
BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH


In the Matter of the Application of Rocky Mountain Power for Authority to Increase its Retail Electric Utility Service Rates in Utah and for Approval of its Proposed Electric Service Schedules and Electric Service Regulations

Docket No. 09-035-23
Brief on Ratemaking Authority

**SOUTHWEST ENERGY EFFICIENCY PROJECT
(SWEEP)**

SWEEP and UCE submit the following information as to the authority of the Commission to adopt a decoupling mechanism or inverted block rates as requested by the Commission in hearing on April 13, 2010.

DATED this 14th day of April, 2010.

/s/ 
Representing SWEEP

SWEEP advises the Commission that it has the authority to adopt a decoupling mechanism via Utah Code Title 54.4.4.1 which states:

54-4-4.1. Rules to govern rates.

- (1) The commission may, by rule or order, adopt any method of rate regulation that is:
 - (a) consistent with this title;
 - (b) in the public interest; and
 - (c) just and reasonable.
- (2) In accordance with Subsection (1), a method of rate regulation may include:
 - (a) rate designs utilizing:
 - (i) volumetric rate components;
 - (ii) demand rate components;
 - (iii) fixed rate components; and
 - (iv) variable rate components;
 - (b) rate stabilization methods;
 - (c) decoupling methods;
 - (d) incentive-based mechanisms; and
 - (e) other components, methods, or mechanisms approved by the commission.

It also has the authority to institute inverted block rate designs which may not fully reflect marginal costs. As noted in its December 16, 2009 Order in Docket No. 08-999-05, “The 2007 Energy Independence and Security Act (“2007 EISA”), signed into law on December 19, 2007, amended the Public Utilities Regulatory Policies Act (“PURPA”) by adding the following four new standards to Title 1 Subtitle B of PURPA. One of those standards was rate design, Standard 17.

Section 532 of the 2007 EISA amended Section 111(d) of PURPA and U.S.C. §2621(d) by adding the following standard:

- 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 one of the goals of retail rate 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 Commission found legislative support for this standard, in particular its finding on page 11 of its December 16, 2009 Order:

“Also, we find legislative support for the purposes of PURPA applicable to the Rate Design Standard in the form of recent revisions to Utah Code 54-4-4.1 by 2009 Senate Bill 75, 2009 HJR 9, and Utah Code Utah Code 54-3-1. Utah Code 54-4-4.1 now allows the Commission to adopt any method of rate regulation that is: consistent with Utah Code Title 54, in the public interest, and just and reasonable. Accordingly, methods of rate regulation may include: rate designs utilizing volumetric, demand, fixed rate, and variable rate components; rate stabilization methods; decoupling methods; incentive-based mechanisms; and other components, methods, or mechanisms approved by the commission.”

In addition, the Commission should recall its final determination on page 13 of its

“NOW, THEREFORE, IT IS HEREBY determined Utah Law, existing and ongoing Commission orders on DSM, DSM cost recovery, and DSM education, and HJR 9 are equal to and comparable with the intent of the PURPA Rate Design Standard...”

Finally we note in Utah Code title 54.3.1:

“All charges made, demanded or received by any public utility, or by any two or more public utilities, for any product or commodity furnished or to be furnished, or for any service rendered or to be rendered, shall be just and reasonable.”... “The scope of definition "just and reasonable" may include, but shall not be limited to, the cost of providing service to each category of customer, economic impact of charges on each category of customer, and on the well-being of the state of Utah; methods of reducing wide periodic variations in demand of such products,

commodities or services, and means of encouraging conservation of resources and energy.

Thus the Commission may include, but is not required to include the cost of providing service to each category of customer. This relieves the Commission from making a finding that the rate in any particular tier is equal to marginal costs, in fact the Commission will be unable to make such a finding and maintain just and reasonable rates because the Company in that instance will be over earning. The Commission can cite its authority for setting rates that are just and reasonable the means of encouraging conservation of resources and energy.