- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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| In the Matter of the Application for Changes to Rocky Mountain Power's Home Energy Savings Program | )<br>)<br>)<br>)<br>) | DOCKET NO. 09-035-T04<br><br>REPORT AND ORDER |

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ISSUED: April 27, 2009

By The Commission:

BACKGROUND

This matter is before the Commission on Rocky Mountain Power's (Company) Application for tariff changes to Schedule 111, Home Energy Savings incentive program (Program). The Company submitted its Application on March 23, 2009, and requested expedited treatment of its Application. In requesting expedited treatment, the Company noted that Questar Gas had also filed an application for tariff change seeking to reduce rebate levels for insulation installation by changing its ThermWise Weatherization Rebates Program and ThermWise Multifamily Rebates Program and seeking to make those changes effective April 1, 2009. The Company stated that in order to minimize market confusion resulting from potentially varying effective dates, it was also requesting an April 1st effective date for its tariff changes.

Both the Division of Public Utilities (Division) and the Committee of Consumer Services (Committee) filed written comments respecting the proposed expedited treatment. The Division responded on March 25, 2009 and contended that the requested effective date did not allow for adequate review of, nor response to, the Application. The Division also noted that the shortness of time would minimize notice to the public and practically preclude public comment. The Committee also responded to the requested for expedited treatment. It mentioned that, although the Company's attempt to minimize market confusion was a good reason for expeditious treatment, that reason, of itself, did not warrant such a hurried treatment that would likely result in inadequate review. It also stated that the customers who would be affected needed more than a few days notice of such a change. Therefore, both the Division and the Committee asked the Commission to deny the Company's request for expedited treatment and allow a hearing to occur only after adequate analysis and issue an order based on that analysis and with sufficient notice to customers.

On April 1, 2009, the Commission denied the Company's request for expedited treatment and set a hearing before the Administrative Law Judge (ALJ) of the Commission for April 16, 2009. Notice of the hearing was published April 1st. The notice stated that the Commission would allow part of the hearing time for public witness testimony and comment.

Afterwards, the Company sent correspondence to the Commission wherein it requested an effective date of May 2, 2009, to correspond with the effective date in the Questar matter. It also requested that customers with installations completed before the proposed effective date be required to submit completed rebate applications no later than May 15, 2009 to qualify for current rebate incentives.

A hearing in this matter was held on Thursday, April 16, 2009, before the ALJ. The following were present: 1) counsel for the Company, Ms. Yvonne Hogle; Mr. Donald Jones, Jr. testified on behalf of the Company; 2) Michael Ginsberg, Assistant Attorney General, appeared for the Division; Abdinasir Abdulle testified for the Division; 3) Paul Proctor, Assistant

Attorney General, appeared for the Committee; Michele Beck testified on behalf of the Committee.

The Company submitted its Application with supporting reasons for and analysis of the proposed rebate modifications. The Program rebates were initially commenced to encourage customers to implement energy-saving measures, of which insulation installation was one. As with any pilot program, the Program was implemented with then-existing market data. At the time of implementation, insulation installation was not the primary focus of most contractors, as many were engaged in the new construction aspect of the market. The market was characterized by higher insulation-related costs and few insulation contractors. Based on these condition, the Company set rebate levels. The rates set then, and currently in place, are as follows:

| Existing Insulation Incentive Levels | |
|---|---|
| Measure | Incentive |
| Floor & Ceiling insulation, Min. R-19 | $.35/ft$^2$ |
| Wall Insulation, Min R-11 | $.45/ft$^2$ |

With the down-turn in the construction industry, many contractors took up insulation installation as a means to supplement or supplant their revenue sources. As contractors entered the insulation market, many have used the rebate program as a marketing tool, often offering the work as “free insulation” when combined with Questar insulation rebates. This in turn has increased the number of rebate applicants. However, as the market for insulation and as competition among insulation contractors have increased, costs of insulation have decreased. With decreased costs, but static rebate levels, customers have been able to fully offset installation costs, and in some cases, receive rebate amounts greater than their cost of installation. The Company contends that the program was not meant to cover all costs of insulation, but only a portion of those costs. In 2009, the rebate applications consumed 48% of the original annual estimate for such applications in only the first two months of the year. Given this trend, the Company estimates that the expenditures for insulation measure will exceed the original estimates by about 246%, which will negatively impact the overall effectiveness of the program and greatly exceed the budget set for the program.

To realign the Program incentives with the original intent of the program, i.e. pay for a portion—not all, of installation costs, the Company proposes changes to the Program's rebate structure. The proposed changes differentiate according to those residences with electric heating and those with electric cooling, and are as follows:

| Proposed Insulation Incentive Levels | |
|---|---|
| Measure | Incentive |
| *Residences with electric heat* | |
| Attic/ceiling insulation, Min. R-19 | $.30/ft$^2$ |
| Wall Insulation, Min R-11 | $.45/ft$^2$ |
| Floor installation, Min. R-19 | $.25/ft$^2$ |
| *Residences with electric cooling* | |
| Attic/ceiling insulation, Min. R-19 | $.10/ft$^2$ |
| Wall Insulation, Min R-11 | $.15/ft$^2$ |

The Company also gaved evidence that it had provided notification of the proposed changes. It stated that it held a meeting on February 18, 2009 for insulation contractors where 25 firms were represented and 70 people attended. The Company spoke to the attendees about the proposed changes. Additionally, the Company also stated that its representatives were interviewed by KSL in an interview which aired March 12, 2009. The Company also published notice of the proposed changes on its website.

The Division submitted its recommendation on April 15, 2009. It recommended approval of the Application with certain modifications as follows:

- The program's effective date should be moved to June 1, 2009.
- The attic/ceiling insulation incentive measure for residences with electric cooling but without electric heat should be increased from $0.10/SF to $0.20/SF.
- The wall insulation incentive measure for residences with electric cooling but without electric heat should be increased from $0.15/SF to $0.30/SF.
- The customer application deadline for customers that complete their installations before the June 1, 2009 effective date should be moved from May 15, 2009 to August 1, 2009.

*Division Recommendation,* April 15, 2009, p.1.

The Division disagreed with some of the Company's recommendations for various reasons. The Division first took issue with the proposed change in rebate reductions for the attic/ceiling insulation for electrically cooled residences–the rebate constituting the largest portion of Program costs. The Company proposes a reduction from $.35/ft$^2$ to $.10/ft$^2$. The Division first contends there is no explanation for the almost 71% decrease in rebate level. Although the Division did make a data request to the Company for that information, as of the date of the recommendation submission, it had not been forthcoming.[1] Second, the Division noted that the Company has stated that it wanted to align its rebates with Questar rebates. In Docket No. 07-035-T09, the Company aligned its rebate incentive and reduced it from $.65/ft$^2$ to $.35/ft$^2$ to match the Questar rebate level. Here, however, despite its contention that "in requesting the changes proposed in this filing, Rocky Mountain Power is attempting to align, as closely as possible, with the filing made by Questar," *Company Application,* p.2, the Company has not sought to match Questar's rebate level at $.35/ft$^2$ but instead chose to drop it to $.10/ft$^2$. The Company states that the difference is because over the annual usage, more energy is consumed through gas-fired heating than electrically powered cooling. This argues for Questar shouldering a larger part of the range of incentives. The Division, notes, however, that there is no empirical support for this contention. The Division also noted that the change in rebate levels apportions the greatest share of the insulation costs on the customers. The Division points out that the Company suggests insulation installation for attic/ceiling insulation can range from $.35/ft$^2$ to $1.00/ft$^2$. The Division pointed to pricing listed on one of the major contractor's flyers which puts costs at about $.55/ft$^2$. The Division also noted that in the Questar rebate reduction docket, several contractors testified that the average range for insulation installation was about $.50/ft$^2$ to $.60/ft$^2$. If the costs were about the middle of this range, i.e. $.55/ft$^2$, then that would mean in circumstances where Questar and Company rebates applied, Questar's rebate would be at $.20/ft$^2$, the Company's at $.10/ft$^2$, and the customer would pay $.25/ft$^2$, less than

[1] The Company did state it responded to the data request on April 15th, but the Division stated that it was almost at the close of business, and that its expert did not have an opportunity to review it.

50% of the costs. The Division contends that when the program was changed to be consistent with Questar's program, the "intention was that the customer should bear about one third of the cost of insulation measures. The Company's proposed change would alter that approximate balance of incentives with cost sharing."

Additionally, the Division is concerned that the 71% drop in rebate incentives for attic/ceiling insulation would result in a significant reduction in customer participation. The Division questioned the Company's forecast on page 5 of its Application where it estimates that 23,123 participants with electric cooling will seek insulation incentives with the reduced rebate at $\$.10/ft^2$. The number of estimated participants is 2.3% higher than the current rates of participation. The Division's witness, however, questioned the logic of this contention, being that as prices increased for customers, the participation would simply decrease. The Division did request information from the Company to verify the contention but none was forthcoming as of the filing of the recommendation.

The Division also questioned the Company's basis for significantly reducing (67% reduction) the wall insulation in homes without electric heating from $\$.45/ft^2$ to $\$.15/ft^2$. The Division noted that there were only 96 applicants for wall insulation, while applicants for attic/ceiling numbered 3,766 for the first two months of 2009. A significant reduction would have a minimal effect on the overall Program budget. In fact, in response to a Committee data request, the Company responded that "wall insulation in electric AC homes would be cost effective at 30 cents, 25 cents, and 20 cents per square foot on a utility cost basis." The

Division, therefore, recommends dropping the rebate amount to $.30/ft$^2$, not $.10/ft$^2$ as a more reasonable and conservative approach.

The Division also differs from the Company as to the effective date for the rebate reductions. The Division contends that customers have likely not received adequate notice of the proposed rebate reductions. It recommends June 1, 2009 as the date by when any applicant must complete insulation work to qualify for current rebates. It also recommends that the date by which rebate applications for work done previous to June 1, 2009 must be submitted be August 1, 2009, to give customers 60 days as in the Questar case.

At the hearing, the Committee also presented oral testimony regarding the Company's proposed changes. It did not submit written testimony. The Committee first noted that the Company was facing a system overload in the next few years, i.e. by 2012, and energy savings were vital. It agreed with the Division that, while specific program cost-effectiveness was an important factor to consider when evaluating and amending DSM programs, the ultimate emphasis of demand-side management programs should be to maximize overall energy savings. Any actions dealing with rebate reductions should have the purpose of maximizing overall savings. Therefore the Commission should look to see if the proposed rebate reductions advanced the ultimate goals of DSM programs. With that guiding principle in mind, the Committee expressed two main concerns with the Company's Application.

First the Committee expressed concern with the notice to customers of the proposed changes. The Committee felt that customers needed more time than the proposed May 1, 2009 deadline to complete pending insulation work. In response to the Company's contention that the notice provided in the contractors informational meeting of February 2009, and the media interview on KSL were sufficient, the Committee stated that such notice was not enough. Though such notice may have provided notice to some contractors and some portion of the public, it did not go far enough. Such notice did not give Company customers and other affected parties adequate notice of pending changes, and allow them to adjust their plans to implement energy efficient measures. Without such time, many would be deprived of the energy savings that current rebate levels would provide. The Committee agreed with the Division as to dates for implementation.

Second, the Committee disagreed with the rebate reductions proposed by the Company. The Committee recognized that although the reductions might increase cost-effectiveness, the focus should still be overall energy savings to the system. The Committee's concern was that such drastic drops in rebate levels would negatively impact customers' willingness to participate in DSM programs such as these. It also agreed with the Division in questioning the Company's forecast contending that with the rebate reduction, participation levels would increase. It pointed to simple economic laws of demand to counter that point: with increase in prices—i.e. the amount the customer will have to pay for insulation, comes a resultant drop in demand—i.e. less demand for insulation installation. Ultimately, the rebate reductions will decrease participation in the DSM program and reduce overall energy efficiency. The Committee stated that in the future, rebate levels might further decrease based on future evidence. But currently, the evidence warranted the more measured approach recommended by the Division.

ANALYSIS

DSM programs like the Program at issue here were designed as part of an overall effort towards encouraging energy-saving measures and practices. Along with other DSM measures, the insulation rebates have been valuable in increasing overall energy savings. As the Company stated in its Application and in testimony, however, the rebates were only meant to cover a portion of total insulation costs and incent customers towards making energy-efficient measures. They were not meant to pay for all the costs of installation. As the Division also noted, having the customer pay for a portion of the costs was an important part of the Program. Because of the current rebate levels, customers have been incentivized to participate in the program to such a degree that about 50% of the Program's budget has been reached only in the first two months of the year. In order to maintain cost-effectiveness for the Program, and to ensure that it will continue, the Commission agrees that rebate levels should be reduced to a level that will help maintain cost-effectiveness but not drastically exceed the budget.

Although cost-effectiveness of the Program is an important factor to consider when determining new rebate levels, as the Committee pointed out in testimony, it is imperative that the Program and others like it help meet the ultimate goal of overall energy conservation. The Commission appreciates the Company's efforts at differentiating their proposed Program rebate schedule among residences with electric heating and those with electric cooling. However, the Commission does have concerns with the amount of reduction for some rebates, especially given the lack of evidence for some of the reduction.

As the Division points out, there is little evidence for the sharp decline in some of the proposed rebate amounts. The rebate constituting the largest of the Program costs, i.e. attic/ceiling for electrically cooled residences, is dropping about 71% from $.35/ft$^2$ to only $.10/ft$^2$. There is no explanation as to why the significant drop. The Company's response to the Committee's data request, stating that the rebate would still be cost-effective at $.20/ft$^2$ is telling, and leads the Commission to conclude that a drop to $.20/ft$^2$ would be more reasonable. As to the wall insulation rate for homes without electric heating, there is little evidence supporting the decline from $.45/ft$^2$ to $.15/ft$^2$. The Company affirmed that the rebate would still be cost-effective at $.30/ft$^2$. In any case, the costs for wall insulation rebates was only a small part of the entire costs for rebate applications and there is little evidence that such a drop would have any meaningful impact on overall Program cost-effectiveness. Given the lack of evidence for some of the proposed declines, the Commission finds that the significant rebate reductions proposed by the Company would have a negative impact on the Program's ability to promote energy savings. Having to bear a higher portion of the insulation installation costs, the customer would be less inclined to participate in the Program. Without more, the Commission finds that the amounts recommended by the Division (and which the Company stated were admittedly cost-effective) should be the new rebate amounts in the Program. These amounts are also more in line with the new Questar rebate rates recently approved by the Commission in Docket No. 09-057-T04.

As to the timing, the Commission finds that implementing such changes by May 2, 2009, would impose an undue burden on customers that have contracted for work or received bids to upgrade their residences or units based on current rebate levels and Program requirements. The Commission finds that an effective date for rebate reduction of Monday, June 1, 2009 is more reasonable. The deadline for submission of completed rebate applications should be Friday, July 31, 2009. To summarize, a person wishing to qualify for current rebate levels must have all insulation work completed on or before June 1, 2009. That person must then submit a complete rebate application for that work on or before July 31, 2009.

Therefore the Commission orders as follows:

1. The approved insulation incentive levels are as follows:

| *Insulation Measure* | *New Tariff* |
|---|---|
| Attic/ceiling-install minimum of R-19 | $.20/ft$^2$ for electrically cooled residences |
| | $.30/ft$^2$ for electrically heated residences |
| Floor-install a minimum of R-19 | None for electrically cooled residences |
| | $.25/ft$^2$ for electrically heated residences |
| Wall-install minimum of R-11 | $.30/ft$^2$ for electrically cooled residences |
| | $.45/ft$^2$ for electrically heated residences |

2. The effective date for the above rebate reductions is Monday, June 1, 2009. The deadline for submission of completed rebate applications is Friday, July 31, 2009.

3. Pursuant to Sections 63G-4-301 and 54-7-15 of the Utah Code, an aggrieved party may request agency review or rehearing of this Order by filing a written request with the Commission within 30 days after the issuance of this Order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission does

not grant a request for review or rehearing within 20 days after the filing of the request, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a petition for review with the Utah Supreme Court within 30 days after final agency action. Any petition for review must comply with the requirements of Sections 63G-4-401 and 63G-4-403 of the Utah Code and the Utah Rules of Appellate Procedure.

DATED at Salt Lake City, Utah this 27th day of April, 2009.

/s/ Ruben H. Arredondo
Administrative Law Judge

Approved and confirmed this 27th day of April, 2009 as the Report and Order of the Public Service Commission of Utah.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary
G#61723