

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of a Request for Agency Action)
for Creation of a DSM Steering Committee) DOCKET NO. 12-035-69
for DSM Issues involving Sensitive,)
Confidential or Proprietary Information or) REPORT AND ORDER
Settlement Negotiations)

ISSUED: May 23, 2012

By The Commission:

On March 16, 2012, PacifiCorp (“Company”), d/b/a Rocky Mountain Power, filed a Request for Agency Action (“Request”) along with the Division of Public Utilities (“Division”), the Office of Consumer Services (“Office”), the Utah Association of Energy Users (“UAE”), Utah Clean Energy (“UCE”), Western Resource Advocates (“WRA”), and Southwest Energy Efficiency Project (“SWEEP”) (collectively known as the “Parties”). Specifically, the Parties request Commission approval to create a DSM Steering Committee for purposes of receiving input on demand-side management (“DSM”) issues involving sensitive, confidential or proprietary information as well as for settlement negotiations.

On March 22, 2012, the Commission issued an Action Request to the Division for a review of the issues to be addressed in the Request. Also on March 22, 2012, the Division filed a memorandum recommending the Commission hold a scheduling conference to establish appropriate procedures and timelines for Commission consideration of the Request. On March 29, 2012, the Commission held a duly noticed technical and scheduling conference to receive parties’ recommendations concerning further evaluation of the Request and to establish a schedule for comments. On March 30, 2012, the Commission issued a Notice of Opportunity to

Comment on the Request setting initial comments due on May 4, 2012, and responsive comments due May 18, 2012. On April 19, 2012, and May 4, 2012, the Commission received comments from the Utah Office of Energy Development (“OED”) and the Salt Lake Community Action Program (“SLCAP”), respectively. No responsive comments were filed.

DISCUSSION

The Parties express concern the DSM Advisory Group has grown significantly in membership and scope in recent years. Because of the size and diversity of the DSM Advisory Group, the Parties argue this has at times compromised its effectiveness as a tool for substantive analysis, negotiations, and recommendations on certain DSM tariffs and issues. The Parties contend this problem is particularly acute given the need to regularly discuss proprietary, sensitive or confidential information in the review of proposed DSM program changes, proposed terms of contracts with potential vendors, or in the settlement of disputed DSM issues. Parties also express concern some DSM Advisory Group members may have financial interests and could inappropriately benefit from the sensitive, confidential or proprietary information frequently exchanged in discussions of DSM programs, program changes, and related contracts. There are also others who cannot participate in settlement negotiations regarding DSM issues that might come before the Commission for resolution. Because of this, Parties argue it is often difficult to conduct in-depth analysis of specific programs and proposed program changes, and to conduct meaningful settlement negotiations within the larger DSM Advisory Group. Another consequence, according to the Parties, is that some issues may have been unnecessarily contested before the Commission.

The Request references the settlement recently approved by the Commission in Docket No. 11-035-T14¹ and includes the same group of signatories to the January 13, 2012, settlement agreement in that docket which constitutes the Parties in the Request. In that settlement, the Parties agreed to participate in good faith discussions intended to identify potential modifications to the DSM advisory process, including the structure and efficacy of the DSM Advisory Group and its subcommittees. According to the Parties, this Request is a result of the discussions contemplated in that settlement stipulation.

Within the Request, Parties recommend the DSM Advisory Group continue to schedule periodic meetings as needed to solicit input, receive suggestions, and facilitate general discussions of DSM programs and issues, as appropriate. The Parties represent that the DSM Advisory Group as now constituted would continue to meet semi-annually to permit general discussions and analyses of DSM program results, new or revised DSM programs, and other DSM issues of general concern.

Parties recommend creation of a smaller DSM Steering Committee to discuss sensitive, confidential or proprietary information or, when settlement negotiations are warranted, to address pending or anticipated disputes relating to DSM programs and issues. According to the Parties, the DSM Steering Committee should meet, in person or electronically, at least quarterly, and more often as requested by the Company or by a majority of DSM Steering Committee members. To the extent appropriate, and consistent with confidentiality and other

¹Docket No. 11-035-T14, "In the Matter of Advice No. 11-13 of Rocky Mountain Power for Approval a Proposed Reduction to the Schedule 193 (the "DSM Surcharge") Collection Rate Tariff Sheets."

concerns, the Parties recommend the DSM Steering Committee provide periodic reports to the DSM Advisory Group and to the Commission.

DSM Steering Committee membership, according to the Request, should be limited to those who can: 1) commit to active participation; 2) properly receive sensitive, confidential and proprietary information; and 3) engage in settlement discussions. The Request recommends limiting total membership to a maximum of twelve members who are able and willing to sign a Confidentiality Agreement enforceable by the Commission. DSM Steering Committee members will be required to verify that in the course of performing normal job functions, they are not in a position to utilize confidential, proprietary or sensitive information to the competitive disadvantage of the Company or its customers. As indicated above, each DSM Steering Committee member should also be able and willing to participate in confidential settlement discussions regarding disputed DSM issues.

The Parties request the DSM Steering Committee initially be made up of a representative assigned by each of the Parties to this Request. New members meeting requirements outlined in the Request may be eligible to be added upon request, with the affirmative vote of a majority of then-current DSM Steering Committee members or by Commission order, provided the total Steering Committee membership does not exceed twelve members.

PARTY COMMENTS

OED supports the approval of the DSM Steering Committee as proposed in the Request. The OED contends it meets the Request requirements set forth in section IV paragraph 10 regarding DSM Steering Committee Membership. If approved, OED requests

it become a Steering Committee Member under the process outlined in section IV paragraph 11 of the Request.

SLCAP also recommends the Commission approve the Request. SLCAP supports the concepts embodied in the Request as a means of effectively facilitating pursuit of cost effective DSM. SLCAP contends it is necessary to maintain the DSM Advisory Group along with the proposed DSM Steering Committee. SLCAP also argues it is willing and able to meet Request requirements for membership and requests it be included as a member of the DSM Steering Committee.

FINDINGS AND CONCLUSION

Based on the uncontroverted claims represented by the Parties, and for good cause shown, we find it reasonable to create a DSM Steering Committee as discussed in the Request. No party opposes the inclusion of OED or SLCAP. We note both these parties or their predecessors have historically participated in utility sponsored DSM issues before the Commission. Therefore, we direct the Parties to include a representative from these two entities on the DSM Steering Committee.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that:

1. The Request for Agency Action for creation of a DSM Steering Committee, including the direction discussed herein is approved.

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DATED at Salt Lake City, Utah, this 23rd day of May, 2012.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Gary L. Widerburg
Commission Secretary
D#226223

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 23rd day of May, 2012, a true and correct copy of the foregoing Report and Order was served upon the following as indicated below:

By Electronic-Mail:

David L. Taylor (dave.taylor@pacificorp.com)
Rocky Mountain Power

Data Request Response Center (datarequest@pacificorp.com)
PacifiCorp

Betsy Wolf (bwolf@slcap.org)
Salt Lake Community Action Program

By Hand-Delivery:

Division of Public Utilities
160 East 300 South, 4th Floor
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Office of Consumer Services
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Administrative Assistant