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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

**Sierra Club’s Motion to Dismiss Rocky
Mountain Power’s Request for a Single-
Issue Rate Increase**

In accordance with R.746-100-3, Sierra Club hereby moves for the Public Service Commission of Utah (“Commission”) to dismiss Rocky Mountain Power’s (“PacifiCorp” or the “Company”) request for a single-issue rate increase, which the Company styled as a “Compliance Filing” and filed with the Commission on November 9, 2016 (hereinafter, “Compliance Filing”).

The Company’s November 9, 2016 submission is not a mere “compliance filing”; rather, it requests imposing a base rate increase for single group of customers—those who use net energy metering (“NEM”). Specifically, the Company’s request for relief #5 asks the Commission to impose “a three-part tariff structure that reflects the costs and benefits that net metering customers impose on and contribute to the distribution system...”¹ For residential customers under Schedule 5, the proposed three part NEM rate would consist of a more than doubling the fixed charge to \$15/month, an entirely new residential demand charge of \$9.02 /kw, and

¹ Compliance Filing at p.16.

dramatic changes to energy rates. For the vast majority of NEM customers taking service under the proposed rate, the rate would cause a substantial bill increase and likely eliminate most customer-sited distributed generation.

The Commission should reject RMP's request because (1) it does not comply with the previous order issued in this docket, which requires the Company to determine NEM rates that are commensurate with the test period in PacifiCorp's next rate case, and (2) the request violates the general prohibition against single-issue ratemaking. Either reason, alone, is sufficient to reject the Compliance filing.

I. ARGUMENT

A. The Requested NEM Rate Increase Outside of a General Rate Case is Inconsistent with the Commission's Prior Order in this Docket

The purpose of this docket is to establish a framework for the evaluation of the costs and benefits of net metering, in accordance with Utah Code § 54-15-105.1.² The Commission's interim order on November 10, 2015 established such a framework when it determined that PacifiCorp should analyze the costs and benefits of net metering by developing a counter-factual cost of service ("CFCOS") to compared to a study that assess the actual cost of service ("ACOS").³ In that same order, the Commission also determined that the next step of the analysis should be conducted in conjunction with the Company's next general rate case. "The Division, the Office and PacifiCorp agree we should adopt a framework that analyzes the costs and benefits of the net metering program over a one-year period **that is commensurate with the test period PacifiCorp relies on in its next general rate case.**...We concur."⁴

² Notice of Comment Period and Scheduling Conference, Docket 14-035-114, Nov. 21, 2014 at pp. 1-2.

³ Order, Docket 14-035-114, Nov. 10, 2015 at §2.1.

⁴ Id. at pp. 7-8 (emphasis added). The Commission's order also note that it is "eminently sensible to rely on the same test period data employed to establish *all customers' rates*." Id. at 8 (emphasis added).

PacifiCorp's Compliance Filing does not analyze costs commensurate with the test period of its next rate case and is not based on the same test period data used to establish all customers' rates. In fact, there is no indication that the Company intends to file a general rate case anytime soon. The Compliance Filing is therefore inconsistent with the Commission's order requiring the NEM cost/benefit analysis to be based on data that is commensurate with the test period in PacifiCorp's rate case and be based on data used to set all customers' rates.

Furthermore, the Compliance Filing goes beyond comparing the costs and benefits of net metering and seeks to set approve new rates in Schedule 136 and Schedule 5.⁵ This goes beyond the framework the Commission's prior order intended to be addressed in this docket and, instead, would require the Commission to undertake general ratemaking that must be done in accordance with Utah Code 54-7-12. This not only exceeds the Commission's prior order, but would require significant resources by the parties and the Commission to litigate general ratemaking in this limited-issue proceeding.

The Commission should therefore dismiss the Compliance Filing as an improper request to increase base rates for net metering customers, with leave to refile in conjunction with the next full general rate case.

B. Single-Issue Ratemaking Is Prohibited

PacifiCorp admits that it seeks new customer rates that will result in higher revenues: “[Schedule 5] will result in the [sic] higher revenues than would otherwise be achieved...”⁶ This is, by definition, single-issue ratemaking. Single-issue ratemaking is nearly always considered a prohibited practice for cost of service ratemaking.

⁵ Compliance Filing at p. 2 ¶ 5.

⁶ Steward Testimony at p.37, line 718-719.

"Single-issue ratemaking" occurs when a utility's rates are altered on the basis of only one of the numerous factors that are considered when determining the revenue requirements of a regulated utility. This type of ratemaking is prohibited because considering any one item in a revenue formula in isolation risks understating or overstating the revenue requirement. Further, single-issue ratemaking is generally prohibited because it might cause the regulating authority to allow a company to raise rates to cover increased costs in one area without realizing that there were counterbalancing savings in another area.

73B C.J.S. Public Utilities § 21 (internal citations omitted). Utah's own statutes similarly recognize the general prohibition against single-issue ratemaking. *See*, Utah Code § 54-7-13.5(4)(c) (noting that energy balancing accounts can be a limited exception to the otherwise applicable general prohibition on single-issue ratemaking).

Creating new precedent and allowing a utility to engage in single-issue ratemaking would create numerous negative effects for Utah ratepayers. NEM customers would be forced to pay higher rates without any opportunity to reset rates for non-NEM customers to see any resulting benefit to those customers until the next general rate case, if ever.⁷ The Company would collect more from one group of customers that it perceives to be underpaying, without an inquiry into whether there are other areas where the Company is over-earning and customers are overpaying. That is, while the Company claims that current rates "unfairly shifts costs from net metering customers to other customers,"⁸ there is no opportunity outside a general rate case to protect other customers. The Company's request would only increase revenue collected by the utility⁹, it would not rebalance rates. In short, non-NEM customers' rates would not be lowered to

⁷ Even if the increased revenues from a new NEM rate schedule are deferred, there would still be an immediate rate increase on NEM customers without having the benefit of a rate case and other ratepayers will not benefit unless and until their rates are adjusted. There is no indication that a new general rate case will occur anytime soon.

⁸ Compliance Filing at p.2, ¶4.

⁹ *See e.g.*, Direct Testimony of Joelle R. Steward at p.37, lines 713-714 ("Accordingly, the Company is absorbing the costs of net metering for current customers.")

account for the proposed increase to NEM customers (nor for any overearning by the Company in other areas).¹⁰

While the Company certainly can and should have an opportunity to make its case supporting its methodology for new NEM rates, which Sierra Club and other parties will vigorously dispute, the proper place for that exercise is in a general rate case so that any offsetting and countervailing influences on revenues can also be considered and so overall revenues can be matched to authorized revenue requirements and overall cost of service between classes. Allowing the Company to target a single issue where it claims under-earning, without a simultaneous inquiry into where it is over-earning, unfairly distorts rates in a manner that is not just and reasonable. Single issue ratemaking does not provide the fundamental premise to ratemaking: matching the utility's revenues to its revenue requirement and actual cost of service. Such a practice, if condoned by the Commission, would benefit utilities at the expense of ratepayers.

Proper ratemaking establishes rates through a general rate case that give the Company a reasonable opportunity to earn its authorized return and to recover all prudently-incurred costs based on a specific test period. The utility is then expected to operate within the framework of its approved rates, except for extraordinary circumstances. This ensures a defined budget encourages efficient management to cope with normal business risks and the operation of economic forces, which are compensated by the authorized return. When the cost of operation diverges too far from the revenue requirement, despite prudent management, the Company may apply for a change through a new general rate case to realign all prudently-incurred costs and revenues.

¹⁰ The exception to this change is that a very small number of high-energy using NEM customers may see rates decline.

Utah Code § 54-7-13.5(4)(c) recognizes only limited exceptions to single-issue ratemaking, which are not applicable here. Specifically, balancing accounts automatically adjust revenues to more closely match the cost of service, without an entire general rate case, where cost changes are external and incurred without discretion of the utility's management. For example, taxes are unavoidable costs that may fluctuate based on decisions wholly outside the control of the Company.¹¹ *See, In the Matter of the Application of Washington Gas Light Co. for Approval of A Weather Normalization Adjustment*, Public Service Commission, District of Columbia, Formal Case No. 1110, Order No. 17850, Apr. 10, 2015 (D.C.P.S.C.). Balance accounts are also typically established first through a rate case and then allowed to adjust based on the variability of identified external factors.¹²

PacifiCorp's proposed net metering rates in this proceeding are not the type of adjustments generally allowed outside of a general rate case. The NEM rates do not incorporate external third-party costs that are easily recognized and independently verifiable. Rather, the NEM rates involve complex calculations and cost of service assertions contained in the testimony of several Company witnesses. Because the requested increase in revenue does not offset unavoidable and easily verifiable costs, the NEM rate change is an improper use of single-issue ratemaking. *See, State ex rel. Midwest Gas Users' Ass'n v. Pub. Serv. Comm'n or State*, 976 S.W.2d 470, 480 (Mo. Ct. App. 1998) (“ By contrast [to the tax adjustment clause], the [charge

¹¹ *See e.g., Commonwealth Edison Co. v. Illinois Commerce Comm'n*, 405 Ill. App. 3d 389, 414 (2010) (“The [Illinois Commerce] Commission has discretion to approve a utility's proposed rider mechanism to recover a particular cost if (1) the cost is imposed upon the utility by an external circumstance over which the utility has no control and (2) the cost does not affect the utility's revenue requirement. In other words, a rider is appropriate only if the utility cannot influence the cost.”)

¹² *See State ex rel. Midwest Gas Users' Ass'n v. Pub. Serv. Comm'n or State*, 976 S.W.2d 470, 480 (Mo. Ct. App. 1998) (explaining that a tax adjustment clause that had been established *during a general rate case* permitted the amount of taxes passed on to ratepayers to vary outside of a general rate case as the local taxing authority changed them).

determined to be single-issue ratemaking] was just a formula stuck into the utilities' rate schedules.”)

II. CONCLUSION

For the foregoing reasons, Sierra Club respectfully requests that the Commission dismiss without prejudice PacifiCorp’s Compliance Filing as an improper request to increase base customer rates. To the extent the Company requests a rate change to net metering customers, it must do so as part of a general rate case.

DATED this 20th day of December, 2016.

Respectfully submitted,

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