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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of Rocky Mountain Power for Approval to Cancel Schedule 194

DOCKET NO. 13-035-136

COMVERGE, INC.'S
REPLY COMMENTS

Pursuant to the Notice of Filing, Comment Period and Hearing issued by the Public Service Commission of Utah (“Commission”) on August 20, 2013 in the above referenced docket, Comverge, Inc. (“Comverge”) hereby files the following reply comments:

1. PacifiCorp’s Application.

On August 14, 2013, Rocky Mountain Power, a division of PacifiCorp (“PacifiCorp”) filed an Application for approval to cancel Schedule 194 – Demand Side Management Cost Adjustment in order to fund improvements to Electric Service Schedule 113 – Air Conditioner Direct Load Control Program, also known as Cool Keeper.

2. Comments.

Pursuant to the Commission Notice of Comment Period, the Utah Division of Public Utilities (“Division”) filed Comments in the above-referenced proceeding. After reviewing the history of Schedule 194 and PacifiCorp’s RFP, the Division stated that it was “satisfied” that PacifiCorp had conducted a competitive RFP and carefully evaluated the bids. The Division’s Comments stated:

This endorsement of the Company's RFP process should not be misconstrued or interpreted as a recommendation of approval for either Company's choice of a final winning bid or the unknown costs associated with the new contract. These decisions are subject to future review when the Company files for cost recovery.

Division Comments, page 5.

The Division recommends that if PacifiCorp's actions or expenditures are deemed imprudent, the Commission will need to determine which funds to appropriately return to customers or which costs to disallow. See Division Comments, page 6.

The Office of Consumer Services ("Office") stated in its Comments that:

Although we support cancelation of Schedule 194 it is important to note that the Company has not requested and the Office is not recommending any changes to the Cool Keeper program at this time.

Office Comments, page 2.

Utah Clean Energy filed Comments supporting PacifiCorp's reasons for selecting a two-way communicating load control system. See Utah Clean Energy Comments, page 2.

Comverge also filed Comments in the above-referenced docket on August 29, 2013.

3. PacifiCorp – Does Not Intend to Ask for Commission Approval of Contract.

On August 8, 2013, counsel for PacifiCorp informed Comverge that PacifiCorp would request approval of the contract PacifiCorp enters into to provide a new load control system. On September 4, 2013, counsel for PacifiCorp informed Comverge that they did not intend to request Commission approval for any contract relating to the new load control system and that the only Commission approval sought would be this docket to cancel Schedule 194.

4. PacifiCorp's Analysis Intentionally Ignores a Critical Component of the Transition.

PacifiCorp is intentionally ignoring a critical component of any transition from the use of one load control asset to another - shut down costs, or disposal costs of the original asset. The original agreement between Comverge and PacifiCorp never envisioned a scenario that PacifiCorp would stop using a fully functioning load control system. The agreement addresses contract renewal and in-term termination, but is silent on end-of-term termination, clearly a sign that abandonment of a functioning system was never considered (nor believed to be a prudent approach). Similar to a power plant, if PacifiCorp is no longer going to use the system, disposition of the current asset must be considered in the analysis of a replacement system. The costs and risks of leaving the current system standing are too great to ignore.

5. Commission's Only Opportunity to Review PacifiCorp's Decision.

This docket presents the Commission's only opportunity to review PacifiCorp's decision to purchase a new load control system. Although the Division recommends that costs and expenditures under the new contract be monitored, there will be nothing to compare the contract with because the opportunity to utilize the Comverge system will be eliminated at that time. A meaningful adjustment to cost recovery in the future is unrealistic.

6. Comparison of Winning Proposal to Comverge.

Comverge urges Commission to review PacifiCorp's selected bid in relationship to Comverge's proposals. One must wonder why PacifiCorp is so reluctant to bring the selected bid forward to allow the Commission to review the costs in relationship to the Comverge system which has millions of dollars of assets already installed on air conditioning units on over 124,000

homes in Utah. Perhaps PacifiCorp is concerned that their decision is flawed and cannot be supported upon review by the Commission.

For example, PacifiCorp has elected to analyze the bids including a 50/50 weighting of technical and pricing terms. See Division Comments, page 5. What occurs if the weighting is changed to 40/60 or 30/70? It is amazing what can be proven if your assumptions change. Comverge's system is very reliable and working well. See Comverge Comments, page 5.

It would appear that PacifiCorp desires to purchase a shiny new product, like a new Mercedes Benz with all of the bells and whistles, when the reliable product, Comverge's load control system, is available like the Honda that is still functioning very well. PacifiCorp requests that rate payers fund the shiny new purchase. To analyze these cost differences at a later time is unrealistic.

7. Solicitation Process.

Because PacifiCorp's RFP for a load control system replaces the need for new generation capacity, is over 100 megawatts, and is for a term of 10 years or more, the Commission should require PacifiCorp to follow the process set forth in Utah Code Ann. §54-17-101 et seq. which includes an independent evaluator to monitor any solicitation of bids. This would add fairness to the process and reduce the concern of participants.

8. Liability Issues – Still Not Resolved.

The Comments from the Division, Office and Utah Clean Energy did not address the liability issues set forth in Comverge's Comments. Again these issues must be addressed by the Commission in PacifiCorp's Application.

a. Comverge's assets include the direct load control devices installed at approximately 124,000 homes, other hardware, software, contractual obligations and potentially

other pieces. PacifiCorp does not have the right to remove or in any way interfere with these assets.

b. The Comverge load control devices are physically attached to the outside of the house and electrically attached to the air conditioner compressor, which is typically the highest single electric load in any residence.

c. Long-term abandonment also puts risk on customers from issues such as unqualified air conditioner repairs, customer apathy toward maintaining the shrubbery and other wildlife around the device, and other physical risks.

9. PacifiCorp's Application – Not in Public Interest.

PacifiCorp's decision to transition to a new direct load control is not in the public interest because a new provider is certain to increase customers' rates, decrease reliability and impose new financial risks on rate payers and physical health and safety risks to current and past program participants.

WHEREFORE, Comverge respectfully requests that the Commission deny PacifiCorp's Application and review PacifiCorp's decision to purchase a new load control system. Comverge believes that hearings are warranted so that this Commission can better understand the costs and benefits of the alternative systems, the health and safety risks caused by the abandonment of the Comverge Asset, the rights of PacifiCorp to modify the Comverge Asset, and any other issues that may arise. Comverge maintains that there is nothing in the record that justifies the abandonment of a fully functional 100 MW load reduction asset and that utilizing the Comverge system is in the public interest.

DATED this 5th day of September, 2013.

CALLISTER NEBEKER & McCULLOUGH

/s/ Brian W. Burnett

Brian W. Burnett

Attorneys for Comverge, Inc.

CERTIFICATE OF SERVICE

I CERTIFY that on 5th day of September, 2013, a true and correct copy of the foregoing was served upon the following as indicated below:

By Electronic-Mail:

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