

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of Rocky Mountain Power's
Solar Photovoltaic Incentive Program
(Schedule 107) 2016 Annual Report

DOCKET NO. 16-035-21

ORDER ACKNOWLEDGING THE
2016 SOLAR PHOTOVOLTAIC
INCENTIVE PROGRAM REPORT,
AND MEMORIALIZING BENCH
RULING APPROVING
SETTLEMENT STIPULATION

ISSUED: December 29, 2016

SYNOPSIS

The PSC acknowledges the Solar Photovoltaic Incentive Program (Schedule 107) 2016 Annual Report and approves the settlement stipulation filed in this docket.

TABLE OF CONTENTS

APPEARANCES..... ii
I. BACKGROUND AND PROCEDURAL HISTORY..... - 1 -
II. PARTIES' POSITIONS - 2 -
III. DISCUSSION, FINDINGS, AND CONCLUSIONS - 3 -
IV. ORDER..... - 4 -
APPENDIX 7

APPEARANCES¹

Yvonne Hogle Rocky Mountain Power	For	PacifiCorp
Justin Jetter Utah Attorney General's Office	"	Division of Public Utilities
Robert Moore Utah Attorney General's Office	"	Office of Consumer Services

¹ As of the December 13, 2016 hearing.

I. BACKGROUND AND PROCEDURAL HISTORY

On October 1, 2012, the Public Service Commission of Utah (PSC) approved PacifiCorp's application to implement a new Solar Incentive Program (Program) including Electric Service Schedule No. 107.² The order requires PacifiCorp to file an annual report for the Program each following year.³ In accordance with the order, on June 1, 2016, PacifiCorp, doing business in Utah as Rocky Mountain Power (PacifiCorp), filed its annual report of updated results from the Program through May 20, 2015 (2016 Annual Report).

Initially, the Division of Public Utilities (DPU) and the Office of Consumer Services (OCS) recommended acknowledgement of PacifiCorp's annual report.⁴ But, several days later, after PacifiCorp had apparently responded to discovery requests concerning its Cool Keeper Program, the OCS amended its response to include a recommendation that the PSC investigate whether PacifiCorp has properly carried out that portion of the Program that requires customers signed up under the Program to also be enrolled in the Cool Keeper Program.⁵ Upon receiving the OCS's amended comments, the PSC issued a notice of filing and comment period, setting deadlines for comments and reply comments.⁶ The DPU, the OCS, and PacifiCorp thereafter filed respective comments.⁷

² See *In the Matter of the Investigation into Extending and Expanding the Solar Incentive Program and Possible Development of an Ongoing Program* (Report and Order, issued October 1, 2012), Docket No. 11-035-104.

³ See *id.* at 10, ¶ 4.

⁴ See Action Request Response of the DPU, filed July 1, 2016. See also Comments of the OCS, filed June 29, 2016. In addition, Utah Clean Energy (UCE) filed comments on July 1, 2016 (noting its "appreciat[ion for] the opportunity to review the results of the . . . Program and learn from [PacifiCorp's] experience administering [it]").

⁵ See Comments of the OCS, filed July 15, 2016.

⁶ See Notice of Filing and Comment Period, issued July 19, 2016.

⁷ See Comments of the DPU, Comments of the OCS, and Comments of PacifiCorp, filed September 2, 2016.

On October 31, 2016, finding good cause, the PSC granted PacifiCorp's motion to amend the reply comment deadline and set a hearing,⁸ and issued a Scheduling Order.⁹ The Scheduling Order set reply comments, final comments, and intervention deadlines, and a hearing date.¹⁰ The DPU then filed a motion requesting to vacate the reply comment and final comment deadlines, noting that settlement was imminent.¹¹ Finding good cause, the PSC granted the motion and vacated the comment deadlines.¹²

On November 23, 2016, PacifiCorp, the DPU, and the OCS (collectively, Parties) filed a Settlement Stipulation (Stipulation). The Stipulation is attached as an appendix to this order.

The PSC's Presiding Officer held a hearing on December 13, 2016 to consider the Stipulation. PacifiCorp, the DPU, and the OCS provided testimony supporting the Stipulation, and no party opposed it. At the conclusion of the hearing, PacifiCorp requested a bench order. The PSC granted PacifiCorp's request and approved the Stipulation. This Order memorializes that ruling.

II. PARTIES' POSITIONS

At the hearing, PacifiCorp testified that the Stipulation is in the public interest and is a reasonable and fair resolution of the issues raised by the parties. Further, PacifiCorp testified that under Paragraph 15 of the Stipulation, PacifiCorp will refund \$200,000 to the final Utah Solar Incentive Program balance. The source of the refund will be company funds, not ratepayers.

⁸ See PacifiCorp's Motion to Amend Schedule and for Expedited Treatment, filed October 28, 2016.

⁹ See Scheduling Order, issued October 31, 2016.

¹⁰ See *id.*

¹¹ See DPU's Motion to Vacate Schedule and Request for Expedited Treatment, filed November 22, 2016.

¹² See Scheduling Order, issued November 23, 2016.

The DPU supports the Stipulation and recommends that the PSC approve it and all of its terms and conditions.

The OCS likewise supports the Stipulation. The OCS "views [P]aragraphs 15 and 16 of the Stipulation as essential to a just and reasonable outcome. As agreed in [P]aragraph 15, [PacifiCorp] will refund \$200,000 in [c]ompany funds to the final [Utah Solar Incentive Program] balance. This will reduce the amount of [Program] payments for which ratepayers are still responsible. This money cannot be used as additional STEP funding. In [P]aragraph 16, [PacifiCorp] commits to work with parties to discuss implementation challenges and identify possible solutions related to tariff provisions that may arise in the future. The O[CS] believes that parties working together earlier in tariff implementation processes will help to minimize unanticipated consequences of tariff terms and language."¹³ The OCS supports the Stipulation as just and reasonable in result and in the public interest. Accordingly, the OCS recommends PSC approval of the Stipulation.

III. DISCUSSION, FINDINGS, AND CONCLUSIONS

The Parties agree the Stipulation is in the public interest, and the results are just and reasonable.¹⁴ Further, no one opposes the Stipulation.

As set forth in Utah Code Ann. § 54-7-1, settlements of matters before the PSC are encouraged at any stage of a proceeding.¹⁵ Pursuant to this statute, the PSC may approve a stipulation or settlement after considering the interests of the public and other affected persons, if

¹³ December 13, 2016 Hearing Transcript at 17:23-25; 18:1-13.

¹⁴ See Stipulation at 4, ¶ 17.

¹⁵ See Utah Code Ann. § 54-7-1.

it finds the stipulation or settlement in the public interest.¹⁶ Likewise, in reviewing a settlement, the PSC may consider whether it was the result of good faith, arms-length negotiations.¹⁷

The Stipulation at issue is the product of mutual negotiation involving parties with substantial and varying interests. We find that the Application and testimony filed in this docket demonstrate the importance of the variety of interests that participated in the negotiation and execution of the Stipulation.

No party has presented testimony or evidence in opposition to the Stipulation. We find that the record and evidence in this docket support the unopposed representation of the Parties in Paragraph 17 of the Stipulation, that settlement is in the public interest and that the results are just and reasonable.

Accordingly, consistent with our bench ruling issued at the conclusion of the December 13, 2016 hearing, we find: 1) approval of the Stipulation is in the public interest; and 2) the evidence, contained in the record, supports our finding that the Stipulation is just and reasonable in result. Additionally, we acknowledge the 2016 Annual Report.

IV. ORDER

Pursuant to our discussion, findings, and conclusions, we:

1. Acknowledge the 2016 Annual Report, filed June 1, 2016; and
2. Approve the Settlement Stipulation filed in this docket on November 23, 2016.

¹⁶ See *Utah Dept. of Admin. Services v. Public Service Comm'n*, 658 P.2d 601, 613-14 (Utah 1983).

¹⁷ See *id.* at 614 n.24.

DOCKET NO. 16-035-21

- 5 -

DATED at Salt Lake City, Utah, December 29, 2016.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Attest:

/s/ Gary L. Widerburg
Commission Secretary
DW#290995

Notice of Opportunity for Agency Review or Rehearing

Pursuant to §§ 63G-4-301 and 54-7-15 of the Utah Code, an aggrieved party may request agency review or rehearing of this Order by filing a written request with the Commission within 30 days after the issuance of this Order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission does not grant a request for review or rehearing within 20 days after the filing of the request, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a petition for review with the Utah Supreme Court within 30 days after final agency action. Any petition for review must comply with the requirements of §§ 63G-4-401 and 63G-4-403 of the Utah Code and Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on December 29, 2016, a true and correct copy of the foregoing was served upon the following as indicated below:

By Electronic-Mail:

Data Request Response Center (datarequest@pacificorp.com)
PacifiCorp

Robert C. Lively (bob.lively@pacificorp.com)
Yvonne Hogle (yvonne.hogle@pacificorp.com)
Daniel Solander (daniel.solander@pacificorp.com)
Rocky Mountain Power

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Assistant Utah Attorneys General

Erika Tedder (etedder@utah.gov)
Division of Public Utilities

By Hand Delivery:

Office of Consumer Services
160 East 300 South, 2nd Floor
Salt Lake City, Utah 84111

Administrative Assistant

DOCKET NO. 16-035-21

- 7 -

APPENDIX

November 23, 2016

*VIA ELECTRONIC FILING
AND HAND DELIVERY*

Public Service Commission of Utah
Heber M. Wells Building, 4th Floor
160 East 300 South
Salt Lake City, UT 84114

Attention: Gary Widerburg
Commission Secretary

**RE: IN THE MATTER OF ROCKY MOUNTAIN POWER'S SOLAR
PHOTOVOLTAIC INCENTIVE PROGRAM (SCHEDULE 107) 2016 ANNUAL
REPORT
Docket No. 16-035-21**

Rocky Mountain Power hereby submits for filing a Settlement Stipulation in the above referenced docket. An original and ten copies will be delivered via hand delivery today. Electronic versions of this filing will be sent to psc@utah.gov.

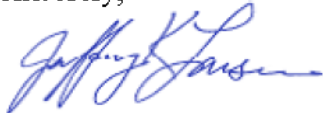
Rocky Mountain Power respectfully requests that all formal correspondence and requests for additional information regarding this filing be addressed to the following:

By E-mail (preferred): datarequest@pacificorp.com
bob.lively@pacificorp.com

By regular mail: Data Request Response Center
PacifiCorp
825 NE Multnomah, Suite 2000
Portland, OR 97232

Informal inquiries may be directed to Bob Lively at (801) 220-4052.

Sincerely,



Jeffrey K. Larsen
Vice President, Regulation

cc: UCE

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Settlement Stipulation in the matter of Rocky Mountain Power's Solar Photovoltaic Incentive Program (Schedule 107) 2016 Annual Report was emailed on the 23rd day of November 2016 to the following in Utah Docket 16-035-21:

BY Electronic-Mail:

Robert Lively

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datarequest@pacificorp.com

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Division of Public Utilities

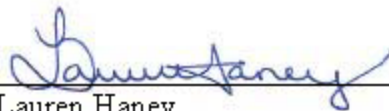
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Office of Consumer Services



Lauren Haney

Coordinator, Regulatory Operations

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

IN THE MATTER OF ROCKY MOUNTAIN
POWER'S SOLAR PHOTOVOLTAIC
INCENTIVE PROGRAM (SCHEDULE 107) 2016
ANNUAL REPORT

Docket No. 16-035-21

SETTLEMENT STIPULATION

This Settlement Stipulation (“Stipulation”) is entered into in Docket No. 16-035-21 by and among the parties whose signatures appear on the signature pages hereof (collectively referred to herein as the “Parties” and individually as a “Party”).

1. The Parties have conducted settlement discussions on October 25, 2016, October 27, 2016 and November 15, 2016.

2. The Parties recommend that the Public Service Commission of Utah (“Commission”) approve the Stipulation and all of its terms and conditions. The Parties request that the Commission make findings of fact and reach conclusions of law based on the evidence filed in this proceeding and on this Stipulation and issue an appropriate order thereon.

3. On June 1, 2016, Rocky Mountain Power (“RMP” or the “Company”) filed its Utah Solar Incentive Program 2016 Annual Report (“Annual Report”).

4. On June 2, 2016, the Commission issued a Notice of Filing and Comment Period inviting interested parties to submit comments on the Annual Report July 1, 2016, and reply comments July 15, 2016.

5. On June 29, 2016, the Office of Consumer Services (“Office”) filed comments regarding the Annual Report in which the Office concluded that the Annual Report complied with

current Commission requirements. The Office also expressed its continuing concern, previously raised in its comments to the 2015 USIP Annual Report, that eligible USIP customers were not participating in the Cool Keeper Program as required by the USIP tariff, and noted that it had outstanding data requests related to Cool Keeper participation and generation data for large systems.

6. On July 1, 2016, the Division of Public Utilities (“Division”) and Utah Clean Energy (“UCE”) also filed comments regarding the Annual Report. The Division concluded that the Annual Report met the Commission’s reporting requirements for the data that were available for reporting. UCE commented generally on the benefits of the expiring solar incentive program, and noted the Commission’s authority to create a new program in the future.

7. On July 15, 2016, the Office filed reply comments in which it provided additional information obtained through discovery related to generation data for large systems and participation in the Cool Keeper program. The Office concluded that the Annual Report should be acknowledged and recommended that the Commission open an investigation on the Company’s enforcement of the Utah Solar Incentive Program Tariff, or schedule an additional round of comments in the docket.

8. On July 19, 2016, the Commission issued a second Notice of Filing and Comment Period in which it set forth additional rounds of comments to address the Office’s concerns due September 2, 2016, and reply comments due November 1, 2016.

9. On September 2, 2016, the Office, the Division and RMP filed comments regarding the Company’s enforcement of the requirement that all Cool Keeper-eligible Utah Solar Incentive Program participants must participate in the Cool Keeper program.

10. On October 25, 2016, the Company, the Division and the Office met for settlement discussions.

11. On October 28, 2016, the Company filed a Motion to Amend the Schedule and for Expedited Treatment (“Motion”) in which it requested that (1) the November 1, 2016 date for reply comments be vacated, and (2) the Commission set the deadline for reply comments as November 29, 2016, for final comments as December 8, 2016, and for a hearing as December 13, 2016.

12. On October 31, 2016, the Commission issued a Scheduling Order setting forth new dates for reply comments, final comments and hearing, as requested in the Motion.

13. On November 15, 2016, the Office, the Division and the Company agreed to settle the issues in the case.

SETTLEMENT TERMS AND CONDITIONS

14. The Parties agree to revise Electric Service Schedule No. 107, Solar Incentive Program (“USIP Tariff”), by deleting Special Condition 8, stated below, in its entirety:

Demand Side Management: Program participants on Residential Service Schedules 1, 2, 3, and 25, and Non- Residential Service Schedules 6, 6A, 6B, 8, 9, and 23 that are eligible to participate in the Company’s Cool Keeper Program are required to participate in the Company’s Cool Keeper Program in order to be eligible to receive an incentive under this schedule.

15. The Parties agree that Rocky Mountain Power will refund \$200,000 to the final Utah Solar Incentive Program (“USIP”) balance. Rocky Mountain Power agrees that it will not transfer this \$200,000 amount to other programs in the Sustainable Transportation and Energy Plan Act.

16. Rocky Mountain Power acknowledges that it did not advise the Parties, in a timely manner, about the implementation challenges of enforcing participation in the Cool Keeper program as set forth in the USIP Tariff. Rocky Mountain Power commits to work with Parties to

discuss implementation challenges and identify possible solutions related to tariff provisions that may arise in the future.

GENERAL TERMS AND CONDITIONS

17. The Parties agree Utah Code Annotated § 54-7-1 authorizes the Commission to approve a settlement as long as the settlement is just and reasonable in result. The Parties agree that this Stipulation as a whole is just and reasonable in result and in the public interest.

18. All negotiations related to this Stipulation are confidential, and no Party shall be bound by any position asserted in negotiations. Except as expressly provided in this Stipulation, and in accordance with Utah Administrative Code R746-100-10.F.5, neither the execution of this Stipulation nor the order adopting it shall be deemed to constitute an admission or acknowledgement by any Party of the validity or invalidity of any principle or practice of regulatory accounting or ratemaking; nor shall they be construed to constitute the basis of an estoppel or waiver by any Party; nor shall they be introduced or used as evidence for any other purpose in a future proceeding by any Party except in a proceeding to enforce this Stipulation.

19. The Parties agree to make one or more witnesses available to explain and offer further support for this Stipulation at the hearing scheduled in this Docket. As applied to the Division and the Office, the explanation and support shall be consistent with their statutory authority and responsibility.

20. This Stipulation may be executed by individual Parties through two or more separate, conformed copies, the aggregate of which will be considered as an integrated instrument.

21. The Parties request that the comments filed in this docket be received into evidence in support of this Stipulation.

DATED this 23rd day of November, 2016.




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DATED this 22 day of November, 2016.

R. Jeff Richards
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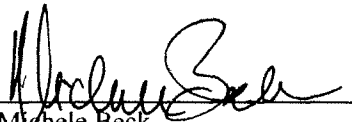
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DATED this 22nd day of November, 2016.

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