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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

UAE's INITIAL COMMENTS ON ROCKY MOUNTAIN POWER'S COMPLIANCE FILING

The Utah Association of Energy Users ("UAE"), pursuant to R746-1-401, submits these initial comments on the Compliance Filing and Request to Complete All Analyses Required Under the Net Metering Statute For the Evaluation of the Net Metering Program ("Compliance Filing") filed on November 9, 2016 by Rocky Mountain Power ("RMP") in this docket. UAE is filing unsworn comments rather than testimony given that its comments are legal in nature and do not lend themselves as well to factual or expert testimony. UAE's Initial Comments are being filed on the direct testimony date to give parties an opportunity to respond. UAE asks the Commission to consider these comments as it would unsworn public testimony or a legal brief.

I. INTRODUCTION

The Commission has a statutory obligation to determine the costs and benefits of the net metering program as currently constructed and then, in light of those costs and benefits, to set a just and reasonable charge, credit, and ratemaking structure.[1] The Commission required RMP to perform certain cost of service-based studies and to present the results of those studies to the Commission. The results of RMP's studies indicate that the benefits of the net metering program for Schedule 6 and 8 customers outweigh the costs. Despite these results, RMP seeks to increase charges and reduce credits for Schedule 6 and 8 net energy metering ("NEM") customers.

As discussed below, RMP has failed to meet its burden to demonstrate a need for any changes to the net metering program for Schedule 6 and 8 customers. Given the absence of record evidence supporting any such changes, the Commission should reject RMP's proposal.

II. ARGUMENT

According to RMP's Compliance Filing, the benefits of the NEM program for Schedule 6 and 8 customers outweigh the costs. Nonetheless, RMP proposes to increase charges and reduce credits to new Schedule 6 and 8 NEM customers. RMP's proposal is not based on costs and benefits of the NEM program as contemplated by the governing statute and is not justified by data or evidence submitted by RMP. As discussed in more detail below, A) Utah law requires the Commission to determine just and reasonable charges and credits "in light of the costs and benefits" of the net metering program, B) the cost-benefit analysis performed by RMP indicates that the benefits of the net metering program for Schedule 6 and 8 customers outweigh the costs, C) RMP's request to increase charges and reduce credits for Schedule 6 and 8 net metering

[1] *See* Utah Code § 54-15-105.1.

customers is not supported by record evidence, and D) the average retail rate option was adopted to provide adequate compensation for net metering customers who pay demand charges and should remain.

A. UTAH LAW REQUIRES THE COMMISSION TO DETERMINE JUST AND REASONABLE CHARGES AND CREDITS "IN LIGHT OF THE COSTS AND BENEFITS" OF THE NET METERING PROGRAM.

Utah law requires the Commission to conduct a two-step process to evaluate the costs and benefits of the net metering program and then to determine charges and credits in light of those costs and benefits. Utah Code § 54-15-105.1 (the "NEM Statute") states as follows:

> The [Commission] shall:
>
> (1) determine, after appropriate notice and opportunity for public comment, whether costs that the electrical corporation or other customers will incur from a net metering program will exceed the benefits of the net metering program, or whether the benefits of the net metering program will exceed the costs; and
>
> (2) determine a just and reasonable charge, credit, or ratemaking structure, including new or existing tariffs, in light of the costs and benefits.

With respect to Subsection One of the NEM Statute,[2] the Commission has used an iterative process, issuing a number of rulings regarding the Commission's interpretation of the NEM Statute and the analytical method by which the Commission will determine costs and benefits of the net metering program as required by the NEM Statute.[3] While the Commission has yet to make any determinations under Subsection Two, it has, throughout this docket,

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[2] These Comments will refer to Utah Code § 54-15-105.1(1) as "Subsection One," Utah Code § 54-15-105.1(2) as "Subsection Two," and the net metering statute generally as the "NEM Statute."

[3] *See, e.g.*, Nov. 21, 2014 Notice of Comment Period and Scheduling Conference ("Nov. 2014 Notice"); July 1, 2015 Order Regarding Conclusions of Law on Statutory Interpretation and Order Denying Motion to Strike ("July 2015 Order"); November 10, 2015 Order ("Nov. 2015 Order").

repeatedly indicated that its evaluation of costs and benefits pursuant to Subsection One will shape the determination of rates under Subsection Two:

- "The results of the Subsection One analysis must leave us well poised to 'determine a just and reasonable charge, credit, or ratemaking structure,' under Subsection Two." (Nov. 2015 Order at 8).

- "[T]he results of the Step One analysis will significantly influence any rate setting that occurs under Subsection Two." (July 2015 Order at 11).

- "The results of the Subsection One analysis will be highly relevant to any rate setting that might occur under Step Two because Subsection Two expressly directs the Commission to 'determine a just and reasonable charge . . . *in light of the costs and benefits*" the Commission finds under Step One." (July 2015 Order at 11 n.1 (emphasis in original)).

- "We believe [the framework set to determine costs and benefits pursuant to Subsection One] captures the Legislature's intent in enacting Subsection One and that it will provide essential information when we commence our work under Subsection Two." (Nov. 10 Order at 4).

Similarly, RMP's own filing and witnesses acknowledge that the Commission's obligation under the NEM Statute is to determine charges, credits, or a ratemaking structure based on a determination of costs and benefits under Subsection One:

- "Once the Commission determines the costs and benefits provided to the system by net metering, it *must* 'determine a just and reasonable charge, credit or ratemaking structure, including new or existing tariffs, in light of the costs and benefits." (Compliance Filing at 13 (emphasis added).

- "Subsection One is intended to be useful for rate structure setting under Utah Code § 54-15-105.1(2) ('Subsection Two')." (Direct Testimony of Joelle R. Steward at 8:153-154.)

- "In Subsection Two of the evaluation, the Commission *must* determine the appropriate charge, credit or ratemaking structure in light of the costs and benefits determined in Subsection One." (Direct Testimony of Gary W. Hoogeveen at 10 (emphasis added)).

- "Once the cost/benefit analysis under Subsection One is accepted, and a showing is made that the costs of the net metering program exceed its benefits, the Commission *must* implement Subsection Two in accordance with the mandate of the Net Metering Statute." (Direct Testimony of Gary W. Hoogeveen at 10 (emphasis added)).

The above statements by the Commission and RMP are consistent with the Commission's statutory obligation under Subsection Two to "determine a just and reasonable charge, credit, or ratemaking structure . . . *in light of the costs and benefits*" of the net metering program.[4] As the language of Subsection Two dictates, changes made in this docket to the ratemaking structure for net metering customers stemming from the NEM Statute *must* be based on Commission determinations under Subsection One regarding costs and benefits of the net metering program. However, contrary to the clear language of the NEM Statute, Commission orders and RMP's own statements, RMP's Compliance Filing proposes to increase charges and decrease credits for Schedule 6 and 8 NEM customers for reasons that are unrelated to, and and not supported by, any showing as to costs and benefits for Schedule 6 and 8 customers.

B. RMP'S EVIDENCE SHOWS THAT THE BENEFITS OF THE NET METERING PROGRAM FOR SCHEDULE 6 AND 8 CUSTOMERS OUTWEIGH THE COSTS.

Based on RMP's own data, the current net metering program results in lower rates for other Schedule 6 and 8 customers and the claimed benefits of the net metering program outweigh the claimed costs in those classes. Prior Commission rulings in this docket established the analytical framework upon which the Commission would evaluate—pursuant to Subsection One—costs and benefits of the net metering program. To assist it in making determinations under Subsection One, the Commission issued the November 10, 2015 Order directing RMP to

[4] Utah Code § 54-15-105.1(2) (emphasis added).

perform two cost of service-based studies, one that assumes away the existence of the net metering customers' power generation ("CFCOS"), and one that reflects PacifiCorp's actual cost of service inclusive of the net metering customers' participation ("ACOS"):

> "CFCOS"
> One study creates a counterfactual scenario that assumes away the existence of net metering customers' power generation, meaning PacifiCorp must meet net metering customers' full load and these customers push no energy back to the grid. We refer to this study as the "counterfactual cost of service study or "CFCOS."[5]
>
> "ACOS"
> The second cost of service study, which we refer to as the "actual cost of service study" or "ACOS," should reflect PacifiCorp's actual cost of service inclusive of net metering customers' participation. Under this scenario, PacifiCorp meets only net metering customers' "net load" (i.e. net metering customers' total consumption less the amount they self-generate) and the model includes the excess energy net metering customers push to the grid.[6]

The Commission further required RMP, when conducting the ACOS, to compare the results of including net metering customers as participants in each class with the results of segregating net metering customers into their own separate classes, in an "NEM Breakout COS" study:

> "NEM Breakout COS"
> [W]hen allocating Utah's jurisdictional cost of service to customer classes under the ACOS,[7] PacifiCorp should provide two scenarios for the allocation of costs at the class level: (1) a scenario wherein the class includes net metering customers that are otherwise participants in the class and (2) a scenario wherein the net metering and non-net metering customers are segregated into two new classes and costs are separately allocated based on their respective usage characteristics.

[5] Nov. 2015 Order at 5.
[6] *Id*.
[7] The Commission also required RMP to conduct the ACOS and CFCOS in a manner that would demonstrate the impacts of the net metering program at the system, state, and customer class levels. *See id*. at 9-10 ("Subsection One also requires the Commission to analyze the costs and benefits to the utility's non-net metering customers, which is why it will be essential for the CFCOS and ACOS to show the impacts at the system, state, and customer class level.").

> Comparing the first scenario with the cost of service allocated to the class under the CFCOS should prove illustrative of the net total and average impact net metering customers bring to the particular class. Whereas comparing the segregated classes will allow the parties and the Commission to assess whether non-net metering customers are subsidizing net metering customers under the extant rate structure and to compare the magnitude of any subsidy to the total benefit (or cost) net metering customers bring to the class.[8]

RMP's Compliance Filing presents evidence reflecting its efforts to comply with the Commission's November 2015 Order. UAE's comments herein are based solely on the data presented by RMP in its Compliance Filing. In doing so, UAE does not agree or suggest that RMP has complied with the requirements imposed by the NEM Statute or the Commission's November 15, 2015 Order. However, given that RMP's own evidence does not support its requested relief for Schedule 6 and 8 customers, UAE has not prepared alternative studies. Because RMP failed to carry its burden under the NEM Statute to show a need for changes to the Schedule 6 and 8 Net Metering program based on costs and benefits, its requested relief should be denied.

It should be noted that UAE does not believe that RMP has fully complied with the requirements of the NEM Statute or the Commission's November 15, 2015 Order. For example, RMP's Compliance Filing includes a comparison of the CFCOS and ACOS studies that appears to improperly include—as a "cost" of the net metering program—the revenue that RMP would have otherwise collected but for the NEM customers' behind-the-meter consumption of their own privately generated energy.[9] Behind-the-meter consumption of privately generated energy

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[8] *Id*. at 11.

[9] The comparison of the CFCOS and ACOS studies is discussed on pages 3-8 of the Direct Testimony of Robert M. Meredith and is summarized in Exhibit RMP__(RMM-1). In comparing the two studies, RMP identified the "revenue difference between actual billed revenue" in the ACOS study and "full requirements revenue" in the CFCOS study and then gave

offsets a portion of NEM customers' electricity requirements[10] and has not been shown to increase the cost of serving those customers. As a matter of law, it should not be included as a "cost" of the net metering program.[11]

In passing the NEM Statute, the Utah Legislature excluded from the definition of a "net metering program" the portion of NEM customers' privately-generated electricity consumed by the customer:

> "Net metering program" means a program administered by an electrical corporation whereby a customer with a customer generation system may:
> (a) generate electricity primarily for the customer's own use;
> (b) *supply customer-generated electricity to the electrical corporation*; and
> (c) if net metering results in excess customer-generated electricity during a billing period, receive a credit as provided in Section 54-15-104.[12]

"Customer-generated electricity" is defined as electricity generated by the customer's generation system that "exceeds the electricity the customer needs for the customer's own use;

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this difference the term "Bill Credits." (*See* Direct Testimony of Robert M. Meredith ("R. Meredith Direct Test.") at 14:279-15:282). These "Bill Credits"—which RMP states are "the estimated difference in revenue between the CFCOS and ACOS—appear to include revenues associated with the reduced demand for energy that results from NEM customers' behind-the-meter consumption of their own private generation. (*Id*. at 15:288-290). In its comparison of the CFCOS and ACOS studies, RMP treats these "Bill Credits" as a "cost" of the net metering program. (*See* R. Meredith Direct Test. at 6:112-118 (noting that Exhibit RMP__(RMM-1) "shows the difference between costs and benefits of the net metering program" and identifying "Bill Credits" as a "cost"). *See also* RMP Exhibit ___(RMM-5) (calculating "Bill Credits by rate schedule)).

[10] *See* Utah Code § 54-15-102(3)(a)(v) (defining "Customer generation system" as one that "is intended primarily to offset part or all of the customer's requirements for electricity.").

[11] The NEM Statute draws a clear distinction between "net electricity" supplied by the utility and "customer-generated electricity" generated by a customer, Utah Code § 54-15-102(2), (10), and provides that "[i]f net metering does not result in excess customer-generated electricity during the monthly billing period, the electrical corporation shall bill the customer for the net electricity, in accordance with normal billing practices." *Id*., § 54-15-104(2).

[12] *Id*., § 54-15-102(12) (emphasis added).

and is supplied to the electrical corporation administering the net metering program."[13] Because the Utah Legislature excluded from the definition of "net metering program" that portion of the customer's privately-generated electricity that the customer consumes behind the meter, it cannot properly be considered or included in a determination of the costs and benefits "of the net metering program" under Subsection One.[14] By including revenues based on NEM customers' behind-the-meter consumption of their own private generation, RMP's Compliance filing presents artificially-inflated values for the alleged "cost" of the net metering program. Nonetheless, even with artificially-inflated costs, RMP's own evidence shows that the benefits of the net metering program for Schedule 6 and 8 customers outweigh the costs.

Below, several data points from RMP's Compliance Filing are presented to show that RMP's Compliance Filing alone shows that the benefits of the net metering program as currently constructed outweigh the costs with regard to Schedule 6 and 8 customers:

- <u>Table 1 of Direct Testimony of Joelle R. Steward</u>[15]

    The direct testimony of RMP witness Joelle R. Steward presents Table 1, which "summarizes the results of the comparison of the ACOS and CFCOS studies."[16] Table 1 purports to show the net costs and benefits of the net metering program at the system and state level, as well as for each customer class that is eligible for the net metering program. Table 1, presented on page 9 of Ms. Steward's Direct Testimony, is set forth below:

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[13] *Id.*, § 54-15-102(2).
[14] *See also* Schedule 135 (defining "Net Metering" as "measuring the difference between the electricity supplied by the Company and the electricity generated by an eligible customer-generator *and fed back to the electric grid over the applicable billing period*." (emphasis added)).
[15] *See* Direct Testimony of Joelle R. Steward ("J. Steward Direct Test.") at 9:169.
[16] J. Steward Direct Test. at 8:163-164.

Table 1. Net Cost/(Benefit) of the Net Metering Program

	Cost (000)	Benefit (000)	Net Cost/ (Benefit) (000)
System Level	$5,010	($1,287)	$3,722
State Level	$5,010	($2,960)	$2,049
Residential	$ 3,540	$ (1,881)	$ 1,659
Schedule 23	$ 504	$ (405)	$ 100
Schedule 6	$ 673	$ (650)	$ 23
Schedule 8	$ 240	$ (395)	$ (155)
Schedule 10	$ 29	$ (21)	$ 7
Other Classes	$ 22	$ 393	$ 415
Total Customer Class Level	$ 5,009	$ (2,960)	$ 2,049

Ms. Steward claims that Table 1 "shows that, for the Study Period, the net metering program increases costs to customers in Utah at the system, state, and class levels," but this is clearly *not* the case for Schedule 8 customers. Rather, Table 1 shows that the net metering program provided a $155,000 net benefit during the Study Period for Schedule 8 customers.[17] Table 1 further shows that the net metering program resulted in a net cost of only $23,000 for Schedule 6 customers—while the data in Table 2 of Ms. Steward's testimony shows that this $23,000 "cost" for Schedule 6 customers did not result in an increase in costs for non-NEM customers.

- Table 2 of Direct Testimony of Joelle R. Steward[18]

Ms. Steward also presents Table 2, which "summarizes the results of the NEM Breakout COS study."[19] Ms. Stewart testifies that the results of the NEM Breakout COS

[17] RMP witness Robert Meredith also presents Table 1 in his direct testimony and testifies that "[f]or Schedule 8, the analysis shows a slight net benefit of $0.16 million."
[18] *See* J. Steward Direct Test. at 9:170.

study presented in Table 2 is more useful for rate structuring under Subsection Two than is the comparison of ACOS and CFCOS studies presented in Table 1.[20] Table 2, presented on page 9 of Ms. Steward's Direct Testimony, is set forth below:

Table 2. Actual Cost of Service Results of Segregated Net Metering Classes

	Parity to Cost of Service		
	ACOS	ACOS W/O NEM	ACOS NEM
Residential	96.0%	96.1%	60.6%
Schedule 23	107.2%	107.3%	92.2%
Schedule 10	95.3%	95.1%	89.8%
Schedule 6	107.7%	107.7%	109.2%
Schedule 8	104.1%	104.0%	109.0%

Ms. Steward's testimony explains that the values under each heading in Table 2 represent the percentage of the cost of service paid by customers in each class: the values under the heading "ACOS" represent the percentage of the cost of service paid by all NEM and non-NEM customers combined; the values under the heading "ACOS W/O NEM" represent the percentage of the cost of service paid by non-NEM customers when segregated into a separate rate class; and the values under the heading "ACOS NEM" represent the

[19] J. Steward Direct Testimony at 8:166.
[20] J. Steward Direct Test. at 15:291-294 ("While the ACOS and CFCOS are useful for evaluating the impacts of the net metering program, the NEM Breakout COS study is more instructive in rate structuring under Subsection Two in the Net Metering Statute, as the Commission noted in its November 2015 Order.").

percentage of the cost of service paid by all NEM customers when segregated into a separate rate class.[21]

According to Table 2, during the test period Schedules 6 and 8 NEM customers paid a *higher* percentage of cost of service than did non-NEM customers in those classes. Schedule 6 NEM customers paid 109.2 percent of their cost of service compared to the 107.7 percent paid by Schedule 6 non-NEM customers. Similarly, Schedule 8 NEM customers paid 109.0 percent of their cost of service compared to the 104 percent paid by Schedule 8 non-NEM customers. Based on this data, the current net metering program for Schedules 6 and 8 results in *lower* rates for other Schedule 6 and 8 customers.[22]

- Exhibit RMP___(RMM-2) of Direct Testimony of Robert M. Meredith[23]

Exhibit RMP___(RMM-2) "shows the summary of results from the ACOS study, the CFCOS study, and the difference between the two studies."[24] Page 3 of this exhibit "shows the difference in results" between the CFCOS study and the ACOS study by subtracting the ACOS results from the CFCOS results.[25] Column M of Page 3 of Exhibit RMP___(RMM-2) shows the percentage increase or decrease that would be required, for each rate class—including the NEM customers in that class— to move from annual revenue under the ACOS

[21] *Id*. at 9:174-178 (discussing data presented in Table 2 and testifying that "the net metering residential class is paying only about 61 percent of their cost of service. In contrast, the other residential class pays 96 percent of their cost of service.").
[22] *See* J. Steward Direct Test. at 9:171-172 (testifying that Table 2 "results show that, for the residential class," in which the values for ACOS W/O NEM are higher than the values for ACOS NEM, "the current program results in higher rates for other residential customers.").
[23] *See* Direct Testimony of Robert M. Meredith ("R. Meredith Direct Test.") at 7:136-143 (Discussing Exhibit RMP___(RMM-2)).
[24] *Id*. at 7:138-139.
[25] *Id*. at 7:142-143. *See also* Exhibit RMP___(RMM-2) Page 3 (titled "Counterfactual Cost Of Service less Actual Cost of Service By Rate Schedule).

study to full cost of service under the CFCOS study.[26] For Schedule 6 customers, in order to move from the revenue collected during the test period under Schedule 6 and under the current net metering program to the revenue that would be collected if the net metering program did not exist would require a change of 0.0 percent.[27] For Schedule 8 customers, it would require a *decrease* of 0.11 percent.[28] Put another way, under the current net metering program Schedule 8 NEM customers subsidized Schedule 8 non-NEM customers during the test period and there was no subsidy either way for Schedule 6 customers.

- Exhibit RMP___(RMM-12) of Direct Testimony of Robert M. Meredith[29]

Exhibit RMP___(RMM-12) contains a summary of results from the NEM Breakout COS study but displays the results for each NEM class.[30] Column M of the exhibit shows the percentage increase or decrease in rates that would be required for customers in each class, as well as for the NEM customers in each class, to pay 100 percent of their cost of service.[31] According to this exhibit, during the test period Schedule 6 net metering customers paid 8.43 percent more than the cost to serve those customers, while Schedule 6 non-NEM customers paid 7.17 percent more than it cost to serve them.[32] Moreover, Schedule 8 net metering customers paid 8.30 percent more during the test period than the cost so serve those

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[26] *See* Exhibit RMP___(RMM-2) at Page 3, Row 40 ("Column M: Increase or Decrease Required to Move from Annual Revenue to Full Cost of Service Percent).
[27] *Id*. Page 3, Column M.
[28] *Id*.
[29] *See* R. Meredith Direct Test. at 26:531-537 (discussing Exhibit RMP___(RMM-12)).
[30] R. Meredith Direct Test. at 26:532-534 ("Exhibit RMP___(RMM-12) shows the summary of results from the NEM Breakout COS study . . . but with results shown for the NEM classes.").
[31] *See* Exhibit RMP___(RMM-12) at Row 40 ("Column M: Increase or Decrease Required to Move from Annual Revenue to Full Cost of Service Percent).
[32] *See id*. at Column M. *See also* R. Meredith Direct Test. at 26:534-537 (stating that Exhibit RMP___(RMM-12) shows that Schedule 6 net metering customers require a -8.43 percent change to present revenues).

customers, while Schedule 8 non-NEM customers paid 3.88 percent more than the cost to serve them.[33] Thus, based on RMP's evidence, Schedule 6 and 8 NEM customers paid a higher percentage of their cost of service than did non-NEM customers in those classes and the net metering program results in a subsidy by the NEM customers to the non-NEM customers.

- Exhibit RMP___(RMM-13)) of Direct Testimony of Robert M. Meredith[34]

  Exhibit RMP___(RMM-13) "shows the difference in cost of service results for each class between the NEM Breakout COS and the ACOS," and was prepared to satisfy the Commission's November 10, 2015 "requirement for the Company to 'show the impact segregation of NEM customers has on the class in which they would otherwise participate.'"[35] The exhibit indicates that, if net metering customers had been excluded from Schedule 6 during the test period, the cost to serve the remaining customers in Schedule 6 would have increased by $0.3 million.[36] Similarly, if net metering customers had been excluded from Schedule 8, the cost to serve the remaining Schedule 8 customers would have increased by $0.2 million.[37] As with the other data points discussed above, based on Exhibit RMP___(RMM-13), Schedule 6 and 8 NEM customers paid a higher percentage of their cost of service than did non-NEM customers in those classes and the net metering program results in a subsidy by the NEM customers to the non-NEM customers.

[33] *See* Exhibit RMP___(RMM-12) at Column M. *See also* R. Meredith Direct Test. at 26:534-537 (stating that Exhibit RMP___(RMM-12) shows that Schedule 8 net metering customers require a -8.30 percent change to present revenues).
[34] *See* R. Meredith Direct Test. at 26:538-546 (discussing Exhibit RMP___(RMM-13)).
[35] R. Meredith Direct Test. at 26:539-542 (quoting Nov. 2015 Order).
[36] *See* Exhibit RMP___(RMM-13). *See also* R. Meredith Direct Test. at 26:542-546.
[37] *See id*.

Perhaps recognizing that the evidence presented in RMP's Compliance Filing does not support its request to make the net metering program less attractive for Schedule 6 and 8 customers, RMP attempts to explain away these results. Mr. Meredith asserts that the results of RMP's CFCOS, ACOS and NEM Breakout COS studies do not necessarily mean that the net metering program as it is currently structured is a "significant benefit" for Schedules 6 and 8.[38] Mr. Meredith states that the "seemingly favorable results" for Schedules 6 and 8 "may not be so much an indication of the benefit (or cost savings) related to the net metering program as it may be an indication of the characteristics of net metering customers."[39]

To support his conjecture, Mr. Meredith notes that private generation from customers in Schedules 6 and 8 is small relative to the full requirements energy usage in those classes and relative to the penetration in other classes.[40] However, Mr. Meredith offers no explanation as to why the relatively low penetration of private generation within Schedules 6 and 8 would lead to better results from the CFCOS, ACOS, and NEM Breakout COS studies. Mr. Meredith also offers no evidence to support an assumption that higher penetration of private generation in Schedules 6 and 8 would lead to subsidies by Schedule 6 and 8 non-NEM customers. Ultimately, RMP fails to offer any evidence supporting its suggestion that the Commission ignore the results of RMP's own studies.

The results of RMP's evidence are clear with respect to Schedule 6 and 8 customers in the NEM program as currently constructed: the net metering program results in lower rates for non-NEM customers in those classes and the benefits of the net metering program outweigh its costs.

[38] R. Meredith Direct Test. at 27:547-550.
[39] *Id*. at 27:552-554.
[40] *Id*. at 27:555-557.

C. RMP'S PROPOSAL TO INCREASE CHARGES AND DECREASE CREDITS FOR SCHEDULE 6 AND 8 NET METERING CUSTOMERS IS NOT MADE "IN LIGHT OF THE COSTS AND BENEFITS" OF THE NET METERING PROGRAM.

Based on RMP's data, the benefits of the net metering program for Schedule 6 and 8 customers outweigh the costs. The Commission should thus reject RMP's proposal to make changes to those aspects of the net metering program. RMP's proposed changes are clearly not "in light of the costs and benefits of the net metering program," as RMP itself evaluates those costs and benefits. Because Subsection Two of the NEM Statute requires the Commission to determine a just and reasonable net metering ratemaking structure "*in light of the costs and benefits*" determined under Subsection One,[41] RMP's proposal in this docket to make changes for Schedules 6 and 8 should be rejected.

D. THE AVERAGE RETAIL RATE OPTION WAS ADOPTED TO PROVIDE ADEQUATE COMPENSATION FOR NET METERING CUSTOMERS WITH DEMAND CHARGES AND SHOULD NOT BE ELIMINATED.

The net metering program permits Schedule 6 and 8 customers who wish to become net metering customers to choose among three payment options to receive credit for "Net Metering Energy."[42] Two of these payment options are based on avoided-cost pricing under Schedule 37 and the third—the "Average Retail Rate Option"—is based on the "average retail rate for the Electric Service Schedule applicable to the net metering customer as calculated from the previous year's Federal Energy Regulation Commission Form No. 1."[43]

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[41] Utah Code § 54-15-105.1(2).

[42] *See* Schedule 135 at Sheet 135.3 (defining "Net Metering Energy" as "the energy supplied to the Company" by the net metering customer that "is greater than the energy supplied by the Company" to the customer in any given month).

[43] *Id*.

The Average Retail Rate Option was adopted as the result of efforts of numerous parties participating in Commission Docket No. 08-035-78, which the Commission opened to ensure that net metering customers receive full value for their excess monthly generation.[44] In that docket, RMP argued that Schedule 6 and 8 customers should receive a kilowatt-hour credit for each kilowatt hour of Net Metering Energy each month, as residential customers do. RMP argued that "valuing credits at the retail energy rate is much simpler, less burdensome to administer and less confusing than the current process of valuing excess generation at avoided costs, calculating dollar credits on monthly bills, and explaining the avoided cost methodology and calculations to customers."[45] The Division supported the use of a kilowatt-hour credit.[46]

Other parties, including UAE, Utah Clean Energy, Salt Lake County, and the Interstate Renewable Energy Council, argued for the adoption of the Average Retail Rate Option, in part because the "one-for-one kilowatt-hour credit" does not adequately compensate commercial and industrial customers who pay a demand charge.[47] Moreover, the Division expressed some concern that certain credit options might fail to adequately compensate Schedule 6 and 8 customers because, "unless a customer produces power coincidentally with its peak or the time

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[44] *See In the Matter of the Consideration of Changes to Rocky Mountain Power's Schedule 135 – Net Metering Service*, Docket No. 08-035-78, Feb. 12, 2009 Report and Order Directing Tariff Modifications ("Feb. 2009 Report and Order") at 20-24.
[45] *Id*. at 20-21.
[46] *Id*. at 21.
[47] *Id*. ("UAE does not believe a one-for-one kilowatt-hour credit adequately compensates commercial and industrial customers who pay a demand charge and argues for paying these customers at a full tariff rate as proposed in the FERC Form No. 1 method presented in the December Notification.").

period upon which its demand charges are based, it will not receive the full value of their net metering excess generation."[48]

In response to these concerns, the Commission adopted the Average Retail Rate Option to ensure that large commercial and industrial customers paying demand charges would be adequately compensated for their net metering excess generation.[49] Noting that Schedule 6 and 8 customers "would need to generate many hundreds of kilowatt-hours in order for them to accrue excess generation," the Commission indicated its preference "not to impose a barrier, either actual or perceived, to the development of larger systems."[50] In concluding that "larger commercial/industrial customers must be fairly compensated for excess generation," the Commission adopted the three credit options currently set forth in Schedule 135, including the Average Retail Rate Option.[51]

RMP now proposes to eliminate the Average Retail Rate Option for new customers without any attempt to address or remedy the concerns that led to its adoption, or to show that its proposal will ensure adequate compensation. Indeed, RMP's evidence supports the very concerns that led to adoption of the Average Retail Rate Option.

In arguing for elimination of the Average Retail Rate Option for new NEM customers, RMP notes that the Average Retail Rate Option credit is higher than the credit provided by the

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[48] *Id*.
[49] *Id*. at 23-24 ("[W]e find large commercial and industrial customers paying demand charges would be inadequately compensated under the Company's proposal of a kilowatt-hour credit for excess generation.").
[50] *Id*. at 24.
[51] *Id*. *See also* Schedule 135 at Sheet 135.3.

two avoided-cost credit options.[52] RMP fails to explain, however, why the disparity in credits between the credit options is a justification for eliminating the Average Retail Rate Option. Given the fact that, for Schedule 6 and 8 customers, RMP's evidence indicates the benefits of the net metering program outweigh the costs, it is clear that the avoided cost credit options advanced by RMP would not adequately compensate Schedule 6 and 8 NEM customers for the value of their excess net metering energy.

The Average Retail Rate Option was adopted to adequately compensate large non-residential customers for the value of excess net metering energy. RMP's data shows that the net metering program as it is currently constructed results in lower costs for non-NEM customers and slightly higher costs for NEM customers. The logical conclusion is that the Average Retail Rate Option *undervalues* the excess net metering energy from Schedule 6 and 8 customers. RMP's stated concern about the Average Retail Rate Option is simply not supported by its own evidence.

In proposing elimination of the Average Retail Rate Option, RMP also notes the disparity in credit amounts among various large non-residential rate schedules.[53] RMP points out that the Average Retail Rate Option results in a NEM customer in "Schedule 6A getting 57 percent more for each excess kWh compared to Schedule 8 customers,"[54] but fails to note that this result was by design. The Commission adopted the Average Retail Rate Option in an effort to ensure that

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[52] *See id*. at 33:629-631 ("Table 6 above shows that the average retail rate credit option provides a credit far in excess of the avoided cost value that other small power producers would receive for the equivalent output.").
[53] *See id*. at 33:632-636 ("There is also a wide distinction on the compensation by rate schedule with customers on Schedule 6A getting 57 percent more for each excess kWh compared to Schedule 8 customers, even though there is no discernible difference in the value to the system for a kWh generated by a customer on Schedule 6A versus Schedule 8.").
[54] *Id*.

NEM customers who pay varying demand charges will receive adequate value for excess net metering generation. Providing a credit based on the average retail rate reflects varying levels of demand charges imposed by the various large non-residential rate schedules.

The fact that the Average Retail Rate Option results in varying levels of credit to customers in different rate schedules is not a reason to eliminate that option, particularly where the result would be undercompensating excess net metering generation. In any event, if parties wished to eliminate this credit disparity in an appropriate proceeding, the Average Retail Rate Option could be changed to provide the same credit to all large non-residential NEM customers.

More fundamentally, RMP's proposal to eliminate the Average Retail Rate Option in this docket should be rejected because its proposed justifications for doing so are not made "in light of the costs and benefits" of the net metering program analyzed in Subsection One. This Docket is focused on the Commission's task to "determine a just and reasonable charge, credit, and ratemaking structure . . . in light of the costs and benefits" determined in Subsection One.[55] RMP's proposals as to Schedules 6 and 8 are not based on those costs and benefits; indeed, they are made *in spite of* them. The Commission should thus reject RMP's unsupported proposal to eliminate the Average Retail Rate Option.

III. CONCLUSION

RMP failed to carry its burden in this docket to show that the costs and benefits of the net metering program for Schedule 6 and 8 customers require any changes to that program. The net metering program for Schedule 6 and 8 customers is not broken and does not require a fix. RMP's proposed changes as to these schedules should be rejected.

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[55] Utah Code § 54-15-105.1(2).

DATED this 8th day of June 2017.

Respectfully submitted

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Certificate of Service
Docket No. 14-035-114

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