program, only seven states responded. There are some variations in terms of the methods used. Three states use some variations of the total resource cost (or societal cost). One state uses the ratepayer test, and one use the utility test. (See Table 19.) In terms of the format for implementing the IRP process, pilot programs is the one most widely used. The multi/single year approval is also used by a number of states. Means of cost recovery, customer incentives, and other formats are less popular. Each one of them issued by a single state, respectively. (See Table 20.)

There are several basic types of forum can be used in the review and approval of IRP plans. A large majority of the states responding to the survey use the special IRP hearing as the main forum. Workshops and other less formal proceedings are also quite popular. One state uses the general rate case as the main IRP review proceeding, and another use the biannual supply and demand forecast proceeding. (See Table 21.)

TABLE 17

EXEMPTION OF LDCs FROM THE IRP REQUIREMENTS

State	Descriptions
Alaska	If not economically regulated, then not subject to Commission action with respect to EPAct.
Arkansas	Although Arkansas does not presently have a gas IRP requirement, PURPA sections 301 retail sales guidelines could be used to exempt some Arkansas LDCs from a requirement to file an IRP.
Idaho	The exception for "gas utilities doing business in Idaho that are regulated by contract with a regulatory commission of another state" will be exempted.
Iowa	Only rate-regulated (investor-owned) LDCs are subject to the requirement.
Nevada	Small LDCs with annual operating revenue less than \$10 million are exempted.
Utah	A small utility with less than 6,000 customers is not required to do an IRP.

Source: NRRI Survey, 1994.

TABLE 18
BETTER PERFORMANCE IN PREPARING AN IRP

Agents	States
Consulting Firms	Hawaii, Rhode Island, South Dakota, and Wyoming.
LDCs	District of Columbia, Mississippi, Oregon, Utah, and Virginia.
No Difference	Connecticut, Georgia, Idaho, Illinois, Iowa, Maryland, Massachusetts, Oklahoma, South Carolina, and Tennessee.

Source: NRRI Survey, 1994.

TABLE 19
BENEFIT/COST TEST FOR IRP PROGRAMS

State	Descriptions
Connecticut	Utility test.
District of Columbia	Ratepayer test.
Iowa	Societal test, including a 7.5 percent adder to avoided cost for externalities.
Oklahoma	This issue will be addressed at a later date.
Oregon	Total resource cost test (see PUC Order 94-590).
Rhode Island	Total resource cost test without externalities.

Source: NRRI Survey, 1994.

TABLE 20
PRIMARY FORMATS FOR IMPLEMENTING IRP

Method	States
Pilot Programs	Connecticut, District of Columbia, Georgia, Mississippi, South Carolina, Utah (DSM programs), Virginia.
Multi-/Single-Year Approval	Connecticut, District of Columbia, Hawaii, Massachusetts
Means of Cost Recovery	Idaho.
Customer Incentives	Oregon.
Others	Iowa (multi-year implementation plans and budgets, approved by the Board), Nevada (required periodic filings), Wyoming (by order of the Commission).

Source: NRRI Survey, 1994.

TABLE 21
PRIMARY FORUMS IN THE REVIEW AND APPROVAL OF IRP

Method	States
General Rate Case	Wyoming.
Special IRP Hearing	Connecticut, Georgia, Hawaii, Idaho, Iowa, Massachusetts, Mississippi, Nevada, Virginia, and Wyoming.
Workshops and Informal Proceedings	District of Columbia, Oregon, South Carolina, and Utah.
Others	Connecticut (biannual supply and demand proceedings).

Source: NRRI Survey, 1994.

APPENDIX

SURVEY QUESTIONNAIRE

Survey on
State Commission Gas Policies and Regulations
May 1994

At the request of the NARUC Staff Subcommittee on Gas, the National Regulatory Research Institute is conducting a survey of current state gas policies and regulations. We are especially interested in the states' actions in responding to the FERC Restructuring Rule (Order 636), the Energy Policy Act of 1992, and Integrated Resource Planning. The results and the analysis of this survey will be presented at the 1994 Subcommittee Summer Meeting and disseminated to the state commissions. Please fax or mail the completed Survey Form by **June 20, 1994**. Any opinions, orders, statements, staff papers, or other related documents that are useful in understanding the commission's policies can be mailed separately at a later date. Thank you for your time and efforts. If you have any questions, please contact:

Bell Chen
The National Regulatory Research Institute
1080 Carmack Road
Columbus, OH 43210-1002
Phone: (614) 292-9404
Fax: (614) 292-7196

Respondent Information:

Name: _____

Title: _____

Commission: _____

Address: _____

City: _____

State: _____

Phone Number: _____

Fax Number: _____

QUESTIONS

A. FERC ORDER NO. 636

1. Has your Commission made any regulatory changes (such as new regulations and rules) in response to FERC Order 636?

No

Yes, If yes, these changes have been made

on a case-by-case basis.

in the form of generic proceedings.

2. Has your Commission instituted any new policies and regulations regarding the allocation of Order 636-related transition costs?

No.

Yes. If yes, please describe them briefly.

3. Are the LDCs in your state required to share some of the transition costs?

No.

Yes. If yes, please describe the sharing mechanisms.

4. Are there any customer groups exempted from the sharing of transition costs?

No.

Yes. If yes, please explain the exemption.

5. Has your Commission started or adopted any initiatives concerning the restructuring of local distribution services, such as the unbundling of services or the deregulation of sales to noncaptive customers?

No.

Yes. If yes, please explain the restructuring initiatives.

6. Has your Commission adopted any new gas cost review process in response to the FERC Order 636?
- No.
- Yes. If yes, please describe the new review process.
7. Has your Commission adopted any separate regulations regarding the gas transactions between an LDC and its affiliates?
- No.
- Yes. If so, please explain the regulations.
8. Has your Commission adopted any new incentive rate regulations regarding gas procurement by the LDCs?
- No.
- Yes. If yes, please explain the incentive proposals.
9. Are the LDCs in your state allowed to use some risk management (hedging) instruments (such as gas futures, and options on futures) in gas procurement?
- No.
- Yes. If yes, please explain the treatment of profits and losses incurred in using these instruments.
10. Are the LDCs in your state allowed to share the costs and revenues associated with the disposition (release) of pipeline capacity?
- No.
- Yes. If yes, please explain the sharing mechanisms.

11. To the best of your knowledge, which of the following best describes the effects of FERC Order 636 on the gas service reliability in your state? Check only one.

some negative effect

considerable negative effect

no effect

some positive effect

considerable positive effect

do not know

12. Please identify other issues your Commission is considering in response to the FERC Order 636.

B. ENERGY POLICY ACT OF 1992 (EPAAct)

13. Has your Commission considered or adopted the two new natural gas standards, i.e., "integrated resource planning" and "investment in conservation and demand management" contained in section 115 of the EPAAct?

No.

Yes.

14. What process has been used by your Commission in considering the above two EPAAct standards?

15. To the best of your knowledge, what impact does the EPAct or related state responses have on the LDCs in your state?

C. INTEGRATED RESOURCE PLANNING (IRP)

16. Does your Commission have rules or regulations that require LDCs to conduct an IRP?

No.

Yes. If yes, please explain the regulation.

17. Are there any limitations or guidelines (i.e. utility size or sales) that will exempt some LDCs in your state from the IRP requirement?

No.

Yes. If yes, please explain the guidelines.

18. To the best of your knowledge, please indicate the two most important factors for your Commission in requiring the implementation of IRP:

cost effectiveness (e.g. minimizing gas costs)

reliability of supply sources

options for fuel-switching

promoting demand-side options

others, please explain briefly

19. In your state, how many LDCs have developed and/or implemented the IRP?

20. To the best of your knowledge, which one of the following two tend to do a better job in preparing an IRP?

Consulting firms

LDCs

No difference

21. Does your Commission specify a particular benefit/cost test for determining the cost-effectiveness of programs contained in the IRP?

No

Yes. If yes, please describe the method.

22. Does your Commission specify any particular method in determining the avoided cost of gas?

No

Yes. If yes, please describe the method.

23. In your states, is the IRP process implemented primarily by:

pilot programs

multi-/single-year approval

means of cost recovery

customer incentives

LDC incentives

others, such as _____

24. Which forum is used most often in your state in the review and approval of IRP?

general rate case

special IRP hearings

informal meetings such as workshops

other, such as _____

