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State of Utah
DEPARTMENT OF COMMERCE
Office of Consumer Services

MICHELE BECK
Director

To: Utah Public Service Commission

From: Office of Consumer Services
Michele Beck, Director
Cheryl Murray, Utility Analyst

Date: October 3, 2014

Re: In the Matter of the Disposition of Remaining Unused Credits Associated with Excess Customer-Generated Electricity Provided Under Utah Code Ann. § 54-15-104(4). Docket No. 14-035-116

Background

On September 4, 2014, the Public Service Commission (Commission) issued a notice of comment period for Docket No. 14-035-116 related to the disposition of remaining unused credits associated with excess customer-generated electricity as provided under Utah Code Ann. § 54-15-104(4). Interested parties were afforded the opportunity to provide recommendations for the disposition of the expiring net metering credits, on or before September 26 and October 3, 2014, for comments and reply comments, respectively.

The Commission states that "In the absence of alternative recommendations, the Commission intends to direct PacifiCorp to allocate the expiring credits to its low-income assistance program…"

On or before September 26, 2014, the Division of Public Utilities (Division), Utah Clean Energy, the Office of Consumer Services (Office) and a number of individuals offered recommendations to the Commission regarding the disposition of excess net metered customer-generated electricity.

In our initial comments the Office stated our support for using the avoided cost value of the unused credits toward the Company's low-income assistance program, as partially contemplated by the legislation. We also asserted that whatever use the Commission determines for unused credits must be based upon the avoided cost value.

The Office maintains these recommendations but also accepts one of the Division's recommendations as explained below.

Following are comments and recommendations of the Office responding to other parties' initial comments.

Office Response to Parties' Initial Comments and Recommendations

Division Recommendations

The Division's recommendation reads as follows:

"The Division recommends that the value of unused credits be applied as a credit against Rocky Mountain Power's (Company) DSM account balance. As an alternative, the value could be credited to the Blue Sky program. The Division is not opposed to the Commission's applying the value to the Company's low-income assistance program."

Regarding its primary recommendation the Division states that the value of excess credits should be applied as a credit against the Company's Demand Side Management (DSM) account balance. "The credit would augment the amount already collected through base rates (Schedule 193) thus helping promote energy efficiency and would be easily audited for compliance."

<u>Office Response:</u>

The Office appreciates the analysis and explanation provided by the Division in reaching their recommendations.

The Office believes that the Division's recommendation that the value of excess net metering credits be applied as a credit against the Company's DSM account balance has merit and we could support this option. The DSM program has extensive oversight from a variety of entities including regulatory, customer groups and clean energy proponents. The Office agrees with the Division's assessment that assigning the value to DSM would help promote energy efficiency and would be easily auditable. We further assert that all customers would benefit from applying excess net metering credits to the DSM program.

Regarding the Division's alternative of crediting the value to the Blue Sky Program we recognize that the tie to renewable energy holds some appeal. However, the Office respectfully disagrees with using the value as a credit to the Blue Sky Program. Participation in the Blue Sky Program is totally voluntary and separate from traditional regulatory programs, such as net metering and demand side management. The Office asserts that the value of the credits should go toward a program that is part of the traditional regulatory programs.

The Division also notes that the expiration of unused credits promotes the proper sizing of customers' solar systems. As stated in our original comments, we understand that there may be some excess generation as it is difficult to be absolutely precise in sizing systems. However net metering was never meant to be a money making proposition and we agree with the Division that expiration of unused credits provides an incentive for customers to give more consideration to proper sizing when purchasing their solar systems.

Utah Clean Energy (UCE) Recommendations

Utah Clean Energy supports the Commission's intention to allocate expiring excess net metering credits to the utility's low-income assistance program. UCE additionally recommends that credits should be in addition to revenue collected through Electric Service Schedule 91 (Surcharge to Fund Low Income Residential Lifeline Program.) UCE recommends that the Commission include this clarification in its order in this docket.

Office Response:

As noted in our original recommendation the Office also recommends that credits be assigned to the Company's low-income assistance program. However, while we currently support the recommendation that the credits be additive to the surcharge we assert that this should be monitored over time to ensure that the total funding remains at a reasonable level.

Individual Parties' Recommendations

Although there are a range of recommendations from individuals as to the disposition of excess credits most indicate a desire to retain the value of those credits in some form or other.[1] An additional recommendation is to use the value of excess credits to promote additional solar or renewable energy projects.

The Office's responses to other parties' recommendations will be categorized as follows:

1) General comments;
2) Expiration of credits;
3) Donations to tax deductible programs; and
4) Using credits toward solar or other renewable energy projects in Utah.

1. General Comments

First, the Office begins by noting its general view that many of the recommendations made by parties are not allowed under the existing statute. This view is further explained below.

[1] In this discussion recommendations that the value of excess credits be donated via a tax deductible program are considered within the grouping of retaining the value in some form.

Second, for parties who want the Commission to order some form of "payment" for excess credits either in the form of offsets to the customer charge, minimum bill, a future net metering charge or any other form of payment the Office asserts that excess credits that expire at the end of the annualized billing period no longer belong to the customer. Therefore, payment cannot be assigned to a customer for a credit that no longer belongs to the customer. This would also apply to the suggestion that customers be able to "donate" the value of excess credits to entities of their choice via a tax deductible program. Additionally, as noted above payments for excess credits do not provide the proper incentive for customers to appropriately size their renewable energy systems.

Third, it has been recommended that a decision in this docket be delayed until the conclusion of Docket No. 14-035-114. This recommendation is mainly tied to the idea that excess credits could be applied to a potential net metering fee which will be determined in the 14-035-114 docket. The Office does not agree that the Commission should delay action in this docket pending the outcome of another docket. Utah Code Ann. § 54-15-104(4) requires the Commission to assign the avoided cost value of unused credits to the electrical corporation's low-income assistance program or for another use as determined by the Commission. The Office asserts that the Commission can reasonably assign the value to the low-income assistance program or the DSM program at this time.

2. Expiration of Credits

Some parties have recommended that excess credits roll over to another year, never expire, or that individual customers be allowed to select the month in which credits will expire.

<u>Office Response:</u>

In order to respond to recommendations related to the expiration of credits it is helpful to read Utah Code Ann. § 54-15-104(3): If net metering results in **excess** customer-generated electricity during the monthly billing period:

(a) (i) the electrical corporation shall credit the customer for the **excess** customer-generated electricity based on the meter reading for the billing period at a value that is at **least avoided cost**, or as determined by the governing authority; and
(ii) **all credits** that the customer does not use during the annualized billing period **expire** at the end of the annualized billing period… [all emphasis added]

The definition of annualized billing period is provided in Utah Code Ann. § 54-15-102

(1) "Annualized billing period" means:

(a) a 12-month billing cycle beginning on April 1 of one year and ending on March 31 of the following year; or

(b) an additional 12-month billing cycle as defined by an electrical corporation's net metering tariff or rate schedule.

Thus, it is clear that recommendations that the excess credits never expire or that customers be allowed to choose the month when those credits expire are contrary to statute. Additionally, even if it were possible allowing each customer to select the month when his/her credits expire would create additional costs that would have to be borne by net metered customers.

3. *Donations to tax deductible programs*

Rather than applying the value of excess credits to Rocky Mountain Power's low-income program, it has been recommended that customers producing excess generation be allowed to select a program of their choice (charity, low-income, school) where they want the value of those credits donated via a tax-deductible program.

Office Response:

As stated above, once a credit becomes excess as defined by the statute it no longer belongs to the customer, therefore this recommendation would not be possible. Further, allowing individual customers to choose organizations to which their excess credits would be donated would certainly create additional costs and potential burdens. Again, if this were approved the increased costs must be borne by the net metered customers.

4. *Using credits for solar or renewable energy projects*

It has been recommended that excess credits should be used to expand solar investment or renewable energy projects.

Office Response:

The Company currently offers two programs that might be construed as offering these opportunities – the Blue Sky Program and the Solar Incentive Program. While we can see the appeal of using excess credits from solar or renewable projects to fund additional similar projects the Office asserts that there is not currently an appropriate program where those credits could be utilized. As discussed earlier and for the reasons stated in this memo the Office does not believe that the Blue Sky Program should receive the value of excess credits.

Currently the issue of a fee to be applied to net metered customers is under investigation by the Commission. Although a customer with solar panels or other renewable energy resources is not required to enroll in net metering the Office believes that the vast majority will enroll. Until it is determined whether or not a fee will be assessed and what that initial fee will be the Office cannot support expanding the solar incentive program. We have seen the complaints from customers that purchased their renewable system without an understanding that a fee may be assigned and their anger and distress over being faced with that possibility.

That being said, the Office agrees that a proposal of this nature has merit and suggests that the Commission should not entirely foreclose this option should the proper opportunity arise in the future.

Office Recommendations

The Office maintains its recommendation that the Commission utilize the enabling statute and order that any unused excess generation credits be applied to the Company's low-income assistance programs. However, the Office has no objection to and would support using the value of excess generation credits as a credit against the Company's DSM account balance.

The Office continues to assert that whatever use the Commission determines for unused net metering credits must be based upon the avoided cost value.

Copies to:

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