

DAHNELLE BURTON-LEE (#6528)
PATRICIA E. SCHMID (#4908)
Assistant Attorneys General
Counsel for the DIVISION OF PUBLIC UTILITIES
MARK L. SHURTLEFF (#4666)
Attorney General of Utah
160 E 300 S, 5th Floor
P.O. Box 140857
Salt Lake City, UT 84114-0857
Telephone (801) 366-0380

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of Advice No. 11-13 of Rocky Mountain Power for Approval of Proposed Reduction to the Schedule 193 (the “DSM Surcharge”) Collection Rate Tariff Sheets	Docket No. 11-035-T14 DIVISION OF PUBLIC UTILITIES’ OBJECTION TO UTAH CLEAN ENERGY, SOUTHWEST ENERGY EFFICIENCY PROJECT, AND WESTERN RESOURCE ADVOCATES PETITION FOR SUSPENSION OF ROCKY MOUNTAIN POWER’S PROPOSED ADJUSTMENT TO SCHEDULE 193
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The Division of Public Utilities (“Division”) objects to the petition filed by Utah Clean Energy (“UCE”), the Southwest Energy Efficiency Project (“SWEEP”), and the Western Resource Advocates (“WRA”) (the “Petitioners”) seeking suspension of Rocky Mountain Power’s Proposed Adjustment to Schedule 193 pursuant to Advice No. 11-13. The reasons for the Division’s objection are stated as follows.

ARGUMENT

1. Prior Orders of the Utah Public Service Commission Established “Pay As You Go” Protocol for DSM Tariff Accounting.

Rocky Mountain Power’s (“RMP”) filing for the reduction of this tariff, Schedule 193, is premised on the Commission’s previous order regarding DSM issued in Docket No. 09-035-T08,

on August 25, 2009. That order approved the stipulation of the parties in resolution of the issues in Phase I of that docket, and the Petitioners were parties to that stipulation. Specifically, the intent of the parties, as well as the resulting Commission order was to achieve a just and reasonable balance between customers' interests relative to the rate they pay and RMP's ability to recover DSM expenses and continue cost effective DSM programs.¹ In that order, the Commission also cited its previous order issued on October 3, 2003, in Docket No. 02-035-T12, regarding the DSM tariff and accounting. Referencing its order in the earlier docket, the Commission restated the objective in setting the Schedule 193 charges, i.e. that those charges were to be "projected to result in a zero balance by the following annual review period."²

The proposed tariff reduction, in Advice No. 11-13, seeks to achieve that objective and comply with the benchmark set by the Commission for DSM surcharges. The ongoing significant deferred balance in this tariff account, as reported over the past couple of years, does not reflect "a zero balance" at the end of each reporting period. Instead, the reporting reflects a balance of millions of dollars. Not only does this significant balance run afoul of the Commission's previous orders regarding the DSM tariff charges, as well as the stipulations of the parties to those previous dockets, it exceeds any just and reasonable standard for a tariff.

2. A Just and Reasonable Tariff Should Generally Only Allow the Utility to Recover Current Costs from Current Customers.

The annual and semi-annual reports filed by RMP since the adoption of the order in Docket No. 09-035-T08 have consistently reported a significant revenue balance, unexpended during the reporting period.³ Initially, when the tariff was approved, the tariff was premised on a projected economic recovery. Since that economic recovery has yet to materialize, the revenues collected

¹ Order Granting Approval of Phase I Stipulation, Docket No. 09-035-T08, August 25, 2009.

² Id.

³ See Annual Reports and Semi-Annual Reports filed by RMP in Docket No. 09-035-T08 and Docket No. 10-035-57, dated November 2, 2009, April 29, 2010, November 1, 2010, April 29, 2011, November 1, 2011.

from the tariff continue to significantly exceed RMP's expenditures for DSM, according to the reports filed by RMP. In each semi-annual report, RMP indicated it would continue to monitor the deferred account balance, and if not balanced by August 2011, RMP would propose a decrease in the tariff. And, that is what RMP did with the filing of Advice No. 11-13.

The DSM Advisory Group is charged with analyzing cost-effective DSM projects and programs and has been meeting regularly since August 2009 following the Commission's approval of the parties' stipulation regarding the issues in Phase I of Docket No. 09-035-T08. The Petitioners are members of the DSM Advisory Group and have participated in the discussions regarding new potential DSM projects and programs as well as discussions regarding the continual over-collecting of revenues to fund existing DSM projects and programs. It is the Division's position that the DSM Advisory Group was a more appropriate forum for addressing Petitioners' concerns with regard to the proposed tariff reduction instead of filing their petition.

This tariff was approved in 2009 and has been collected over two years. During that time, the DSM Advisory Group has met several times to discuss and investigate new DSM projects and programs with limited results. A two-year window to analyze, submit for approval and implement new DSM projects and programs is a substantial amount of time to do so. If new projects and programs had been approved and implemented, the revenues from the DSM surcharge would have been properly expended to offset the costs for those new DSM projects and programs. Instead of that occurring, the deferred account balance continued to reflect over-collecting under the tariff. A tariff that, over a two year period, significantly over-collects the necessary revenues to meet the expenses for the existing and on-going DSM projects and programs should be reduced.

3. DSM Tariff Revenues Should Be Used for Commission-Approved DSM Projects and Programs Only.

Petitioners claim that adjusting the tariff now will result in another adjustment in the near future when new DSM projects and programs are submitted and approved by the Commission. A DSM surcharge to fund the new projects and programs should not be collected until the Commission approves those DSM projects and programs. With the timing of any potential new programs yet unknown, and with no new programs approved by the Commission, continuing a tariff charge that over-collects simply because it is time-consuming to readjust once additional revenues are needed, is not an unacceptable justification to over-collect from customers. In this instance, the result is an unjust and unreasonable tariff.

Petitioners seek to suspend the proposed decrease in the surcharge so that the excess revenues can be used for exploration and evaluation of future DSM projects and programs, but without any concrete timing framework. However, the parties, including Petitioners, acknowledged in Docket No. 02-035-T12, that the revenue could be used only for DSM projects and programs approved by the Commission.⁴ It is comparable to the “used and useful” standard applied in general rate cases in that until the project or program is approved by the Commission, i.e. that it is a viable DSM project or program from which the ratepayers are receiving an actual benefit, ratepayer funding should not be used to support that DSM project or program. Further, Commission approval is determinative that the project or program is a prudent use of the customers’ dollars. In its Order in Docket No. 09-035-27, *In the Matter of the Proposed Revisions to the Utah Demand Side Resource Program Performance Standards*, the Commission reiterated its expectation regarding an application approval of a new DSM program and associated tariff, which is prior to program implementation. The Commission would rely on the

⁴ Report & Order Confirming Bench Decision, Docket No. 02-035-T12, p. 6.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was sent by email this ____ day of December, 2011, to the following:

Mark C. Moench
Yvonne R. Hogle
Daniel E. Solander
Rocky Mountain Power
201 South Main Street, Suite 2300
Salt Lake City, Utah 84111
mark.moench@pacificorp.com
yvonne.hogle@pacificorp.com
daniel.solander@pacificorp.com

Paul Proctor
Assistant Attorney General
160 East 300 South, 5th Floor
Salt Lake City, UT 84111
pproctor@utah.gov

Gary A. Dodge
HATCH, JAMES & DODGE
10 West Broadway, Suite 400
Salt Lake City, UT 84101
Telephone: 801-363-6363
Facsimile: 801-363-6666
Email: gdodge@hjdllaw.com

Sophie Hayes
Utah Clean Energy
1014 2nd Avenue
Salt Lake City, UT 84111
sophie@utahcleanenergy.org

Howard Geller
Southwest Energy Efficiency Project
2334 N. Broadway, Suite A
Boulder, CO 80304
hgeller@swenergy.org

Nancy Kelly
Western Resource Advocates
9463 N. Swallow Rd.
Pocatello, ID 83201
nkelly@westernresources.org

Rob Dubuc
Western Resource Advocates
150 South 600 East, Ste 2A
Salt Lake City, Utah 84102
rdubuc@westernresources.org

Steve Michel
Western Resource Advocates
409 E. Palace Ave. Unit 2
Santa Fe, NM 87501
smichel@westernresources.org

/s/_____