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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of
Rocky Mountain Power for Authority to
Increase its Retail Electric Service Rates in
Utah and for Approval of its Proposed
Electric Service Schedules and Electric
Service Regulations

DOCKET NO. 13-035-184

**Utah Clean Energy
Post-Hearing Brief on Net Metering Issues**

INTRODUCTION

Pursuant to the invitation of the Utah Public Service Commission (“Commission”) at the conclusion of the evidentiary hearing on July 29, 2014, Utah Clean Energy hereby submits this post-hearing brief on net metering issues.

Rocky Mountain Power’s (RMP or the Company) proposed net metering fee is discriminatory because it is based on reduced “average” consumption (lower than average contribution to demand- and retail-related cost recovery). Revenue reductions resulting from reduced consumption are not a unique consequence of net metering, so this fact does not provide a rational basis for disparate treatment of residential net metering customers. Determining appropriate and fair treatment for net metering customers must be a matter of comprehensively evaluating the costs and benefits associated with net metering. The only justifiable, non-discriminatory path forward is to deny RMP’s current proposal and conduct cost-benefit analysis of the Company’s entire net metering program, consistent with Senate Bill 208 (“SB 208”) and U.C.A. §§ 54-3-1 and 54-3-8.

ARGUMENT

I. RMP'S PROPOSED NET METERING FEE IS DISCRIMINATORY BECAUSE IT IS BASED ON REDUCED AVERAGE CONSUMPTION FROM RESIDENTIAL NET METERING CUSTOMERS COMPARED TO AVERAGE RESIDENTIAL CONSUMPTION.

Because the Company's net metering fee proposal is for a subset of customers within the residential class of service, it must be evaluated according to Utah law's prohibition against any discrimination or preference within a rate class. Based on this prohibition (and Utah Supreme Court interpretation of this prohibition), the Company's proposal must be rejected because there is no rational basis for concluding that the proposed net metering fee is just and reasonable because: 1) there is no evidence that it costs more to serve net metering customers compared to non-net metering customers; 2) lower than average consumption does not provide a rational basis for different rate treatment; 3) there is insufficient evidence to establish that the proposed fee is otherwise just and reasonable; and 4) the proposed fee violates the long-standing principle against single-issue ratemaking.

A. The Company's net metering fee proposal must be evaluated according to Utah law's prohibition against any discrimination or preference within a rate class.

It is axiomatic to utility regulation that "the power to classify customers according to common characteristics is essential to ratemaking."¹ That is, similarly situated customers are to be treated similarly in terms of rates. For example, Rocky Mountain Power's customers are generally segregated based on type of use (residential, non-residential, street lighting, etc.) and size. Rocky Mountain Power's current net metering fee proposal is to levy a fee only on net metering customers within the residential class: the Company has proposed a fixed fee of \$4.65 per month for any residential customer who participates in the Company's net metering program.

¹ *Mountain States Legal Foundation v. Utah Pub. Serv. Comm'n*, 636 P.2d 1047, 1052 (Utah 1981) (hereinafter *Mountain States*).

Under Utah law, there are two standards for evaluating the lawfulness of differential rate treatment: between members of the same class on the one hand and between localities or classes of service on the other. Between members of the same class, a public utility may not, “as to rates, charges, service, facilities or in any other respect, make or grant *any preference or advantage* to any person, or subject *any person to any prejudice or disadvantage*.”² Therefore, within a single rate class, Utah law bans any discrimination between persons.

In the current case, the Company has proposed different rates for members of the same (residential) rate class. The Company proposed a net metering “facilities charge” for members of the residential class who are net metering customers, and no “facilities charge” for members of the residential class who are not net metering customers. The Company has, in effect, designated an unofficial subclass within the residential class and proposed differential, discriminatory treatment for members of the subclass.³ As shown below, this violates U.C.A. § 54-3-8(1)(a)’s ban against discrimination between members of the same rate class.

B. There is no rational basis for concluding that the net metering facilities charge is just and reasonable.

The Utah Supreme Court has interpreted the ban on discriminatory treatment within a rate class to mean that there must be a rational basis for treating customers within a rate class differently. “It is discrimination with no rational basis, and discrimination based on factors foreign to the regulatory scheme, which are aimed at by the preference statute [U.C.A. § 54-3-

² U.C.A. § 54-3-8(1)(a) (2014) (emphasis added). Between rate classes or localities, Utah law bans “unreasonable difference.” U.C.A. § 54-3-8(1)(b) (2014).

³ The argument that residential net metering customers have voluntarily designated themselves part of a distinct class by taking service under Electric Service Schedule 135 is unavailing for the same reasons described herein. Schedule 135 is applicable to members of non-residential classes of service, but the utility has not proposed any fee for non-residential net metering customers. The Company’s proposal fails the prohibition against discrimination as applied to customers of the residential class and as applied to customers taking service under Schedule 135.

8].”⁴ Therefore, ratemaking considerations, such as those found in 54-3-1, are relevant to a determination of whether a rate is discriminatory.⁵ “Classification of customers must necessarily be accomplished by reference to general characteristics having some rational nexus with the criteria used for determining just and reasonable rates.”⁶ In other words, in order to approve the proposed net metering fee there must be a rational connection between the facts and evidence on the record and the criteria for determining just and reasonable rates, as outlined in Utah Code § 54-3-1.

Mountain States Legal Foundation v. Utah Public Service Commission lays out this rational basis standard. In this case, the Utah Supreme Court set aside a “senior citizen” rate that the Commission approved for a subset of the residential class. The Commission approved a different rate for senior citizens within the residential class because it found that, on average, senior citizens received less income and consumed less power. The issue before the Utah Supreme Court on appeal was whether “compared with other residential users, less income and consumption provide a lawful basis for lower rates.”⁷

The court found that the Commission had not articulated a rational connection between the facts (lower consumption and less income than residential class customers generally) and its decision to treat senior residential customers differently from other residential customers.⁸

⁴ *Mountain States*, 636 P.2d at 1055. “Although the legislature did not amend the preference statute, §54-3-8 [to mirror its amendments to § 54-3-1], it necessarily follows that the standards stated in § 54-3-1 must be considered, at least to some extent, in determining whether a rate accorded one group of consumers is preferential. It would be impossible to give proper force and effect to the statutory standards in the rate of return section if the Commission could not deal with classes of customers which have common characteristics based on those standards.” *Id.*

⁵ *See Mountain States*, 636 P.2d at 1055. “The criteria set out in § 54-3-1 clearly are not foreign to a proper determination of classifications. These standards are best effectuated, and perhaps in some cases can only be effectuated, if the Commission is accorded the power to classify in such a manner as to implement the purposes underlying those standards. Indeed, it is significant that the Legislature specified that as ‘to each category of customer’ the definition of a just and reasonable rate ‘may include, but shall not be limited to, the cost of providing service’ and ‘the well-being of the State of Utah.’” *Id.*

⁶ *Mountain States*, 636 P.2d at 1052-53.

⁷ *Mountain States*, 636 P.2d at 1057.

⁸ *Mountain States*, 636 P.2d at 1057-58.

Specifically, the court found that the senior citizen rate was not based on cost of service analysis, nor did it take into account other “numerous factors” relevant in setting just and reasonable rates.⁹

The facts at issue here are similar to those in the *Mountain States* case, although instead of proposing a *lower* rate for reduced consumption, the Company has proposed an *additional fee* for residential net metering customers based on reduced contribution to fixed cost recovery resulting from reduced consumption. In other words, the Company has proposed charging net metering customers within the residential class *more* because, on average, residential net metering customers consume less than the average residential customer. In *Mountain States*, the court based its rejection of the senior citizen rate on the basis that the Commission had not articulated sufficient justification for imposing a different rate for a subset of the residential class beyond reduced consumption and ability to pay.¹⁰

Here, the Company has failed to substantiate sufficient justification, beyond reduced consumption, in support of its proposed net metering fee. Specifically, the Company’s proposal is not based on cost of service analysis, nor did it take into account the other “numerous factors” relevant in setting just and reasonable rates. Therefore, as shown in more detail below, there is insufficient evidence to justify the Company’s proposed net metering fee as non-discriminatory: 1) there is no evidence that it costs more to serve net metering customers compared to non-net metering customers; 2) lower than average consumption does not provide a rational basis for disparate treatment; 3) there is insufficient evidence to establish that the proposed fee is

⁹ *Mountain States*, 636 P.2d at 1054. The Utah Supreme Court explained that [T]he legislature has specifically rejected cost of service as the sole criterion for determining whether a rate is just and reasonable as “to each category of customer,” although that standard is recognized as one among several others to be evaluated. Also to be considered are such standards as “the economic impact of charges on each category of customer,” “the safety, health, comfort, and convenience of its patrons,” “the well-being of the state of Utah,” reduction of “wide periodic variations in demand,” and “encouraging conservation of resources and energy.” *Id.* at 1054-55. For more discussion on this topic, see *Section I.B.3.*, below.

¹⁰ *Mountain States*, 636 P.2d at 1058.

otherwise just and reasonable; and 4) the proposed fee violates the long-standing principle against single-issue ratemaking.

1. Cost of service: there is no evidence that it costs more to serve net metering customers compared to non-net metering customers, so it is inappropriate to levy a special fee on net metering customers.

RMP's proposed fee is based on a calculation of reduced revenues from residential customers who net meter, without looking comprehensively at changes in cost responsibility or deferred or avoided costs attributable to those customers. The entirety of the Company's cost of service justification for its proposed fee is a mathematical comparison between average monthly residential consumption and average monthly residential net metering consumption.¹¹ \$4.65 is the difference between distribution and retail costs paid for by an average residential customer (using 698 kWh/month) and an average net metering customer (using 511 kWh/month).

According to *RMP Exhibit JRS-1R*, the Company seeks an additional 2.6 cents per kWh from the average net metering customer, but has not established that it costs 2.6 cents more per kWh to serve the average net metering customer. In fact, the Company did not account for net metering customers in conducting its cost of service study. Within the cost of service study, the residential class is indivisible and net metering customers are indistinguishable. It is only through *post hoc* math that the Company was able to arrive at a net metering fee, based on its records of net billed consumption from residential net metering customers compared to the average residential customer.

¹¹ Exhibit RMP JRS-1R.

Rooftop solar reduces system peak costs, demand allocation factors and energy costs, among other benefits.¹² There is no accounting for these benefits in the Company's cost of service study, however, so it is unknown how much cost responsibility of the residential class in general, or net metering customers specifically, has been reduced by (is attributable to) net metering customers.¹³

Distributed solar within a rate class reduces the load of that class throughout the day and, in turn, allocation bases and cost responsibility. In other words, a class with reduced loads causes the utility to incur fewer costs.¹⁴ Importantly, these class and system benefits provided by net metered customers will occur whether the utility segregates them or not. Thus, non-solar customers will enjoy the benefits provided by solar customers while solar customers receive no recognition as the source of these benefits. Here, the Company has taken the results of its cost of service study and used them to assign specific costs to residential net metering customers without assigning corresponding or countervailing benefits to those same customers.

The Company has estimated revenue reduced by net metering customers' lower-than-average net consumption, but has not undertaken prerequisite analysis of looking at cost responsibility associated with net metering customers.¹⁵ Avoided distribution costs are but one element among a range of functionalized costs that should be reviewed in order to properly account for the costs and benefits associated with net metering.¹⁶ Selectively addressing a single cost element for a single customer class doesn't capture the benefits of solar toward reducing other utility costs. It is inappropriate to assign distribution costs without assigning other

¹² UCE Exhibit 6.0 (Rebuttal testimony of Rick Gilliam), lines 53-56; *see also* UCE Exhibit 2.0 (Direct testimony of Sarah Wright), lines 410-435.

¹³ UCE Exhibit 8.0 (Surrebuttal testimony of Rick Gilliam), lines 65-71.

¹⁴ UCE Exhibit 6.0 (Rebuttal testimony of Rick Gilliam), lines 49-52.

¹⁵ UCE Exhibit 3.0 (Direct testimony of Rick Gilliam), lines 414-22; UCE Exhibit 6.0 (Rebuttal testimony of Rick Gilliam), lines 37-42.

¹⁶ UCE Exhibit 8.0 (Surrebuttal testimony of Rick Gilliam) 108-19.

functionalized benefits to net metering customers. Thus, the net metering fee is not supported by cost of service analysis and the degree to which costs are being shifted from net metering customers to non-net metering customers (or vice versa) is unknown.

2. Intra-class equity: lower than average consumption among residential net metering customers does not provide a rational basis for disparate treatment.

The threshold issue of establishing that there is, in fact, a cost shift (when considering costs and benefits) has not been demonstrated in the current case. The Company has justified its net metering fee proposal on the basis that it is necessary to minimize distribution and retail cost shifting from net metering customers to non-net metering customers.¹⁷ However, revenue reduction (reduced contribution to distribution and retail cost recovery resulting from reduced consumption) is *not* a unique consequence of net metering. Because of the way rates are set (that is, based on averages), *any* residential customer using less than 698 kWh/month contributes less than the average amount to distribution and retail cost recovery. Net metering customers are not unique in this respect. In fact, in terms of cost of service analysis, net metering customers are indistinguishable from non-net metering customers.

Within the residential class, both net metering and non-net metering customers contribute higher and lower than average amounts to distribution and retail cost recovery. All residential customers, regardless of their meter types, who pay for less than 698 kWh of electricity per month contribute less than average to the cost of (average) allocated distribution and retail costs, while all residential customers, regardless of meter type, who pay for more than 698 kWh of electricity per month contribute more toward that cost recovery.¹⁸ Net metering and non-net

¹⁷ Rebuttal Testimony of Joelle R. Steward, lines 79-88.

¹⁸ Furthermore, “net metered customers that reduce their purchases from RMP do so in a relatively small way and fall *well within the range of normal consumption strata*. Indeed, when looking at the number of residential

metering customers both contribute varying amounts toward distribution and retail costs. The evidence of cost shifting provided by RMP applies to any customers with lower than average consumption, not just net metered customers.

Accordingly, the Company has failed to tie its allegations of cost shifting in a non-discriminatory way to net metering customers. The Company's net metering fee proposal is equivalent to the proposal in the *Mountain States* case, in which the Court disallowed differential treatment solely on the basis of reduced consumption. As in the *Mountain States* case, the Company's net metering fee proposal, based as it is on reduced consumption from a subset of the residential class, must be denied.

Furthermore, RMP's proposal confounds solar energy consumed on-site with that exported off-site. The Company's rationale for its proposed net metering fee is the alleged cost shifting that occurs from *excess generation*,¹⁹ though its fee is based on net reduced consumption. In other words, the proposed net metering charge does not relate to the amount of exported energy, which is the only characteristic unique to net metering customers; rather, it relates solely to lower-than-average consumption. And lower than average consumption from residential net metering customers, as discussed above, is not a rational basis for imposing an additional fee.

customers falling within 100kWh increments, the residential customer group that uses 500-600 kWh on average per month is the largest." UCE Exhibit 3.0 (Direct Testimony of Rick Gilliam), lines 200-04 (emphasis added).

¹⁹ "Since the full retail rate that the customer is able to offset recovers both variable energy costs along with a significant portion of fixed costs, the net metering customer is not contributing to fixed cost recovery through the usage that the customer's *excess generation* is credited against." Direct testimony of Joelle Steward, lines 510-14 (emphasis added).

3. Just and reasonable rates: there is insufficient evidence that the Company's net metering fee proposal is otherwise just and reasonable according to U.C.A. § 54-3-1.

In the current case, a stipulated rate increase has been approved, while the net metering fee remains the only issue yet to be resolved by the Commission. The Commission must determine whether the net metering fee is discriminatory, which implicates a review of whether the fee is just and reasonable, consistent with Utah Code 54-3-1.²⁰ U.C.A. § 54-3-1 establishes a non-exhaustive list of criteria for evaluating whether rates charged by a public utility are just and reasonable, including the cost of service, economic impacts, impacts on the well-being of the state, methods of reducing variations in demand and means of encouraging conservation of resources and energy.²¹

The utility bears the burden of proving that its rates meet those criteria.²² In fact, the utility bears a heavy burden in justifying proposed rate increases and associated charges:

In the regulation of public utilities by governmental authority, a fundamental principle is: the burden rests heavily upon a utility to prove it is entitled to rate relief and not upon the commission, commission staff, or any interested party or protestant; to prove the contrary. A utility has the burden of proof to demonstrate its proposed increase in rates and charges is just and reasonable. The Company must support its application by way of substantial evidence, and the mere filing of schedules and testimony in support of a rate increase is insufficient to sustain the burden. Rate making is not an adversary proceeding in which the applicant needs only to present a prima facie case to be entitled to relief. A state regulatory commission, whose powers have been invoked to fix a reasonable rate, is entitled to know and before it can act advisedly must be informed of all relevant facts. Otherwise, the hands of the regulatory body could be tied in such fashion it could not effectively determine whether a proposed rate was justified.”²³

The Company has not met its burden of proving that its proposed net metering fee is just and reasonable, and it is not intervenors job to prove or disproved the Company's case. In

²⁰ See *supra* notes 4, 5 and 6.

²¹ U.C.A. § 54-3-1 (2014).

²² *Utah Dept. of Bus. Reg. v. Pub. Serv. Comm'n of Utah*, 614 P.2d 1242, 1245 (Utah 1980) (“The findings required by statute (of a just and reasonable rate...) must be made in accordance with the evidence so presented. If there is no substantial evidence to support an essential finding, that finding cannot stand”).

²³ *Utah Dept. of Bus. Reg. v. Pub. Serv. Comm'n of Utah*, 614 P.2d at 1245-46 (footnotes and citations omitted).

support of its application, the Company prepared a spreadsheet outlining the net metering fee calculation, which clearly shows that the fee is based solely on reduced consumption from net metering customers compared to residential customers in general. As demonstrated by the *Mountain States* case, this alone is an insufficient basis for differential treatment of a subset of the residential class.

The Company has presented no evidence that net metering customers impose additional costs on non-solar customers that are not exceeded by benefits. In rebuttal testimony, the Company argued that because there is allegedly no distribution system benefit of rooftop solar systems, the only value or benefit provided by net metering customers is an avoided short term energy cost.²⁴ The Company's supports this allegation with two examples of distribution peak load reductions attributable to on-site solar, and the argument that a previous "avoided cost" docket resolved "many of the issues" related to solar valuation.²⁵

Not providing evidence of benefits is not the same as benefits not existing or having value. RMP has more than one distributed solar system and more than one distribution substation on its grid. And in the previous avoided costs docket, the Commission made no determination about the applicability of its avoided cost valuation methodology for supply-side resources to demand-side net metering systems.²⁶

Additionally, although much public witness testimony addressed factors relevant in the consideration of the justness and reasonableness of the Company's proposed net metering charge, the Company itself did not present evidence regarding any of the following factors listed in U.C.A. § 54-3-1: the economic impacts, particularly the anti-competitive impacts, of its proposed fee; impacts of the fee on the health, safety, comfort or well-being of Utahns who are

²⁴ Rebuttal Testimony of Gregory N. Duvall, lines 33-41.

²⁵ See *infra* note 26.

²⁶ See Docket No. 12-035-100, *Order on Phase II issues* (issued August 16, 2013).

desperate for less polluting sources of energy; or how the proposed fee may encourage or discourage conservation of resources and energy.²⁷ On the other hand, public witnesses testified that the Company's proposal is anti-competitive and will diminish incentives for personal investments in non-polluting electricity generation that offsets the need for conventional, fossil-fueled generation.

There is simply insufficient evidence that the Company's net metering fee proposal is just and reasonable for reasons additional to cost of service and intra-class equity justifications. The Company's net metering fee proposal must fail on the basis that, in addition to being based solely on reduced consumption and not cost justified, it is not otherwise just and reasonable.

4. The Company's proposed charge violates the long-standing and well-understood regulatory doctrine against single-issue ratemaking.

Utility regulatory commissions have long rejected the notion of rate changes related to narrow sets of cost elements in favor of comprehensive reviews of utility costs. This practice minimizes the economic incentive that utilities, who are subject to "cost-of-service regulation," have to seek rate changes based only on costs that may have increased, rather than examining all costs more completely, including those which may have decreased (especially relative to growing sales and loads). Here, the Company has selected a narrowly defined set of costs for special rate treatment, i.e. a specific portion of *distribution and retail costs* to be recovered from *residential* net metering customers, without regard to potentially countervailing results of a broader, more comprehensive analysis that looks at the full spectrum of costs *and benefits* provided by *all*, not just residential, net metering customers.

²⁷ The Company's arguments were based on allegations that net metering customers do not purchase enough kWhs to secure fixed cost recovery; that net metering shifts costs onto other customers; that the benefits of net metering consist entirely of short term avoided energy costs; that net metering customers are dissimilar to energy efficient customers; and that net metering systems do not decrease distribution peak load.

The Company attempted to show in its rebuttal testimony that distributed solar resources provide no avoided or deferred distribution costs. Nevertheless, the Company's testimony showed that solar reduced distribution peak load on a single circuit by 7% and that a single 3.2 kW system in Salt Lake reduced on-site load at distribution peak by roughly 40%.²⁸ Utah-wide benefits of the type illustrated by these two examples have not been taken into account for residential net metered customers. Distribution circuits with heavy concentrations of commercial customers have peak loads much earlier in the day, such that a similar review would likely find considerably higher benefits. These have not been reviewed or considered by RMP.

Importantly, other major utility cost categories, such as generation and transmission, are allocated on the basis of class contribution to *system* peak and energy consumption (in proportions of 75% to 25%, respectively).²⁹ Net metered solar generation provides significant levels of capacity during mid-afternoon *system* peak, and directly offsets the energy component of cost responsibility. In general, excess benefits from deferred and avoided generation and transmission costs more than offset any net costs related to distribution system investments. It is necessary to look at all net metering costs and benefits across all customer classes in order to avoid implementing a fee improperly based on a limited view of costs without regard to benefits. The costs and benefits associated with net metering must be evaluated comprehensively in order to set just and reasonable, non-discriminatory rates for net metering customers based appropriately on comprehensive cost of service analysis.

II. "SB 208" PROVIDES A MECHANISM FOR FAIRLY TREATING NET METERING CUSTOMERS GIVEN THE REQUIREMENTS OF 54-3-8 AND 54-3-1.

As with all customers, setting rates for residential net metering customers must be consistent with well-established laws and precedent requiring that rates be just and reasonable

²⁸ Rebuttal Testimony of Douglas L. Marx, line 71; Rebuttal Testimony of Joelle R. Steward, *Diagram A*.

²⁹ RMP Exhibit JRS-3, Tab 1.

and not discriminatory. The Utah Supreme Court has concluded that the “just and reasonable” factors described in § 54-3-1 should be considered in determining whether a rate is discriminatory.³⁰ Senate Bill 208, Second Substitute (“SB 208”), which was passed by the Utah Legislature earlier this year,³¹ also requires consideration of the justness and reasonableness of any rate change for net metering customers.

SB 208 requires, in pertinent part, that the Commission shall:

- (1) determine, after appropriate notice and opportunity for public comment, whether costs that the electrical corporation or other customers will incur from a net metering program will exceed the benefits of the net metering program, or whether the benefits of the net metering program will exceed the costs; and
- (2) determine a just and reasonable charge, credit, or ratemaking structure, including new or existing tariffs, in light of the costs and benefits.³²

SB 208 requires analysis of the costs and benefits of the Company’s net metering program while Utah’s public utility law (§§ 54-3-1 and 54-3-8) require that such cost benefit analysis be comprehensive in order to be just and reasonable and not discriminatory. Further, § 54-3-1 provides additional insight on the types of costs and benefits to consider in net metering cost benefit analysis.

A. On-site solar should be evaluated in the same manner as other demand-side resources.

The Company argued in its rebuttal testimony that it was appropriate to consider the benefits of distributed solar resources as equivalent to a short term energy value calculated in a manner similar to the method approved by the Commission in Docket No. 12-035-100 for utility-

³⁰ See *supra* notes 4, 5 and 6.

³¹ U.C.A. § 54-15-105.1 (2014). SB 208 was passed after the Company filed its application for a net metering fee. The law in place at the time the Company filed its application required a Commission determination that the Company would incur direct costs from its net metering program that outweighed its benefits and that public policy would be served by imposing a net metering fee. Utah Code Ann. § 54-15-105 (2008). The Company’s initial application (direct testimony) did not address the requirements of the 2008 law.

³² U.C.A. § 54-15-105.1 (2014).

scale solar qualifying facilities pursuant to the Public Utilities Regulatory Policy Act of 1978³³ (PUPRA).³⁴ The Company implied that because the recent “avoided costs” docket dealt, among other things, with utility-scale solar resources, it was somehow determinative of the benefits of distributed solar resources.³⁵ This conclusion is nonsensical and inconsistent with Commission precedent, which views distributed solar in same manner as other demand-side resources.

In Docket No. 09-035-27, the Commission concurred with the recommendation of Rocky Mountain Power and its demand-side management advisory committee to “evaluate small-scale renewable resources, such as solar photovoltaic projects, on a similar basis as energy efficiency and load management until other economic tests are available.”³⁶ Further, the Commission held that should any of the five demand-side cost effectiveness tests fail, “the Company and parties may present arguments, and we shall consider, whether the program is in the public interest for reasons other than economic efficiency.”³⁷ Furthermore, from the Commission order, it appears that the Company recommended the five demand-side management cost-effectiveness tests as an improvement over (“more sophisticated than”) PURPA avoided costs calculations for estimating utility cost savings from demand-side resources.³⁸ The Company has provided no compelling reason to overturn the Commission’s previous ruling.

CONCLUSION

Utah Clean Energy urges the Commission to reject the Company’s proposed net metering facilities charge for residential net metering customers in Utah. Utah Clean Energy further urges the Commission to establish a proceeding to evaluate fully and transparently the costs and benefits associated with RMP’s net metering program, in compliance with SB 208. Only then

³³ Public Utilities Regulatory Policy Act of 1978, 16 U.S.C. § 824a-3; 16 U.S.C. § 2601 *et seq.*

³⁴ Rebuttal Testimony of Gregory N. Duvall, lines 33-41.

³⁵ Rebuttal Testimony of Gregory N. Duvall, lines 99-104.

³⁶ Docket No. 09-035-27 Order (Issued October 7, 2009), page 15.

³⁷ Docket No. 09-035-27 Order (Issued October 7, 2009), page 15.

³⁸ Docket No. 09-035-27 Order (Issued October 7, 2009), page 3.

will the Commission be able to establish a new just, reasonable and fair ratemaking treatment for net metering customers.

DATED this 8th day of August, 2014.

Respectfully submitted,

_____/s/_____
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