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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Investigation of the Costs and Benefits of PacifiCorp's Net Metering Program	Docket No. 14-035-114 **SIERRA CLUB REPLY COMMENTS ON ANALYTICAL FRAMEWORK**

Sierra Club appreciates the opportunity to submit these comments in response to those filed by other parties on February 6, 2015.[1] We view these comments as a critical step for the Commission to develop the outlines of the analytical framework for the cost-benefit analysis. The Commission requested comment on three general topics, but the parties also submitted substantial comments regarding the existence of certain costs and benefits of net metering, and how the analytical framework should be applied. The diversity of views expressed in these comments shows the need for further guidance from the Commission on key legal consideration that underlie the analytical framework. Below, Sierra Club responds to a select group of issues and perspectives raised in other comments; any omissions should not be taken to infer agreement.

[1] We use the term "party" informally, as the Commission has not limited the opportunity to file comments to intervenors.

I. Comments on Use of Demand-Side Management Cost-Effectiveness Tests

The Commission requested comment on whether the demand-side management cost-effectiveness tests were appropriate to use for the cost-benefit analysis of net metering required by Section 54-15-105.1. In our initial comments, Sierra Club noted that these traditional tests have been frequently used, with slight variation, by many other jurisdictions seeking to evaluate the cost impact or benefits of net metering.[2] There is value in conducting more than one test, so as to understand cost-effectiveness from various viewpoints. However, Sierra Club, The Alliance for Solar Choice (TASC), and Utah Clean Energy (UCE) all express concerns about relying too heavily on the ratepayer impact measurement (RIM) test.[3] Sierra Club reiterates its concern that this test does not provide information about how the utility's revenue requirement will change with the continuation of the net metering program, but only about how cost recovery may shift (and as Sierra Club noted in initial comments, it provides no usable information about *how* rates or bills may change).

A. The Division of Public Utilities' Position

The Division offers general support for the use of the DSM tests for this evaluation of net metering, and expresses optimism that "through the ensuing technical conferences . . . the parties can propose and hopefully agree to input modifications as necessary to make these models capture the unique costs and benefits of net metering."[4] Sierra Club agrees that the technical

[2] *See also* Comments of The Alliance for Solar Choice on Development of An Analytical Framework to Evaluate the Costs and Benefits the Net Metering Program, filed Feb. 6. 2015 (hereinafter "TASC Comments"), at 29-32.
[3] *See* TASC Comments at 31; Utah Clean Energy – Initial Comments, filed Feb. 6, 2015 (hereinafter "UCE Comments"), at 8-9.
[4] DPU Comments at 5.

conferences will be a good opportunity for the parties to consider this issue. The Division also calls for the benefits input to these models to be net benefits where applicable.[5] We agree that the concept of net benefits is important, but believe that the DSM tests, which generate a ratio of benefits to costs, do the work of evaluating what is a net benefit or cost. To insert net benefits into a model that will then compare these adjusted benefits to the costs would in effect double-count the costs. However, there may be instances in which it makes more sense to use net benefits rather than a separate cost line-item, and those could be considered as they arise.

The Division also notes that the societal cost and benefit components of the total resource cost test are difficult to determine and contain elements of subjectivity.[6] Sierra Club agrees, but does not see this as unique to application of the societal cost test to net metering—the same difficulties would arise in evaluating the societal benefits and costs of a DSM program. Just as the Commission has supported the use of the version of the TRC that evaluates societal benefits, it should require the same of that test when applied to net metering.

Sierra Club would be interested to hear about the "other cost/benefit studies and models or ways to value solar" that DPU has considered, when the Division has had a chance to vet them. The Division also suggests that different measures may be useful depending on the type of rate structure the Commission wishes to employ.[7] While Sierra Club would benefit from hearing more from the Division about this idea, it strikes us as putting the cart before the horse. The Legislature was clear that a determination of just and reasonable rates was to follow the determination of costs and benefits, and determining what type of adjustment to the tariff is

[5] DPU Comments at 5.
[6] DPU Comments at 6.
[7] Comments from DPU, filed Feb. 6, 2015 (hereinafter "DPU Comments"), at 6.

desired before designing the study runs the risk of gathering only the information needed to support the particular tariff change envisioned rather than providing the broader picture.

B. The Office of Consumer Service's Position

The Office opposes the use of demand-side management cost-effectiveness tests as part of this docket.[8] The first reason given is that net metering customers are fundamentally different from customers engaging in DSM activities in that they are energy producers as well. OCS does not explain, however, why this difference makes the DSM tests inappropriate. As noted in the initial comments of the Division, Sierra Club, UCE, and TASC, numerous other jurisdictions have adapted these tests to the purpose of evaluating net metering. Second, OCS notes that these tests "lack the input sets" to evaluate the value of net metering. OCS does not specify which input sets are lacking, or why their absence is a barrier to using these tests. If the analytical framework is appropriate, but data inputs would need to be developed, this should not disqualify the framework. OCS does not offer any alternative to the use of these tests, simply noting that "the Commission should develop independent criteria to comprehensively evaluate the impacts . . . of net-metering customers."[9] Sierra Club understood the purpose of these comments to be assisting the Commission in determining what those criteria should be.

The Office recounts comments filed by the Division regarding the cost-effectiveness of the Solar Incentive Program, and specifically a cost-effectiveness analysis done by the Salt Lake City Million Solar Roofs Partnership in 2007 using the conventional DSM tests.[10] In that memo, the Division noted that based on analysis done by the Partnership, the program would be cost-

[8] OCS Comments, filed Feb. 6, 2015, at 4.
[9] OCS Comments at 4.
[10] OCS Comments at 5.

effective "if total participant capital costs are not included, if avoided energy and capacity costs are included, if capacity payments are adjusted to reflect the value of PV power coincidental with peak load shape, and if a social discount rate is used."[11] OCS then comments that "many of the analytical inputs used in the Partnership's analysis are not included in DSM tests." It is not clear which analytical inputs the Office believes to be excluded from DSM tests. Total participant costs are regularly considered in the Participant Cost Test, and avoided energy and capacity costs are incorporated as utility savings (benefits) in all but the Participant Cost Test. The choice of a discount rate is integral to any cost-effectiveness analysis spanning more than a year.[12] We note that the Division's observation that the inclusion of participant capital costs made the incentive program not cost-effective under the Participant Cost Test is consistent with Sierra Club's initial comments filed in this docket.[13] Because the capital outlay by net metering customers is substantial, those participants may not reap a net benefit. This is valuable information for the Commission in considering the impact of supplemental charges on these customers, but does not directly inform the concerns expressed in statute about the impacts of net metering on the utility and other customers.[14]

Ultimately, OCS urges the Commission to employ an analysis that "includes recognition of the role of the IRP in determining resource need and the value of specific resources to the system."[15] As noted in Sierra Club's initial comments, the Utility Cost Test generally parallels

[11] *Id.* (citing Division memo filed June 15, 2007, Docket 07-035-T14).
[12] *See also* UCE Comments at 12-13 (noting that the choice of a discount rate should be informed by the fact that little or no utility investment is involved, and that resource decisions are made by the consumer instead).
[13] Sierra Club Initial Comments at 14.
[14] The Division also noted in that docket that "explicit estimates of . . . external benefits" such as reduction in need for SO_2 and NOx emissions permits, hedge values for future prices, reduced risks for potential carbon tax regimes, public health benefits, and state and federal tax credits "should be considered, as they may possibly help offset participant costs." Division Memo, *supra* note 11, at 6.
[15] OCS Comments at 7.

the analysis employed in IRPs to determine the least cost set of resources required.[16] In addition, consistent with an IRP-driven process for resource selection, net metering should be evaluated over the useful life of the installed resource.[17] Sierra Club agrees with OCS that "[m]ore benefit should be assigned to a net metering resource when it can help in reducing the Company's capacity deficit."[18] As OCS notes, the Company's recent IRP analysis shows a significant resource deficit at the peak hour. Thus, to the extent that distributed solar reduces the system peak or will in future years, it provides capacity value. This is a factual question that should be evaluated as part of this docket.

C. The Company's Position

The Company's view is that the demand-side management tests should not be used for distributed generation, but rather that distributed generation should be compared directly to other supply options.[19] This is largely the same position taken by the Company in the last general rate case, when it advocated for using the PURPA avoided cost level as a proxy for the benefits of net metering. The Company asserts that because distributed generation does not reduce total consumption, as DSM does, it is not appropriate to use the same kind of test as used for DSM. However, the critical question from a system cost perspective is how much electricity a net metered customer uses *from the grid*, not in total. Therefore, a key factual question to be addressed through a cost-benefit analysis is how much less electricity net metered customers take from the grid, and how much of that reduction is at system and distribution feeder peak hours.

[16] Sierra Club Initial Comments at 9.
[17] *See also* TASC Comments at 32.
[18] OCS Comments at 7.
[19] Rocky Mountain Power, Comments Responding to Commission Request Related to Appropriate Costs and Benefits Test Equations and Metrics to Evaluate Net Metering Program, filed Feb. 6, 2015 (hereinafter "RMP Comments"), at 4.

The Company's rejection of the DSM tests is based on a premise that has not been proven and on which the Commission found conflicting evidence in the last rate case.

While the Company advocates only for direct comparison of generation of net metered units to that of qualifying facilities, it also takes the position that components of the Utility Cost Test and the Ratepayer Impact Measure tests should be considered, namely lost revenues.[20] Any analysis of lost revenues arises from lost utility sales—that is, reduced purchases from the grid. Thus, it appears that the Company does acknowledge the demand-reduction character of distributed generation, at least when it comes to determining the costs of net metering, if not in evaluating the benefits.[21] Despite the Company's rejection of the DSM tests, it ultimately falls back on those measures in declaring that the "current NEM statute does not give the Commission the flexibility to advance a program that fails cost effectiveness under the UCT, TRC, RIM and PCT by allocating the costs among all customers."[22] Sierra Club strongly disagrees that the statute is as prescriptive as the Company contends. Nowhere does the statute "require the Commission to assess any negative net benefits, i.e. costs that arise from the use of the tests, to NEM customers."[23] Instead the statute calls for a broad analysis of costs and benefits, and then commands the Commission to "determine a just and reasonable charge, credit, or ratemaking structure, including new or existing tariffs, in light of the costs and benefits." This language, which defers to and incorporates the Commission's practices and precedents regarding "just and reasonable" rates is far from an explicit command to neutralize any net cost or to reduce any and all cost shifting.

[20] RMP Comments at 8-9.
[21] As discussed in Sierra Club's comments, lost revenues are not a cost of net metering from a utility resource perspective. Sierra Club Initial Comments at 10.
[22] RMP Comments at 8.
[23] *Id.*

As Sierra Club and others noted in the recent rate case, net metered systems are not equivalent to PURPA qualifying facilities, even if only their supply-side characteristics are noted.[24] A few of the differences include that net metered systems avoid all line losses, do not impose transmission and distribution system costs (and may even avoid or defer the need for upgrades due to their location), and that net metering customers forfeit all credits for excess generation each year. These differences preclude a direct comparison to other supply side resources without the types of adjustments facilitated through the use of cost-effectiveness analysis. The Company contends that the price paid for excess power from net metered systems should be guided by the same customer "indifference" standard as applies under PURPA. However, PURPA does not govern the rate paid for excess generation from net metered facilities, which is not a wholesale energy transaction—the Legislature specifically gave the Commission the authority to set the rate paid for excess generation.[25] The appropriate net metering rate is governed by this Commission's body of precedent concerning just and reasonable rates, which considers a much broader array of factors than PURPA's fundamental mandate of ratepayer indifference.

Finally, the Company's suggestion that the costs and benefits of net metering should be evaluated via direct comparison to other supply side resources runs counter to the best practices established in the extensive literature cited in the initial comments filed by Sierra Club, Utah Clean Energy, The Alliance for Solar Choice, and the City of Salt Lake. Sierra Club is aware of no other study that has evaluated the costs and benefits of net metering as narrowly as the Company advocates.

[24] *See also* TASC Comments at 12-13.
[25] Utah Code Ann. §54-15-104(3).

II. Comments on Actual Benefits and Costs of Net Metering

Several parties offered comments on the underlying costs and benefits of net metering, often as part of explaining why certain types of analysis are appropriate or not.[26] For example, DPU states that "there is little evidence suggesting net metering customers offer the same cost avoidance" as DSM programs.[27] While it is not clear exactly what cost avoidance DPU is referring to, whether the net metering program offers utility savings is what this docket was established to determine, and should not be assumed at the outset. As the Commission noted in the General Rate Case order, there is evidence that net metering customers reduce their consumption from the grid at the system peak time.[28] Similarly, in its conclusion, the Division asserts that the residential net metering tariff structurally does not compensate the Company for costs associated with the grid.[29] While the phrase "costs associated with the grid" is exceedingly vague, we note that DPU has not presented any evidence to support this assertion; the instant docket was opened to evaluate this very question based on evidence.

Several parties specifically address whether and how externalities should be included in the analytical framework. Utah Citizens Advocating Renewable Energy (UCARE), the Salt Lake City Corporation, and the Colorado Renewable Energy Society all urge the inclusion of externalities in this cost-benefit analysis and cite to several helpful studies including a 2010

[26] *See, e.g.*, UCE Comments at 13-14 (surveying benefit categories commonly accounted for in NEM cost-benefit studies).
[27] DPU Comments at 3.
[28] PacifiCorp dba Rocky Mountain Power 2014 General Rate Case, 13-035-184, Order and Report at 61.
[29] DPU Comments at 7.

study by Synapse Energy Economics, Inc. entitled *Co-Benefits of Energy Efficiency and Renewable Energy in Utah*. As the City notes, this study identifies unaccounted-for environmental costs of between 3.6 and 4 cents per kilowatt-hour for fossil-fuel generation in Utah.[30]

OCS takes the position that externalities such as social and environmental costs and benefits should be determined in a separate docket.[31] OCS makes this recommendation based on the considerable time that it would take to develop robust estimates of externality costs and the need to have consistent externality values applied in diverse contexts, including resource planning. Sierra Club agrees that these are important considerations. However, this Commission is not required by statute to resolve this docket in any particular time frame. While it has been suggested that this docket should be completed in time to provide guidance to Rocky Mountain Power in filing its next rate case, we do not agree that the Company's convenience should determine the Commission's timeline, especially if that timeline prevents the incorporation of an evaluation of externalities. Doing so would result in a patently incomplete cost-benefit analysis. That said, Sierra Club would support a comprehensive evaluation of the externalized costs of various generation technologies, and having those costs included in all resource decisions.[32] Finally, Sierra Club strongly agrees with OCS that guidance from the Commission as to its

[30] *See* Salt Lake City Corporation Comments, filed Feb. 6, 2015, at 2.
[31] OCS Comments at 3.
[32] We note that the Minnesota PUC is required by state law to incorporate externality values for air pollutants into all utility resource planning decisions. The Commission develops these externality values through a separate proceeding and then applies them uniformly in IRPs and CPCN dockets. *See* Minn. Stat. § 216B.2242, subd. 3; 1993 Minn Laws Ch. 356, sec. 3. ("The commission shall, to the extent practicable, quantify and establish a range of environmental costs associated with each method of electricity generation. A utility shall use the values established by the commission in conjunction with other external factors, including socioeconomic costs, when evaluating and selecting resource options in all proceedings before the commission, including resource plan and certificate of need proceedings.").

willingness to consider externality costs would allow the parties to focus on developing the evidence that will be most useful to the Commission.[33]

The Division notes that the production and disposal of solar panels involves the use of heavy metals, hazardous pollutants and gases, and requires special disposal techniques,[34] and urges that these costs be netted alongside the benefits of distributed solar. Sierra Club agrees that the environmental impacts of the lifetime of energy generating resources are relevant to the present analysis. The impacts of solar panel manufacturing and disposal should be considered alongside those of construction and maintenance of coal- and gas-fired power plants, the mining and production of coal and gas, the transportation of coal and gas resources from out of state to in-state generators, the combustion of coal and gas, the disposal of coal and gas byproducts in the state's water, air and land resources, and the decommissioning and disposal of coal and gas plants that have reached the end of their useful lives.[35] With respect to "rare and heavy earth metals, hazardous pollutants and gasses," coal mining, combustion, and residual disposal releases into the environment heavy metals including lead, mercury, selenium, arsenic, and vanadium.[36] While Sierra Club would welcome a comprehensive analysis of the life cycle costs of all of these generating resources, we submit that such an analysis would show that any

[33] OCS Comments at 3.
[34] DPU Comments at 4.
[35] *See* Epstein, Paul R. et al., Full cost accounting for the life cycle of coal, Ann. N.Y. Acad. Sci. 1219 (2011) 73–98, available at http://www.chgeharvard.org/sites/default/files/epstein_full%20cost%20of%20coal.pdf (estimating the life-cycle costs of coal to the U.S. public as one-third to one-half trillion dollars annually). This study was also attached to the comments filed by the Colorado Renewable Energy Society, Boulder County Chapter. For life cycle impacts of natural gas generation, see National Renewable Energy Laboratories, Natural Gas-Fired Generation Results – Life Cycle Assessment Harmonization, available at http://www.nrel.gov/analysis/sustain_lca_ngas.html (last updated July 21, 2014) and Union of Concerned Scientists, Environmental Impacts of Natural Gas, at http://www.ucsusa.org/clean_energy/our-energy-choices/coal-and-other-fossil-fuels/environmental-impacts-of-natural-gas.html#.VOZw8_nF_tJ (last viewed Feb. 19, 2015).
[36] *See, e.g.*, U.S. EPA, Overview of Proposed Effluent Limitation Guidelines for the Steam Electric Power Generating Category, at http://water.epa.gov/scitech/wastetech/guide/steam-electric/proposed.cfm (last viewed Feb. 19, 2015).

environmental impacts of solar manufacturing pale in comparison to those of coal and gas generation. We also note that it is relevant to the Commission's analysis whether the costs of managing generating resources at the end of their lives are borne by ratepayers or by a private party such as a net metered customer or third-party owner.

Several parties commented on the relationship of net metering customers to the electrical grid. For example, DPU notes that net metering customers receive power that is controlled for voltage, amperage, reactive and frequency-controlled.[37] These are benefits that all customers receive; indeed, this is part of the basic contract of utility service. These are not "specialized services" that must be assigned specifically to net-metering customers, as suggested. Similarly, DPU states that the grid acts as "storage during excess generation periods."[38] This is incorrect, as the electrical grid cannot store power. During excess generation periods, a net metering customer's exported power is consumed by other utility customers, who pay, to the utility, the retail rate for that power, which the utility did not have to generate or move over the transmission system. DPU's reference to storage is really a description of the billing adjustment made automatically by the utility each month, but this inaccurate terminology is not harmless, as it implies that the utility is offering storage service to net metering customers, which is not the case.

No party has contended that net metering customers do not need the grid or distribution services. It is important to move beyond this simplified version of the analytical question at hand to evaluate how the net metering customer's use of the grid differs and what cost implications these differences have.

[37] DPU Comments at 5; *see also* OCS Comments at 4-5.
[38] DPU at 5.

III. Comments Regarding Non-Residential Net Metering Programs

The Commission requested comment on whether the analytical framework would differ if applied to non-residential net metering. Sierra Club strong supports evaluating net metering at the program level, rather than limiting the analysis to only residential net metering customers, and noted in our initial comments that while some of the inputs and the results may vary for classes with different rate structures, the fundamental analytical approach would be the same. Sierra Club agrees with TASC's analysis of the language of Section 54-15-105.1 as requiring a program-level analysis.[39] In addition, as TASC notes, nearly 60% of the net metered capacity is installed at the site of non-residential customers, making those subparts of the net metering program significant from a cost and benefit perspective.

The Division recommends that this docket address the residential net metering program only.[40] This recommendation seems to stem from the fact that this docket arose from a contested fixed charge for residential net metering customers. While it is true that this docket was announced by the Commission in its final order in that rate case, the Commission's ultimate reason for opening the docket was to fulfill the mandate in Section 54-15-105.1, which calls for an analysis of net metering and is not limited to residential net metering. DPU also notes that the capacity limits in Section 54-15-103(3) represent a significant constraint on the net metering program in the long-term, but it is unclear to Sierra Club how this constraint bears on whether the analysis should extend to non-residential NEM customers.

OCS notes that there would be some differences in analysis of the costs and benefits of net metering for residential and non-residential customers, based on the fact that the latter includes

[39] TASC Comments at 25-27.
[40] DPU Comments at 7.

demand charges in addition to the energy charge.[41] Sierra Club agrees that the results of a cost-benefit analysis could differ based on the existence of a demand charge for certain classes, and believes that this docket should establish the analytical framework and data needed to establish the cost-effectiveness of net metering for all classes that may participate in net metering. Sierra Club also agrees with OCS that a common understanding of which costs of service are recovered through the customer charge would be beneficial to the parties here.

The Company states its belief that the types of analyses used to evaluate net metering would be largely the same for residential and non-residential customers,[42] which is Sierra Club's view as well.[43] However, the Company states that it does not anticipate proposing a separate tariff for non-residential customers,[44] apparently to suggest that there is no need to evaluate the costs and benefits of non-commercial net metering at this time. Sierra Club believes that this sort of partial analysis does not comply with the statutory requirement, which calls upon the Commission to evaluate net metering and does not differentiate between net metering for different classes.

While the Company states the "non-residential rate structures, to a large extent, are designed to better reflect how costs are incurred," and this may reduce the Company's concern about whether the "costs that electrical corporation or other customers will incur from a net metering program will exceed the benefits of the net metering program," it ignores the possibility raised by the rest of that sentence in the statute: "whether the benefits of the net metering program will exceed the costs."[45] The mandate to the Commission is to conduct a broader cost-benefit study, not merely to examine whether the utility is recovering its costs. As Salt Lake City notes in its

[41] OCS Comments at 8.
[42] RMP Comments at 3.
[43] Sierra Club Initial Comments at 24.
[44] RMP Comments at 3.
[45] Utah Code Ann. § 54-15-105.1(1).

initial comments, analysis of the costs and benefits of net metering "should reference system-wide load curves and not just those created by the customer class with the net metered system being assessed."[46] A broader, program-level analysis may show that non-residential customers are paying more than their cost of service, and that the benefits to the utility system exceed the costs, both of which would suggest to the Commission that the net metering tariff for non-residential customers should be adjusted to provide further incentive for those customers to install generation.

Finally, we note that the residential versus non-residential distinction does not track the actual tariff categories on Schedule 135. That schedule treats residential and small commercial customers the same—both receive compensation for excess generation at the retail rate, which reflects that both classes do not pay demand charges. This suggest that if only a subset of the net metering program is to be evaluated (which we recommend against), the appropriate line may be between the residential and distribution-level general service customers on the one hand, and all other customers eligible for net metering on the other hand. Because Schedule 135 applies the same net metering tariff to both residential and small commercial customers (distribution-level general service), any changes to that tariff for residential customers naturally raises the question of whether the tariff should remain unchanged for the small commercial class.

IV. Procedural Issues and Burden of Proof

Although a procedural schedule has been established for this docket, there is still considerable uncertainty about exactly what the analytical framework will encompass and how it might be applied going forward. Sierra Club agrees with the recommendations of other parties

[46] SLC Comments at 3.

that it would be helpful for the Commission to clarify which legal and factual issues are to be resolved as part of this docket, and which are left for the future. Sierra Club also agrees with TASC that part of the analytical framework approved through this docket should be minimal filing requirements for any future proposed changes to the net metering tariff.[47] Without discussion upfront as to what data are needed to properly apply the ordered analytical framework, any future application may be mired in disagreements about whether data of sufficient quality are available.

Both TASC and Utah Clean Energy call for the use of an independent facilitator for the technical conferences and/or a consultant to undertake an objective analysis.[48] We agree that an independent consultant will generate a study that engenders broader trust and buy-in from the Commission, the parties, the public, and other state decision-makers. The upfront cost of such a consultant would likely save far more resources down the road by reducing the scope of issues in contention or adversarial hearings.

The Division notes that, given the low level of distributed generation penetration, "data may not provide as much concrete information about theoretical costs and benefits as any party would like."[49] Sierra Club agrees that the current low level of DG penetration makes it difficult to observe certain costs and benefits or create a meaningful line item for them on the utility's balance sheet. The Division notes that the Commission "may rely on the available quantum and quality of evidence it receives to make a determination."[50] Sierra Club agrees to a certain extent. If a final determination of the costs and benefits of net metering is made in the context of a rate

[47] TASC Comments at 37-38.
[48] *See, e.g.*, TASC Comments at 39-41; UCE Comments at 20.
[49] DPU Comments at 6.
[50] DPU Comments at 6.

case or separate application by the utility to amend a tariff, the utility bears the burden of proof. Thus, if the Commission finds the available data to be of insufficient quality or quantity to make a determination, it is not compelled to do so. While other parties may attempt to provide evidence to complement that provided by the utility, this does not alter the burden of proof, nor should it lower the Commission's standard of evidence.[51]

OCS asserts that the cost-benefit analysis should be limited to those costs and benefits that can be quantified, and that parties advocating that a particular cost or benefit be included must provide evidence of that cost or benefit.[52] As explained above, if the final determination of costs and benefits is made in a docket in which the utility bears the burden of proof, it is not incumbent on any other party to submit evidence justifying the inclusion of that cost or benefit. While the utility cannot be made to prove benefits it does not believe exist,[53] its "belief" must be supported by evidence or analysis that withstands cross-examination to the Commission's satisfaction. Sierra Club agrees with the initial comments of TASC on this point.[54]

V. Conclusion

The initial comments filed show a wide range of perspectives regarding the appropriate analytical structure for the upcoming cost-benefit analysis. Many parties agree, however, consistent with the best practices established for such analysis, that the demand-side management tests provide valuable information for the Commission. While OCS and the

[51] The Division notes that further changes to a tariff can be made once more robust data are available. This is true, but some changes are easier to adjust or reverse than others. For example, making residential NEM customers a separate rate class would be a fundamental change to the utility's operation that is far from incremental and should not be based on anything but the most convincing evidence of its necessity.
[52] OCS Comments at 2.
[53] OCS Comments at 3.
[54] *See* TASC Comments at 34-36.

Company recommended that the Commission not use the DSM cost-effectiveness tests as the basis for this analytical framework, only the Company provided any alternative suggestion and even then still referred to several cost-effectiveness tests as relevant to the Commission's determination of just and reasonable rates.

The diversity of these comments highlight the need for technical conferences and for the Commission to delineate legal and factual issues that it believes require resolution through this docket. Sierra Club also believes that the use of an independent consultant to facilitate the technical conferences and lead the analytical process will go a long way towards bridging the wide divisions between the parties on many fundamental issues.

DATED this 20th day of February, 2015.

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