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Date: July 23, 2009

Subject: **Revised Recommendation** of the Office of Consumer Services on Rocky Mountain Power's Proposed Revisions to Tariff Schedule 110 ENERGY STAR® New Homes Program – Docket No 09-035-T10. Advice No. 09-09.

On July 23, 2009, the Office of Consumer Services (Office) received responses from Rocky Mountain Power (Company) to data requests issued in this docket. Since they have a direct bearing on the Office's recommendations we provide this brief follow-up to our original comments and recommendations filed on July 16, 2009.

Single family homes (Tiers)

In our original memo the Office recommended that ENERGY STAR® CFLs be required for the Tier Measures as well as for the Plus Measures. In its response to OCS 1.2 the Company indicates that the CFLs in tiers 1 – 3 are required to be ENERGY STAR® and that the tariff will be corrected to clarify. This correction to the tariff is consistent with our third recommendation.

Effective date for incentive payments

The Company requested a tariff effective date of July 24, 2009, however they proposed that the incentives be available for measures installed on or after January 1, 2009. The Office believed that no justification had been provided for paying incentives back to January 1. We did express concern regarding the continuity of the Program but from the website we were not certain if the current tariff was still in effect.

The Office recommended that the Commission suspend the tariff until the Company provides justification for the January 1 installation date. Absent such justification, the Office recommended that the Commission not approve a retroactive start date.

In an informal data request the Office asked if the Company had stopped taking

applications for 2008. The Company's response reads:

No. Pending approval of the 2009 program modifications requested in this docket and to maintain marketplace momentum, the Company continues to accept applications and pay incentives for homes that meet current 2008 program requirements. Reference to the 2009 program changes on the Company's website was added to provide builders advanced notification of pending changes. Should the Commission approve the requested 2009 program modifications, the Company will post the 60 day application deadline for 2008 program qualifying homes.

In OCS Data Request 1.5 the Office asked:

Why has the Company requested that payments under the revised tariff be made for measures installed "on or after January 1, 2009"? Why not from the date the tariff is approved by the Commission?

Company's response:

The Company has no objections to revising the effective date in alignment with the Commission approval date.

While the Office felt that an implementation date corresponding to a Commission approval date, following notice to participants, was the appropriate action we did have some hesitation due to the possibility that there would be a period of time when the tariff was not active. This new information from the Company dispels our concerns. Based on the Company's handling of current applications it makes no sense to make these tariff changes effective as of January 1, 2009.

Recommendations

The Office's original recommendations were as follows:

- 1) the Commission should suspend the tariff and require the Company to provide justification for making incentive payments for installations going back to January 1, 2009;
- 2) the Commission should require that in the future the Company should publicize proposed changes in terms of *requested* changes; and
- 3) the tariff should specify that all CFLs must be ENERGY STAR®.

Based on the foregoing new information we revise our first recommendation.

- 1) An effective date prior to the date of Commission approval should be denied. The effective date should be set to allow for fair notice to participants following approval of the revised tariff.

We continue to recommend that the Commission adopt our second and third¹ recommendations.

¹ Based on the Company's response to OCS Data Request 1.2 we assume the tariff will be revised to specify Energy Star CFLs.