In the Mater of the Consideration of the Amendment of Title 16 U.S.C. 2621(d) and the Addition of Title 42 U.S.C. 6344 by the U.S. Energy Independence and Security Act of 2007 "Rate Modification to Promote Energy Efficiency Investments"	**Docket Number: 08-999-05**

Comments of:
Utah Clean Energy and the Southwest Energy Efficiency Project

Submitted December 11, 2009

Dear Commissioners:

Please accept these comments submitted by Utah Clean Energy and the Southwest Energy Efficiency Project in response to the Request for Comments issued November 19, 2009 in Docket No. 08-999-05 regarding Consideration of the Amendment of Title 16 U.S.C.2621 (d) and the addition of Title 42 U.S.C. 6344 by the U.S. Energy Independence and Security Act of 2007 and the adoption of PURPA 111(d) Standard 17 "Rate Design Modifications to Promote Energy Efficiency Investments." We appreciate the opportunity to provide input on this important matter.

BACKGROUND

We appreciate and commend the Public Service Commission (Commission) and the Division of Public Utilities (Division) for their facilitation of workshops and investigation of some of the issues surrounding issues pertaining to rate design modifications to promote energy efficiency. These efforts highlight several issues relating to rate design to promote energy efficiency, including many of the issues highlighted in the PURPA 111 (d) 17 below.

PURPA 111(d) Standard (17)

(17) RATE DESIGN MODIFICATIONS TO PROMOTE ENERGY EFFICIENCY INVESTMENTS.

(A) IN GENERAL.— The rates allowed to be charged by any electric utility shall-
  (i) Align utility incentives with the delivery of cost-effective energy efficiency; and
  (ii) Promote energy efficiency investments.
(B) POLICY OPTIONS.- In complying with subparagraph (A), each State regulatory authority and each nonregulated utility shall consider-
  (i) Removing the throughput incentive and other regulatory and management disincentives to energy efficiency;
  (ii) Providing utility incentives for the successful management of energy efficiency programs;

(iii) Including the impact on adoption of energy efficiency as 1 of the goals of retail design, recognizing that energy efficiency must be balanced with other objectives;
(iv) Adopting rate designs that encourage energy efficiency for each customer class;
(v) Allowing timely recovery of energy efficiency-related costs; and
(vi) Offering home energy audits, offering demand response programs, publicizing the financial and environmental benefits associated with making home energy efficiency improvements, and educating homeowners about all existing Federal and State incentives, including the availability of low-cost loans, that make energy efficiency improvements more affordable.

The Division's memorandum concludes that Rocky Mountain Power's (Company) current rate designs and DSM activities are in line with the requirements of Standard 17. While we agree with many of the Division's points, we do not concur with their position that no further actions are necessary. Our greatest concerns relate to 17 (B)(i) Removing throughput incentives; 17(B)(ii) providing incentives for successful management of energy efficiency programs and 17(B)(iv) adopting rate designs that encourage energy efficiency for all customer classes.

We respectfully request that the Commission either adopt Standard 17 in its entirety, such that the provisions of the standard will be considered in all applicable regulatory decisions, or adopt an equivalent standard that states that the provisions of Standard 17 will be considered in all applicable regulatory decisions. Adoption of this Standard is in line with provisions of the Energy Policy of the State of Utah[1] (see Attachment A). Adoption of this Standard is also consistent with HJR09 (S01)[2], which was adopted unanimously by the Utah legislature in the 2009 Legislative Session. This joint resolution recognizes energy efficiency as a priority resource; urges state and local governments and utilities companies to promote and encourage all available cost-effective energy efficiency and conservation; set voluntary energy savings goals for Rocky Mountain Power and Questar Gas, and expressed support for regulatory mechanisms that remove disincentives and create incentives for utility energy efficiency (see Attachment B).

The removal of disincentives and support for incentives for utility energy efficiency also has support from the National Association of Regulatory Utility Commissioners (NARUC). In fact, this support was stated as early as 1989 in a resolution sponsored by the NARUC Committee on Energy Conservation[3] (Attachment C).

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[1] *State Energy Policy*. 63M-4-301, http://www.le.utah.gov/UtahCode/getCodeSection?code=63M-4-301

[2] Rep. Roger Barrus, HJR 09 S01, *Joint Resolution on Cost-Effective Energy Efficiency and Utility Demand-Side Management,* http://le.utah.gov/~2009/htmdoc/hbillhtm/HJR009S01.htm

[3] NARUC, *Resolution in Support of Incentives for Electric Utility Least-Cost Planning,* http://www.naruc.org/Resolutions/Incentives%20for%20Electric%20Utility%20Least%20Cost%20Planning.pdf

COMMENTS

17(B)(i) Removing the throughput incentive and other regulatory and management disincentives to energy efficiency: Current rate recovery mechanisms recover fixed expenditures through volumetric sales and to a large extent utility profits are tied to the volume of energy that they sell. This throughput incentive is counter to the promotion of aggressive energy efficiency and does not comply with Standard 17. We concur with the Division that the Company is doing an excellent job with their current DSM programs, but as investments in energy efficiency continue to increase and as more aggressive rate designs to advance energy efficiency are implemented there will be increasing negative impacts on the Company's financial well-being, unless the throughput incentive is removed. We agree with the Division's acknowledgement on page 5 of their memorandum, that the throughput incentive creates a financial disincentive to energy efficiency. But they also say that current rate designs are in compliance with Standard. We respectfully disagree, given that the throughput incentive remains a barrier, especially as we move toward even greater percentages of energy efficiency as a least cost, least risk resource.

In addition to adopting Standard 17, Utah Clean Energy respectfully recommends that the Commission open a docket as soon as practicable to address utility disincentives and incentives for DSM.

17(B)(ii) Providing incentives for successful management of energy efficiency programs: While the Company is allowed to recover costs for their DSM investments in a timely manner; they do not have incentives for successful management of their DSM programs. Utilities earn a rate of return on their capital investments, but no incentive is offered for prudent DSM investments.

17 (B) (iv) Adopting rate designs that encourage energy efficiency for each customer class: As the Division points out in its Memo, an inverted block rate design is currently in place for the Company's residential class in the summer months. While this is a step in the right direction, further work is needed in this area. As metering technology improves, time of use rates based on real time costs with critical peak pricing should be considered as a rate design mechanism that drives energy efficiency while simultaneously addressing the concern of cost and causation. Given current technology, the four-tier inverted block rate structure as proposed by SWEEP in the Utah DSM Rate Design Working Group[4] may more effectively encourage energy efficiency. However, a major reason that such an innovative four-tier rate structure is not currently favored by some parties is the fact that it would create a greater risk of cost recovery for the Company because a higher percentage of cost recovery is shifted to the highest tiered blocks. As noted above, Section (B) (i) of Standard 17 requires State regulatory authorities to consider "Removing the throughput incentive and other regulatory and management disincentives to energy efficiency." It is our view that if a regulatory mechanism, such as revenue decoupling and a rate design that encourages energy efficiency were in place, Standard 17(B)(i) and (iv)

[4] Utah DSM Rate Design Working Group, Rate Designs that Promote Energy Efficiency and Conservation, Report to the Utah Public Service Commission, May 8, 2009

would be satisfied. Because rate design is evaluated in each rate case, we believe that Standard 17 should be adopted to provide a framework for analyzing rate design with respect to advancing energy efficiency.

Opportunities also remain for improving rate designs for commercial and industrial customers. While other options are available, currently, emphasis is placed on seasonal demand and energy charges for these customer classes. The Regulatory Assistance Project recommends that either time of use (TOU) rates, critical peak pricing, or rolling baseline rates be used for small commercial customers, and that TOU rates in addition to critical peak pricing be implemented for industrial customers.

Standard 17 will provide important direction to the Commission and the Company to consider when implementing rate design and other regulatory modifications that promote greater levels of investments in energy efficiency.

CONCLUSION

As energy prices continue to rise and as we move into a carbon constrained economy, aggressive energy efficiency investments will be the most cost effective mechanism to meet a significant portion of our future energy demands. A recent study by McKinsey and Company published July 2009[5], concluded that:

- Energy efficiency offers a vast, low-cost energy resource for the U.S. Economy
- By 2020 there is potential to reduce business as usual energy consumption nation-wide by 23% through cost-effective investments in energy efficiency (analysis assumes no carbon cost)
- This would result in gross energy savings worth more than $1.2 trillion, well above $520 billion needed for upfront capital costs
- If a carbon cost of $50 per ton of CO_2 is assumed the potential reduction increases to 36% by 2020

In order to achieve these savings it will be critical to address the issues outlined in Standard 17. In our view, the issues outlined in Standard 17 provide the guidance necessary to address these issues and additionally 17(B)(iii) provides the guidance that promotion of energy efficiency investments "must be balanced with other objectives." Therefore, it is our position that it is in the public interest to adopt Standard 17, and respectfully request that the Commission either adopt Standard 17 or an equivalent standard.

[5] McKinsey & Company, Unlocking Energy Efficiency in the U.S. Economy (2009), http://www.mckinsey.com/clientservice/electricpowernaturalgas/US_energy_efficiency/