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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the matter of Demand Side Management Cost Recovery by PACIFICORP dba UTAH POWER & LIGHT COMPANY,	Docket No. 02-035-T12 **COMMENTS OF THE UTAH INDUSTRIAL ENERGY CONSUMERS**

The Utah Industrial Energy Consumers ("UIEC"), hereby submit these comments in response to the Stipulation, Motion for Approval of Stipulation, and accompanying schedules filed by PacifiCorp on August 29, 2003.

INTRODUCTION

The UIEC commend the Demand Side Management Cost Recovery task force for its work in developing a cost recovery mechanism for DSM, and for developing a credit mechanism for those who undertake self-directed DSM. The UIEC do not oppose approval of the Stipulation or Electric Service Schedule Nos. 191 or 192. However, there are a number of issues that should be brought to the Commission's attention with respect to the operation of these service schedules. As experience is gained in implementing DSM cost recovery, appropriate changes should be made to address those issues. Accordingly, the UIEC submit the following comments:

1. Self-Direction Credit Administration.

Schedule 192 provides for a Self-Direction Administrator to oversee and administer the Self-Direction Credit Schedule 192. See Original Sheet No. 192.3. The Self-Direction Administrator is to collect information on potentially Eligible Projects, determine whether such projects satisfy the Efficiency Criteria, and make determinations of eligibility for credits against the Schedule 191 surcharge for expenses incurred in undertaking self-directed DSM. As currently drafted, Schedule 192 provides that the Self-Direction Administrator shall be:

> A qualified person or entity hired or employed by the Company to administer this Self-Direction Credit Schedule 192, after consideration of recommendations from the DSM Advisory Group and other interested parties.

Original Sheet No. 192.3. Thus, according to Schedule 192, the Self-Direction Administrator may be either an independent third party, or an employee of PacifiCorp.

For several reasons, the Self-Direction Administrator should not be an employee of the Company, but should be an independent third-party. The cost of the Self-Direction Administrator is to be borne by PacifiCorp and, presumably, is one of the costs recoverable under Schedule 191. (See Exh. "A" to Stipulation). As long as the Administrator is a third-party, it is fairly straightforward to monitor the costs of the Administrator. If the Administrator is employed by the Company, on the other hand, the potential exists for co-mingling of overhead, employee, or administrative expenses that are not essential to or directly related to the Self-

Direction Administrator's duties. While the Division of Public Utilities and Committee of Consumer Services intends to closely monitor the costs of the Administrator, it would be difficult, if not impossible, to verify that PacifiCorp's stated costs did not include items of costs unrelated to the Administrator. To be certain that other costs relating to DSM or miscellaneous costs generally are not included in the costs of the Self Direction Administrator, the UIEC recommend that the Administrator be an independent third-party.

In addition to the difficulty in monitoring costs of an in-house Administrator, there is a potential for conflict of interest to arise in discharging the Administrator's duties. PacifiCorp, as a utility offering a number of demand side management programs, may perceive an advantage in implementing its own DSM programs rather than approving self-directed DSM. Although the UIEC do not contend that any in-house Administrator would intentionally reflect any bias in determining the eligibility of self-directed DSM, the potential for bias exists so long as the Administrator is an employee of PacifiCorp. Appointment of a third-party Administrator would avoid actual and potential conflicts that may be inherent in the case of an in-house Administrator.

2. <u>Percentage for Transition Credits</u>.

Schedule 192 provides that self-directed DSM projects completed prior to the date the Commission approves Schedule 192 may be eligible for a credit against expenses incurred on such projects after August 1, 2001. For these "Transition Projects," however, Schedule 192 only allows a customer to receive a fraction of what would otherwise be available to offset the Schedule 191 surcharge. For expenses incurred after the date the Commission approves Schedule 192, the customer is eligible for a credit in the amount of 80% of its eligible expenses.

For transition projects, the amount of credit is only 70% of the 80%,or a total of 56% of the customer's Eligible Expenses.

The UIEC note that the Company has received deferred accounting on DSM expenses incurred after August 1, 2001 and, presumably, will be entitled to recover 100% of all such expenses that it can demonstrate were prudently incurred for cost-effective DSM programs. As a matter of symmetry and fairness, the UIEC believe that customers who have made the investment in DSM should be able to claim credit against the surcharge for expenses incurred after August 1, 2001 in line with the credit available for expenses incurred after the date the Commission approves Schedule 192.. The UIEC do not contend that in any case, a customer should receive a credit in the amount of 100% of its eligible expenses. However, the 80% credit for current or future self-direction projects should also apply to Transition Projects. There is no justification for allowing only 70% of 80% for those expenses incurred between August 1, 2001, and the date that the Commission approves Schedule 192. The credit should be the same as it is for current self-directed DSM expenses.

3. Cost Categories.

Attached as Exhibit "A" to the Stipulation is a Schedule of Cost Categories that the Company proposes to recover under Schedule 191. Some of those cost categories may be inappropriate, including administrative support costs, advertising costs, marketing costs and others to the extent such costs are not directly related to achieving energy savings through DSM programs.

In addition, although Exhibit “A” states that all labor costs charged through Schedule 191 will be removed from general rate case proceedings, there has been no identification of such costs, nor any indication that those costs have been removed from the Company’s revenue requirement in its general rate case proceeding. Moreover, the Stipulation should not be interpreted as an indication that the parties agree that any cost is appropriate to be recovered under Schedule 191, but only that those cost categories are illustrative of the kinds of costs that may be booked into Schedule 191. The UIEC understand that a separate proceeding will be established in which the Company will be required to demonstrate that all costs sought to be recovered are directly related to approved DSM programs, that such costs were prudently incurred, and that the program for which such costs were incurred continues to be cost effective using Commission-accepted tests.

4. Load Shifting/Load Shedding Programs.

The legislative authorization for recovery of demand side management costs specifically included activities or programs that promote “more efficient management of electric energy loads.” Utah Code Ann. § 54-7-12.8. Accordingly, the UIEC support the continued analysis and development of cost-effective DSM programs designed to shift demand to off-peak periods. In addition to other programs, tariffs, or mechanisms designed to encourage load shifting or load shedding, Schedule 192 (or a similar mechanism) should be available to allow credits to individual customers who undertake to develop, implement and administer self-directed projects to shift or shed load.

Conclusion and Recommendations

The UIEC agree with the parties' statement in paragraph 5 the Stipulation that neither the Commission nor Company has any experience with a tariff rider mechanism such as that provided by Schedules 191 and 192 and that revisions to the Schedules, therefore, may be appropriate from time to time as experience is gained. While the UIEC do not presently recommend against adoption of the Stipulation, we urge caution in proceeding with the Schedules in light of the comments made above. Specifically, the UIEC request that the Commission revisit Schedules 191 and 192 prior to April 1, 2004, the effective date of Schedule 191, to consider further recommendations of the DSM Advisory Group as well as the following recommendations of the UIEC: (1) that the DSM Self-Direction Administrator be retained as a third party rather than a Company employee; (2) that credits for Transition Projects be adjusted to eighty percent of the customer's Eligible Expenses; and (3) that appropriate treatment be given to programs and measures undertaken to shed or shift load.

At the same time, the UIEC request that the Commission carefully examine in any Schedule 191 rate setting or cost recovery proceeding the costs and cost categories to ensure that such costs are prudent and that the DSM programs for which cost recovery is sought are and remain cost effective. Finally, the UIEC urge the Commission to carefully review in the context of the present general rate case, any costs that could be subject to recovery under Schedule 191 in order to avoid double recovery of any DSM-related costs.

DATED this _____ day of September, 2003.

F. ROBERT REEDER
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CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of September, 2003, I caused to be mailed, first class, postage prepaid, a true and correct copy of the foregoing **COMMENTS OF THE UTAH INDUSTRIAL ENERGY CONSUMERS** to:

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