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MEMORANDUM

To: Utah Public Service Commission

From: Utah Division of Public Utilities
Philip Powlick, Director
Artie Powell, Energy Section Manager
Abdinasir Abdulle, Technical Consultant
Thomas Brill, Technical Consultant

Date: March 16, 2010

Ref: Docket No. 10-035-T1. Advice Filing 10-01
Schedule 70 – Renewable Energy Rider - Optional (Blue Sky Block Program)
Schedule 72 – Renewable Energy Rider – Optional Bulk Purchase Option (Blue Sky Block Program)

CLARIFICATION OF EARLIER RECOMMENDATION

With one modification described herein, the Division of Public Utilities (Division) recommends that the Public Service Commission (Commission) adopt the Division's recommendations contained in its February 1, 2010 memorandum to the Commission. The Division recommends replacing the last sentence in the Division's February 1, 2010 memorandum with the following sentence:

> "Therefore, the Division recommends that the Commission approve the Company's application effective February 8, 2010, with the requirement that the Company add language to the two tariffs requiring that this technology will be applied only to an existing irrigation canal or pipeline."

The Division's original sentence may have made it sound as if the Division was making two separate recommendations when in fact, the Division only intended to recommend that the Low Impact Hydropower Institute (LIHI) certification waiver apply to existing pipelines or canals.

Finally, the Division recommends that the Company add the following definition of an existing pipeline or irrigation canal in the tariff language for Schedules 70 and 72.

> An existing pipeline or canal is a pipeline or canal that is substantially complete or in service at the time of application for Blue Sky funding.

ISSUE AND DISCUSSION

On January 8, 2009, the Company submitted its proposed Tariff changes to Schedule 70 - Renewable Energy Rider - Optional (Blue Sky Block Program) and Schedule 72 - Renewable Energy Rider - Optional Bulk Purchase Option (Blue Sky Block Program). The proposed tariff changes in these schedules are the addition of pipeline or irrigation canal hydroelectric systems into the renewable energy technologies that are eligible for Utah customers support through the Blue Sky program. LIHI-certified low-impact hydroelectric projects are currently included as eligible projects. The Company's application effectively asks for a waiver or exemption to the LIHI certification requirement for pipeline or canal applications.

On February 1, 2010, the Division filed its comments on the Company's application and recommended approval of the tariff changes provided that the Company add language to the tariffs clarifying that eligibility would apply only to existing pipelines or canals.

On February 4, 2010, the Company filed a responsive letter with the Commission indicating that the Division's proposed modifications are too restrictive and unnecessarily limit the Company's ability to support pipeline and irrigation canal hydroelectric projects through the Blue Sky program. In this letter, the Company requested that the Commission "suspend the tariff modifications until such time that the Company, the Division and any other interested parties have had the opportunity to meet in an effort to resolve the issues described herein and report back to the Commission."

On February 9, 2010, the Company met with the Division and the Office of Consumer Services. In this meeting the Company suggested that the way the last sentence of the Division's memorandum is written gives the appearance that there are two restrictions. First, that the proposed technology is applicable only to an existing irrigation canal or pipeline and second, that the turbines have to replace pressure valves. This last sentence reads as

> "…with the requirement that the Company add language to the two tariffs requiring that this technology will be applied only to an existing irrigation canal or pipeline by replacing its pressure valves."

The Division agrees that the wording of this sentence appears to contain two restrictions when, in fact, the Division was only recommending that the technology, and, thus the LIHI certification exception, apply only to existing facilities. Therefore, the Division recommends that this sentence be modified to read as

> "…with the requirement that the Company add language to the two tariffs requiring that this technology will be applied only to an existing irrigation canal or pipeline."

At the February 9, 2010 meeting, the parties also discussed what was meant by an existing pipeline or canal. Based on those discussions, for purposes of obtaining Blue Sky support funds the Division defines an existing pipeline or canal as a pipeline or canal that is substantially complete or in service at the time of application for Blue Sky funding. The Division recommends adoption of this definition, or similar wording, to define eligible pipeline of canal projects.

Additionally, at the February meeting, the Company explained its view of the administrative burden associated with the process of LIHI certification. The content of this explanation is contained in the Company's responsive letter to the Commission. This explanation is reproduced below for the convenience of the reader.

> "Hydroelectric projects seeking LIHI certification must submit an application fee and complete a thorough application, review and inspection process. Subsequent to obtaining certification, a project must comply with annual

reporting requirements along with the remittance of an annual fee. Once the original certification period expires, a project must undergo a re-certification process to retain its LIHI certification."

The Division is not convinced that the LIHI process is overly burdensome. In its February 1, 2010 memorandum to the Commission, the Division indicated the range of possible charges a project would incur certifying under LIHI. These costs appear relatively minor and the Company has not offered any evidence to convince the Division otherwise. The Division recognizes that for a project to qualify for Blue Sky Project support, it only has to be certified at the time of application and does not necessarily need to maintain that certification going forward. Therefore, the Division does not believe that the administrative burden of LIHI certification is prohibitive for new pipeline or canal projects.

Therefore, the Division recommends that the Commission adopt the Division recommendations in its February 1, 2010 memorandum, as modified herein.

cc: Rea Petersen, DPU
Dave Taylor, RMP
Jeff Bumgarner, RMP
Michele Beck, OCS