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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

**In the Matter of the Investigation of the
Costs and Benefits of PacifiCorp's Net
Metering Program**

DOCKET NO. 14-035-114
Reply of Utah Clean Energy

INTRODUCTION

In its *First Order Amending Scheduling Order and Notices of Workgroup Meetings, Hearing and Public Witness Hearing*, issued in the above-captioned proceeding on March 19, 2015, the Commission provided an opportunity for parties to file motions and supporting briefs in advance of the deadline for direct testimony. Rocky Mountain Power (RMP or the Company) filed a *Legal Brief Filed in Advance of the Deadline for Direct Testimony*, but did not file a motion for which the brief was a supportive document. Rather, the Company provided its interpretation of Utah's net metering statute, specifically Utah Code Ann. § 54-15-105.1(1).

In its brief, the Company urged the Commission to exclude consideration of externalities from the net metering docket and, relatedly, argued that the statute precludes consideration of hypothetical, speculative or non-quantifiable costs or benefits from the net metering evaluation.¹

¹ RMP Brief, page 9. "Based on the forgoing, the Company maintains that § 54-15-105.1(1), properly interpreted, requires the Commission to conduct a cost-benefit analysis, weighing the costs that would be actually incurred by the Company and its non-net-metered customers from net metering against the benefits that actually accrue to the Company and its customers from net metering. Because of this, the statute precludes consideration of externalities, or costs or benefits (or studies related to them) that do not directly result from net metering by the

Alternatively, the Company argued, “[I]f the Commission allows discussion of any externality in testimony, it should enter an order at this time, in advance of any testimony or exhibits being filed, that such testimony be limited to quantifiable benefits that accrue directly to Utah rate payers as a direct result of net metering.”²

Utah Clean Energy, the Sierra Club, The Alliance for Solar, Choice, the Interstate Renewable Energy Council, the Division of Public Utilities (Division) and the Office of Consumer Services (Office) all filed Responses to the Company’s Brief. The Division and the Office filed responses in support of the Company’s conclusions. While neither the Division nor the Office requested that the Commission issue an order excluding evidence at this time, both parties used Utah Code Ann. § 54-15-105.1(2) to argue for dramatically limiting the scope of the current investigation under § 54-15-105.1(1) to establish an analytical framework. Utah Clean Energy disagrees with this interpretation. Utah Clean Energy supports the Reply filed by The Alliance for Solar Choice and separately files this additional Reply.

ARGUMENT

- 1. Utah Code Ann. § 54-15-105.1(2) does not limit the scope of Utah Code Ann. § 54-15-105.1(1); rather, it requires that rates for net metering customers be just and reasonable, just like rates for all customers, and does not preclude consideration of any broad categories of evidence.**

In its Response to RMP’s brief, Utah Clean Energy looked to Utah Code Ann. § 54-15-105.1(2)—the subpart requiring just and reasonable rate setting for net metering customers—and concluded that it is in the best interest of all customers that the Commission not issue an order excluding or precluding consideration of broad categories of evidence, information or inquiry,

Company’s Utah customers. In addition, the statute precludes from the analysis consideration of merely hypothetical, speculative or non-quantifiable costs or benefits.” *Id.*

² RMP Brief at page 6-7.

particularly at the current juncture, in order that parties may participate in a robust investigation of the costs and benefits of net metering, and, ultimately, provide the Commission with the information and evidence necessary to set just and reasonable rates for net metering (and all) customers. Utah Clean Energy looked to Utah Code Ann. § 54-15-105.1 and found that it is not prescriptive about the specific method (analytical framework) for evaluating the costs and benefits of net metering, but that the Commission must ultimately (which is to say, after the cost benefit analysis) set just and reasonable rates for net metering customers, as informed by the results of the cost benefit analysis.

In other words, Utah Clean Energy looked to Utah Code Ann. § 54-15-105.1(2) and found that the Commission’s subsequent obligation of setting just and reasonable rates warrants an examination of the costs and benefits of net metering under § 54-15-105.1(1) that is *not restricted* by an order excluding broad areas of evidence or inquiry. Additionally, while just and reasonable may be a term of art,³ in Utah it is a statutorily defined term that includes “the well-being of the state of Utah,” the economic impacts of rates on customers and “means of encouraging conservation of resources and energy.”⁴ Therefore, an order excluding broad areas of evidence or inquiry is contrary to statutory language.

Given that the Commission must ultimately set just and reasonable rates for net metering (and all) customers, the Commission should allow itself to benefit from testimony and evidence, without preemptively foreclosing broad and hard-to-define areas of investigation. Utah Clean Energy noted that practical considerations, along with an interest in providing useful and

³ See OSC brief at page 5.

⁴ “The scope of definition ‘just and reasonable’ may include, but shall not be limited to, the cost of providing service to each category of customer, economic impact of charges on each category of customer, and on the well-being of the state of Utah; methods of reducing wide periodic variations in demand of such products, commodities or services, and means of encouraging conservation of resources and energy.” Utah Code Ann. § 54-3-1.

comprehensive information to the Commission, also weighed in favor of not limiting the investigation at this time.

On the other hand, the Division and the Office looked to Utah Code Ann. § 54-15-105.1(2) as justification for dramatically *limiting* the scope of the cost benefit investigation, and ratemaking, beyond even what the Company asked for.⁵ It is Utah Clean Energy’s position that adopting the Division’s and the Office’s interpretation of § 54-15-105.1 would hamstring the current investigation, as well as create problematic precedent for setting and designing rates going forward.

The case of *Stewart v. Utah Public Service Commission*, cited by both the Division and the Office in support of their analysis of § 54-15-105.1, is inapposite in this situation as it addresses factors to consider in approving a new *revenue requirement*—specifically the cost of capital—of a public utility.⁶ The case does not address factors to consider when setting rates once the revenue requirement (or cost of capital) has been established. The Office and Division do not clarify how they intend to apply their interpretation of the statute to a situation where there will be no change in revenue, or even in rates. The purpose of the current proceeding is to develop *an analytical framework* for evaluating the costs and benefits of the net metering program.

Utah Clean Energy supports the Reply of The Alliance for Solar Choice and urges the Commission to deny the additional relief requested by the Division and the Office in their

⁵ Based on the Division’s and the Office’s interpretation of the net metering statute, they would apparently have the Commission find that Utah Code Ann. § 54-15-105.1 limits the Commission’s analytical framework to “current actual costs of utility service” (DPU Brief, page 4); “factors impacting the costs of service and the costs of capital” (OCS Brief, page 6).; and “financial benefits that accrue to Company and its non-net metered customers” (OCS Brief, page 4).

⁶ 885 P.2d 759, 762 (Utah 1994) (Petitioners appealed a decision by the Public Service Commission approving an incentive regulation plan whereby utility shareholders and Utah ratepayers would share company profits in excess of a specified rate of return on equity).

Responsive Pleadings. Utah Clean Energy also maintains its initial recommendation, filed in our Response, that the Commission not issue an order pursuant to the Company's request to exclude or preclude consideration of information or evidence in the net metering docket at this time.

DATED this 9th day of June, 2015.

RESPECTULLY SUBMITTED,
UTAH CLEAN ENERGY

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