



A PROFESSIONAL
LAW CORPORATION

MEMORANDUM

TO: Division of Public Utilities

FROM: F. Robert Reeder
Vicki M. Baldwin
On behalf of UIEC

DATE: November 29, 2010

SUBJECT: UIEC Comments on Division of Public Utilities' Utah Workgroup III Consistency of Allocation Factors between Jam and Class COS Report

INTRODUCTION:

The group of Utah Industrial Energy Consumers (“UIEC”) submits these separate comments to be included with the Division of Public Utilities’ (“Division”) Report to further clarify the UIEC’s position on certain issues.

The Division’s Report summarizes the discussions that took place over the course of the meetings that have been held, but it does not articulate any basis for how the Division reached the recommendations presented in the Report. Moreover, what is not mentioned is that those discussions revealed that few, if any, decisions on allocation factors have actually been made by the Commission, contrary to some assertions. What few decisions on this topic have been made have been overtaken by more recent events.

The Division’s Report is based on a premise that is either moot or does not exist. It addresses the consistency between “jurisdictional” and class allocation factors despite the fact that Rocky Mountain Power (“RMP” or the “Company”) has filed a new Multi-State Protocol (“MSP”) methodology in Docket No. 02-035-04, which, hopefully, will result in new

jurisdictional factors. So there is nothing meaningful against which to compare class allocations. RMP has already confessed that Utah need not adopt its proposed new MSP methodology as filed and proposes to present another allocation method. Therefore, the Division's exercise in comparison is futile. It is anticipated that RMP will propose some type of "Rolled-In" methodology for Utah. But, no one has yet seen this proposal or the internal allocation factors that may be proposed, so this exercise is pure speculation. It is not clear whether any new interjurisdictional method might attempt to retain some of the old compromises that arose out of the political negotiations of the last MSP proceedings and that are unrepresentative of Utah's class loads, like 75/25 or 12 CP. There was no basis for using these factors except to obtain the buy-in of other jurisdictions. The compromise is no longer necessary and should not continue. Utah may go it alone. California and Washington are not a part of this compromised process.

The Division's Report references a "Rolled-In" method. However, because we have no proposal, there are no allocation factors for a Rolled-In that method can be discussed or compared. Will the "Rolled-In" method include seasonality, and if so, how? How will Rolled-In deal with Oregon's partial open access and Renewable Portfolio Standard ("RPS") requirements? Its RPS requirement dictates the acquisition of new types of expensive generation, yet the existence of open access means fewer ratepayers to pay for those expenses. And, why must Utah use a Rolled-In method when there are numerous other options that it could use instead?

PRECEDENT:

The Division cites a number of paragraphs from the Utah Public Service Commission's ("Commission") order from Docket No. 09-035-23 and discusses "precedent." UIEC disagrees with the precedential value of the Commission's past decisions regarding class cost of service and jurisdictional allocations as presented by the Division, even if not mooted by the subsequent

events mentioned above. The Division's history is far from complete and appears to be inaccurate. The Division gives no support for its bald assertion that it "determined that the inter-jurisdictional allocation methods used in the most recent 2009 General Rate Case, Docket No. 09-035-23, were in compliance with the Commission decisions in Docket Nos. 97-035-04 and 02-035-04" or even why those are the only two cases that matter. Report at 4. What the Division and its consultants may believe was used with respect to class allocations over the past several years, does not appear to coincide with what has in fact been used. The decisions they may wish were made, either were not made, or have been overtaken by subsequent events.

The specific issues under discussion in this workgroup, and which have been discussed in the last few general rate cases, have only recently been brought to the Commission's attention. They have never been before the Commission with a complete record so that they could be adequately discussed and presented to the Commission for a specific informed decision as to whether they should or should not be adopted. Yet, as can be seen by the attached responses to UIEC data requests in the MSP docket, such information can be developed. See RMP's Responses to UIEC Data Requests attached hereto as Exhibit A.

It became apparent in the workgroup, that there was a time when seasonal weighting was not used as a matter of course and when inter-jurisdictional allocation factors were not be used as a basis for class allocations. It appears that prior work groups may have recommended the movement towards more seasonality. Then, at some point, the Company, without any guidance or order, began to use weighting as a matter of course. The Commission issued decisions that included weighted factors giving some effect to seasonality, but the Commission never specifically made any finding or conclusion deciding to use them. This does not serve as precedent.

The development of jurisdictional allocation methods has been on a separate track. The Commission issued a decision on jurisdictional allocation specifically ordering that the jurisdictional allocation methods should not be extended to development of class allocations.

These two subjects have been and are different. Class allocations should be treated individually in each case. In the 2009 General Rate Case, the Division hired a new consultant who argued there should be a matching and the Commission ruled that there should be matching with no explanation for changing its previous position. This decision departed from several years of practice. This could be characterized as arbitrary.

SEASONALITY:

Utah's load is increasingly seasonal. This leads to higher costs for the Company. Efforts were made to establish seasonal rates and on-peak and off-peak rates to incent customers to reduce costs. The design ought not to be arbitrary. Cost allocation should drive pricing signals so as to encourage ratepayer behavior to reduce use during high cost periods. The Division has supported the move to seasonal pricing, which the Company has adopted. In a separate workgroup established to evaluate load research, the Division also is advocating more seasonality in data gathering. In other dockets, parties have advocated more seasonal granularity in determining costs. But curiously, in this workgroup, the Division takes a completely opposite position, advocating lock-step adherence to the old jurisdictional methodology. It gives no indication of what it believes might be sound policy going forward. The Division ignores the inconsistency between jurisdictional allocation factors and class cost of service, while advocating full support of seasonality and weighting in class load research and sampling. The Division's position is contradictory and provides no explanation for this contradiction and no guidance to the Commission.

Research and analysis shows that the generation allocation factor of SG used in the current jurisdictional allocation method should no longer be used for fixed generation costs for class allocation. As with pricing, the allocation of fixed generation costs among classes should reflect the fact that summer peak demands are “significantly different” from the rest of the months, as Dr. Abdulle testified in Docket No. 09-035-23. Moreover, SG ignores Oregon’s partial deregulation (load loss) and RSP (additional costs) burden.

Also, the analysis has shown that the 75/25 weighting used in the jurisdictional allocation improperly and asymmetrically assigns high load factor customer classes both above-average capital costs per kW of peak demand and system average (or above system average) variable costs per kWh when carried into class cost allocations. Therefore, the 25% weighting given to energy should be eliminated from class allocation. It was born from a compromise which proved to be ineffective, and which is to be replaced.

In addition, as demonstrated in the testimony of Whit Russell in the major plant addition case (Docket 10-035-89), and the testimony of witnesses Passeau and Lobb in a similar Idaho case, RMP’s increasing activity as a merchant transmission provider requires a complete overhaul in how transmission is valued and allocated. The cost allocation factors need to follow the cost causers. Research shows this means that not only should the amount allocated to Utah be reevaluated, but seasonality should be imposed on the transmission allocation as well.