

**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

IN THE MATTER OF THE APROVAL OF )  
ROCKY MOUNTAIN POWER’S ADVICE NO. )  
09-08 SCHEDULE 193 – DEMAND SIDE ) Docket No. 09-035-T08  
MANAGEMENT (DSM) COST ADJUSTMENT )

Proposals for Scope of the Phase II Proceeding

**Howard Geller and Sarah Wright**

**Southwest Energy Efficiency Project (SWEEP)**

and

**Utah Clean Energy (UCE)**

August 18, 2009

1. The Southwest Energy Efficiency Project (SWEEP) is a private not-for-profit organization that works to advance energy efficiency in six states including Utah. Utah Clean Energy (UCE) is a private not-for-profit organization that advances clean renewable sources of energy and greater energy efficiency in Utah.

2. The main purpose of our comments is to bring to the attention of the Commission the issues in the Joint Resolution on Cost-Effective Energy Efficiency and Utility Demand-Side Management (H.J.R. 9) adopted by the Utah Legislature in March, 2009 and its relevance to the scope of this docket. In our view, this is an appropriate proceeding to address the issues and policies related to demand-side management (DSM) supported by the Legislature in this Resolution. Given the stated interest of the state's elected officials in these issues, we urge the Public Service Commission (Commission) to make them a prominent focus of this proceeding. H.J.R. 9 is attached to these comments. In addition, we raise some issues that are addressed in recent federal legislation, as well as comment on additional issues that we believe are not appropriate to include in this docket.

3. H.J.R. 9 states that: "the Legislature of the state of Utah urges state and local governments, electrical corporations, natural gas utility corporations, rural electric cooperatives, and municipal utilities to work together to recognize energy efficiency as a priority resource and to promote and encourage all available cost-effective energy efficiency and conservation; the Legislature expresses support for cost-effective energy efficiency and load management programs for customers of Rocky Mountain Power and the setting of an electricity savings goal through a regulatory process that includes Rocky Mountain Power, utility regulators, utility customers, and other interested parties, designed to reduce projected electrical sales by an amount equal to not less than 1% of its

annual retail sales and that do not penalize the utility if it fails to meet the savings goals so long as it makes a good faith effort to meet the goals.” Based on this language, SWEEP and UCE recommend that the Commission examine what energy savings goal is appropriate and then establish an energy savings goal (or goals) for RMP as part of this proceeding. As stated in the resolution, the goal should be not less than 1% of annual retail sales from DSM programs implemented each year.

4. H.J.R. 9 also states: “WHEREAS, if electrical corporations and natural gas utility corporations lose revenues when they help their customers save energy, it could create a disincentive for the utility to achieve all cost-effective energy efficiency; and WHEREAS the Public Service Commission may approve regulatory mechanisms which remove utility disincentives to efficiency and conservation provided they result in just and reasonable rates.” The resolution goes on to say: “the Legislature expresses support for regulatory mechanisms, which might include performance-based incentives, decoupling fixed cost recovery from sales volume, and other innovative rate designs intended to help remove utility disincentives and create incentives to efficiency and conservation so long as these mechanisms are found to be in the public interest.” Based on this language, SWEEP and UCE recommend that the Commission consider whether or not RMP suffers adverse financial impacts when it implements effective energy efficiency programs for its customers. If the Commission finds that adverse impacts do exist, SWEEP and UCE further recommends that the Commission consider what remedies are appropriate for removing these disincentives including performance-based incentives and decoupling of fixed cost recovery and sales volume as mentioned in H.J.R. 9.

5. Turning to the question of recent federal legislation and its implication for DSM policies and programs in Utah and other states, Section 410 of the American Recovery and Reinvestment Act (ARRA) includes two requirements for states that receive supplemental state energy grants. Former Governor Huntsman certified that these requirements will be met in Utah, and Utah has begun receiving ARRA funds for state energy programs. One of these requirements states, “The applicable State regulatory authority will seek to implement, in appropriate proceedings for each electric and gas utility, with respect to which the State regulatory authority has ratemaking authority, a general policy that ensures that utility financial incentives are aligned with helping their customers use energy more efficiently and that provide timely cost recovery and a timely earnings opportunity for utilities associated with cost-effective measurable and verifiable efficiency savings, in a way that sustains or enhances utility customers’ incentives to use energy more efficiently.” This language in federal law provides further justification for the Commission examining RMP’s financial incentives (and disincentives) for implementing customer efficiency programs, for ensuring that RMP receives timely cost recovery for its DSM expenditures, and for considering how best to provide RMP with an opportunity to earn a profit on its investment in cost-effective energy efficiency (DSM) programs.

6. SWEEP and UCE also note that RMP’s programs and DSM budget have grown significantly in recent years. While the programmatic and regulatory details are vital, it is also helpful in our view to step back from the details and examine the overall level of participation, the level of energy savings and peak demand reduction now occurring as result of these programs, the overall costs and benefits, the equity of the programs across different customer classes, and the broader non-energy impacts of

RMP's programs over an extended period of time, say over the past seven years since the DSM tariff rider mechanism was first enacted. This will provide a broader understanding of the contribution that DSM has made in Utah and a context for considering what DSM policies if any should be revised as the DSM programs evolve and move forward.

7. There are two issues that SWEEP and UCE believe should not be addressed in this specific docket. The first issue is the question of which cost effectiveness tests that should be applied, and how they should be applied, to evaluate whether or not potential DSM programs are cost effective in Utah. These issues are being addressed at the present time in a separate docket, Docket No. 09-035-27 opened by the Commission. Considering them again in this docket would be duplicative and would unnecessarily expand the scope of this docket.

8. The second issue that we believe should not be addressed in this docket is the consideration of spending caps on approved DSM programs. Adopting spending caps would limit RMP's ability to acquire cost-effective DSM resources, which in turn would reduce net economic benefits to customers and increase the need for more acquisition of more costly supply-side resources. Adopting spending caps runs counter to the Joint Resolution adopted by the Legislature which states that electric utilities should promote and encourage all available, cost-effective energy efficiency and conservation. It is also counter to PURPA 111(d) Standard 16 B from the Federal Energy Independence and Security Act of 2007 (EISA)

*(16) INTEGRATED RESOURCE PLANNING - Each electric utility shall  
(B) adopt policies establishing cost-effective energy efficiency as  
a priority resource.*

And it would make it more difficult for the state to implement all cost-effective energy efficiency in Utah in accordance with the Utah Policy to Advance Energy Efficiency in the State<sup>1</sup> and Utah's State Energy Policy<sup>2</sup>. For these reasons, we believe that adopting spending caps on cost-effective DSM programs are not desirable and should not be considered by the Commission.

---

<sup>1</sup> Utah Policy to Advance Energy Efficiency in the State (2009), Url: [http://energy.utah.gov/energy/governors\\_priorities/utah\\_policy\\_to\\_advance\\_energy\\_efficiency\\_in\\_the\\_state.html](http://energy.utah.gov/energy/governors_priorities/utah_policy_to_advance_energy_efficiency_in_the_state.html)

<sup>2</sup> State Energy Policy (2009), url: [http://energy.utah.gov/energy/state\\_energy\\_policy.html](http://energy.utah.gov/energy/state_energy_policy.html)

**CERTIFICATE OF SERVICE**

I hereby certify that on this 3<sup>rd</sup> day of August, 2009, I caused to be emailed a true and correct copy of the foregoing **Scope recommendations for PHASE II – RECOVERY OF THE BALANCE IN THE DEMAND-SIDE MANAGEMENT DEFERRED ACCOUNT AND THE COMPANY’S FORECAST OF FUTURE DSM EXPENDITURES** in Docket No. 09-035-T08 to the following:

<p>F. Robert Reeder William J. Evans Vicki M. Baldwin Parsons Behle &amp;, Latimer 201 South Main Street, Suite 1800 Salt Lake City, Utah 84111 <a href="mailto:FRReeder@parsonsbehle.com">FRReeder@parsonsbehle.com</a> <a href="mailto:bevans@parsonsbehle.com">bevans@parsonsbehle.com</a> <a href="mailto:vbaldwin@parsonsbehle.com">vbaldwin@parsonsbehle.com</a></p>	<p>Michele Beck Cheryl Murray Office of Consumer Services 160 East 300 South, 2<sup>nd</sup> Floor Salt Lake City, UT 84111 <a href="mailto:cmurray@utah.gov">cmurray@utah.gov</a> <a href="mailto:mbeck@utah.gov">mbeck@utah.gov</a></p>
<p>Paul Proctor Utah Office of Consumer Services Heber M. Wells Bldg., Fifth Floor 160 East 300 South Salt Lake City, UT 84111 <a href="mailto:pproctor@utah.gov">pproctor@utah.gov</a></p>	<p>Gary A. Dodge Hatch James &amp; Dodge 10 West Broadway, Suite 400 Salt Lake City, UT 84101 <a href="mailto:gdodge@hjdllaw.com">gdodge@hjdllaw.com</a></p>
<p>Philip Powlick William Powell Division of Public Utilities Heber M. Wells Building 160 East 300 South, 4<sup>th</sup> Floor Salt Lake City, UT 84111 <a href="mailto:wpowell@utah.gov">wpowell@utah.gov</a> <a href="mailto:philippowlick@utah.gov">philippowlick@utah.gov</a></p>	<p>Michael Ginsberg Patricia Schmid Assistant Attorney General Utah Division of Public Utilities Heber M. Wells Bldg., Fifth Floor 160 East 300 South Salt Lake City, UT 84111 <a href="mailto:mginsberg@utah.gov">mginsberg@utah.gov</a> <a href="mailto:pschmid@utah.gov">pschmid@utah.gov</a></p>
<p>Lowry Brown Western Resource Advocates 2260 Baseline Rd., Suite 200 Boulder CO 80302-7740 <a href="mailto:lbrown@westernresources.org">lbrown@westernresources.org</a></p>	<p>Betsy Wolf Salt Lake Community Action Program 764 South 200 West Salt Lake City, Utah 84101 <a href="mailto:bwolf@slcap.org">bwolf@slcap.org</a></p>

<p>Sarah Wright                  Executive Director                  Utah Clean Energy                  1014 2nd Avenue                  Salt Lake City, UT 84103  <a href="mailto:sarah@utahcleanenergy.org">sarah@utahcleanenergy.org</a>  <a href="mailto:kevin@utahcleanenergy.org">kevin@utahcleanenergy.org</a></p>	<p>Steven S. Michel                  Western Resource Advocates                  2025 Senda de Andres                  Santa Fe, NM 87501  <a href="mailto:smichel@westernresources.org">smichel@westernresources.org</a>  <a href="mailto:nkelly@westernresources.org">nkelly@westernresources.org</a></p>
<p>Holly Rachel Smith, Esq.                  Russell W. Ray, PLLC                  6212-A Old Franconia Road                  Alexandria, VA 22310  <a href="mailto:holly@raysmithlaw.com">holly@raysmithlaw.com</a></p>	<p>Steve W. Chriss                  Wal-Mart Stores, Inc.                  2001 SE 10th Street                  Bentonville, AR 72716-0550  <a href="mailto:stephen.chriss@wal-mart.com">stephen.chriss@wal-mart.com</a></p>
<p>Howard Geller                  Executive Director                  Southwest Energy Efficiency Project                  (SWEEP)                  2260 Baseline Rd. #212                  Boulder, CO 80302  <a href="mailto:hgeller@swenergy.org">hgeller@swenergy.org</a></p>	<p>Mark C. Moench                  Jeffrey K. Larsen                  Carol Hunter                  David L. Taylor                  Jeff Bumgarner                  Daniel Solander                  Aaron Lively                  Rocky Mountain Power                  201 S. Main Street, Suite 2300                  Salt Lake City, UT 84111  <a href="mailto:mark.moench@pacificorp.com">mark.moench@pacificorp.com</a>  <a href="mailto:jeff.larsen@pacificorp.com">jeff.larsen@pacificorp.com</a>  <a href="mailto:carol.hunter@pacificorp.com">carol.hunter@pacificorp.com</a>  <a href="mailto:dave.taylor@pacificorp.com">dave.taylor@pacificorp.com</a>  <a href="mailto:jeff.bumgarner@pacificorp.com">jeff.bumgarner@pacificorp.com</a>  <a href="mailto:daniel.solander@pacificorp.com">daniel.solander@pacificorp.com</a>  <a href="mailto:aaron.lively@pacificorp.com">aaron.lively@pacificorp.com</a></p>