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DEPARTMENT OF COMMERCE  
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To: The Public Service Commission of Utah

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Artie Powell, Energy Section Manager  
Parties of record

Date: August 18, 2009

Subject: In the Matter of Rocky Mountain Power's Advice No. 09-08, Schedule 193 – Demand Side Management (DSM) Cost Adjustment. Docket No. 09-035-T08 Phase II

In accordance with the Public Service Commission's (Commission) July 28, 2009 Scheduling Order the Office of Consumer Services (Office) provides its recommended Phase II Scope of future proceedings in this docket.

**Issues to be Addressed in Phase II**

Cost effective Demand Side Management (DSM) benefits the participating consumer who implements energy efficiency measures and benefits all consumers, including non-participating, through the overall reduction in energy use. Each party to this docket has stated its support for the acquisition of cost-effective DSM. There also appears to be widespread understanding that unanticipated, significant increases in DSM tariff rates can be difficult for customers to accept especially without sufficient time to plan and budget for increases. Therefore, given that the value of cost effective DSM and the unanticipated significant cost increases may be difficult for customers to reconcile, the Office recommends that Phase II of this docket should examine the preferred rate of acquisition of the DSM resources, as well as how the costs are recovered.

On the one hand, the Office supports maximizing the acquisition of cost-effective DSM, especially given that in many (if not all) cases it is the absolute least cost resource available. On the other hand, when the rate impacts of DSM acquisition begin to be as

large as or larger than those attributable to acquiring new supply-side resources, the Office believes that it is appropriate to examine the DSM funding and planning mechanisms to minimize rate shocks and to ensure continued customer support for the programs. In the stipulation reached in Phase I of this process, Rocky Mountain Power (Company) agreed to provide information about the spending levels and budgets to the DSM Advisory Group at least twice a year. This agreement should help to provide more frequent and current information about the DSM costs and programs. Other process improvements involving the DSM Advisory Group, such as more frequent and regular meetings, may also be necessary to prevent future rate shock and maintain stakeholder confidence in the programs. Other potential measures that could be examined include requirements for advance notice for any DSM rider rate change, limits to the level of rate increases of the DSM rider, and examination of cost recovery over a longer period of time or other changes to the cost recovery mechanism<sup>1</sup>. The funding mechanisms and rate of acquisition should be designed to maximize the acquisition of cost-effective DSM resources while giving appropriate consideration to rate stability, as both are necessary elements for continued success of the program.

### **Cost Effectiveness and Prudence Review**

Some parties have suggested that the Commission should review the cost effectiveness and prudence of existing DSM. The Office opposes the inclusion of such a review within this docket in any manner. While the Office acknowledges that cost effectiveness of DSM programs and prudence of all utility spending are always important and ongoing issues, in this case the issues have already been well examined and established. In addition to the study and discussions done at the DSM Advisory Group level, cost effectiveness of each program has been presented to the Commission along with its request for approval. Further, the cost-effectiveness tests were recently and extensively studied in Docket No. 09-035-27. Interested parties presented their views and made recommendations to the Company, which were included in a report filed with the Commission earlier this year. Despite the nearly contemporaneous timing, none of the cost effectiveness concerns presented in this docket were raised in 09-035-27, a docket specifically addressing that topic. It would be an inefficient use of resources to require a complete review of cost effectiveness just because some parties chose not to participate in the earlier proceedings.

If any party believes that changed circumstances may render a current DSM program no longer cost-effective or has new or additional information that raises questions about the cost effectiveness analysis, it has the ability to present its conclusions to the DSM Advisory Group for consideration. Alternatively, or if such party is not satisfied with the results from the DSM Advisory Group, that party would be free to present its evidence regarding cost effectiveness to the Commission and request that a program be modified or eliminated. In such a circumstance, the burden of proof would clearly lie with the

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<sup>1</sup>The Office raises these potential issues merely as examples of the mechanisms that could be examined without advocating for any of them. At this time, the Office takes no specific position on specific changes.

petitioner and responses from other parties should be scheduled after the fully supported request has been made and allowing for adequate time for discovery and analysis.

### **Other Issues and Burden of Proof**

Parties have suggested a number of additional items for inclusion in this docket some of which we oppose, and others on which we believe agreement may be possible through consideration in the DSM Advisory Group. An example of these issues is the request to modify the self-direct tariff. Such issues will likely require either a new or modified tariff, and should begin through discussion in the DSM Advisory Group or with the filing of a specific proposal.<sup>2</sup>

It is not our intent to suggest that any party does not have the right to bring forth issues it believes are important; however, the appropriate process should be followed. This docket should not be used as a “catch-all” for every DSM related (or somewhat related) concern. The Commission should not allow the vague suggestions of parties to result in full investigations or even several rounds of testimony. If any of these other issues are to be pursued, they should be separately docketed and begin with the submission of a fully supported and specific request, either for a tariff change or other specifically identifiable agency action. To require all parties to submit testimony simultaneously without full knowledge of the proposals being examined would only result in chaos and could not fulfill the public interest.

### **Summary of Recommendations**

The Office recommends that Phase II include an examination of the appropriate funding mechanisms and rate of acquisition for new DSM resources to maximize the acquisition of cost effective DSM while also giving appropriate consideration to rate stability.

The Office also recommends that the Commission clearly state that the burden of proof is with the petitioner on other related DSM issues and only schedule them if and when a fully supported request has been submitted.

Finally, the Office respectfully requests that the Commission issue its order on the scope of issues to be addressed prior to the scheduling conference on September 9, 2009. Without knowing the full scope of issues it will be difficult to determine the appropriate schedule both for number of rounds of testimony and the time required to fully address all issues.

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<sup>2</sup> UIEC mistakenly asserts that the Carbon Emissions Reductions Act permits industrial consumers to opt-out of or opt-in to DSM tariff programs. The Commission is authorized to regulate electric energy efficiency and conservation programs adopted through tariffs (Utah Code Section 54-7-12.8) or implemented by energy users under the Act. The implementation of both statutes is plainly subject to Commission determined criteria, conditions and limits.