

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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In the Matter of the Advice Filing 09-13 of )  
PacifiCorp d/b/a Rocky Mountain Power for )  
Proposed Flexible Tariff Format for Schedule )  
111 – Home Energy Savings Program ) DOCKET NO. 09-035-T13  
 ) ORDER APPROVING TARIFF WITH  
 ) MODIFICATION  
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ISSUED: August 27, 2009

By The Commission:

On August 4, 2009, PacifiCorp d/b/a Rocky Mountain Power (“Company”) submitted Advice No. 09-13 proposing modifications to Schedule No. 111 – Home Energy Savings Program (“Program”) to implement a flexible tariff format for administering the Program. The tariff filing fulfills part of an agreement reached by parties and submitted to the Commission in Docket No. 09-035-T08. The proposed tariff modifications would change the existing tariff language with the intent to allow the Company to react quickly to the changing market conditions which impact the Program by changing the process whereby tariff modifications are reviewed and approved. Specifically the Company proposes switching from a formal tariff approval process to a notification process, which assumes a default approval on a date certain 45 days after notification, unless the Commission actively denies the proposed changes. The Company requests an effective date for these changes of September 1, 2009.

The Division of Public Utilities (“Division”) and the Office of Consumer Services (“OCS”) filed memoranda, dated August 25, 2009, recommending the Commission approve the proposed changes. Considerable discussion of the merits of a flexible tariff-format form of administration appears to have taken place in the Demand Side Management (“DSM”) Advisory

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Group and among the parties in Docket No. 09-035-T08. The Commission recognizes a potential benefit exists in allowing the Company to propose and implement changes to incentive levels quickly when unexpected outcomes begin to occur, such as with the response to the insulation incentives in the latter part of 2008 and the first half of 2009. We note however, that in the dockets which addressed lowering the insulation incentive levels for PacifiCorp and Questar, both the Division and the OCS urged the Commission to adopt a longer implementation schedule than either PacifiCorp or Questar had requested, and proposed different incentives than PacifiCorp.

In examining the Company's request, our primary concerns are that: 1) An adequate regulatory review and final action occur; and, 2) a regulatory record and sufficient public information exist at the Commission to fulfill public information requirements. *See*, Utah Code §§54-7-12 and 54-3-2. We find the process outlined in the tariff sheets is inadequate to fully address either of these concerns. However, we expect the intent of the filing can be accommodated with relatively minor modifications to the proposed tariff administration. The primary change we require is for the Company to submit, at the start of the 45-day period, a full tariff change filing which contains proposed changes to tariffs, all incentive, price, or rate changes, supporting rationale, and complete information regarding the deemed cost-benefit test results of the proposed tariff changes. Without this type and level of information, it is impossible for the Commission to make an informed decision whether the proposed changes are in the public interest. We conclude the Company must file the proposed changes and information in order for a sufficient record to exist for a regulatory review. Additionally, rate changes require some conscious action from the Commission in order to become effective; the

Commission can not abdicate its responsibilities to examine proposed changes in terms and conditions and determine whether or not the proposed changes are in the public interest. We conclude a provision in the proposed flexible tariff format which by default removes the requirement of affirmative Commission approval from the process is unacceptable.

Regarding the second area of concern, the Commission must be able to determine from the filings and records it retains what the current programs are as implemented by the Company. Allowing what may well be the most significant attributes of the program (in the minds of potential participants) to be solely available through Company sources is not consistent with Utah law. The Commission must have full and complete program information on hand in its own records to be able to fulfill public information requirements. While the Company is certainly free to advertise proposed changes and utilize whatever internal and external review processes it desires, the Commission must have the ability to reference current tariffs, including the details of program administrative practices and incentive levels. Utah statute requires such information to be filed with the Commission and available to the public through the Commission.

Based upon the pleadings filed herein, the stipulation and attachments (including the demonstrative flowchart) and the information given at the August 20, 2009, hearing in Docket No. 09-035-T08, we approve the proposed changes to Schedule No. 111 filed by the Company on August 4, 2009, subject to modification of the tariff sheets to address the Commission's concerns described in this Order. Specifically, we find a complete tariff change filing is required at the time of the Company's notification of proposed incentive or program changes at the start of the 45-day time period. The tariff change filing must include cost-benefit

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test analyses and results, identification of all incentive level changes, and any other proposed language changes. The affirmative action taken by the Commission in approving a proposed change can set an effective date that ensures the changes become effective at the 45-day mark as contemplated in the tariff proposal and the process flowchart presented in Docket No. 09-035-T08. The effective date given by the Commission can be consistent with the Company web site notifications relative to the proposed program changes. *See*, Utah Code §54-7-10.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Company's proposed changes to Schedule No. 111, filed August 4, 2009, as modified by this order, are approved effective September 1, 2009.
2. The Company shall file revised tariffs sheets to reflect the decisions in this Order.
3. The Division shall review the revised tariff sheets for compliance with this Order.

This Report and Order constitutes final agency action in this docket. Pursuant to Utah Code Ann. §§ 63-46b-12 and 54-7-15, agency review or rehearing of this order may be obtained by filing a request for review or rehearing with the Commission within 30 days after the issuance of the order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply with the requirements of Utah Code Ann. §§ 63-46b-14, 63-46b-16 and the Utah Rules of Appellate Procedure.

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DATED at Salt Lake City, Utah, this 27<sup>th</sup> day of August, 2009.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard  
Commission Secretary  
G#63371