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Department of Commerce
Division of Public Utilities

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ACTION REQUEST RESPONSE

To: Utah Public Service Commission

From: Utah Division of Public Utilities

Chris Parker, Director

Artie Powell, Energy Section Manager

Doug Wheelwright, Technical Consultant

Date: April 13, 2015

Re: **REJECT**

Docket No. 15-2508-T01, Ticaboo Utility Improvement District Tariff Filing

RECOMMENDATION- REJECT THE REVISED TARIFF SHEETS

The Division has reviewed the revisions to the Ticaboo Utility Improvement District (District) tariff sheets, along with board meeting minutes and resolutions. The revised tariff was approved by the Ticaboo board on January 15, 2015 and submitted to the Commission on March 20, 2015 with an effective date of March 14, 2014. Based on the information provided, it appears that the revised tariff filing does not comply with the guidelines specified under Utah Code §17B-2a-406 and §54-3-3. The Utah Division of Public Utilities (Division) recommends that the Utah Public Service Commission (Commission) reject the tariff filing and recommends that the District reconsider the changes to the tariff, obtain board approval and resubmit a revised tariff at a future date. The Commission should require the District to refund any fees that may have been collected under the tariff changes and reexamine allowing accounts to tenants as well as property owners.

ISSUE

On March 20, 2015, the District filed revisions to its tariff sheets and rate schedules. On March 24, 2015, the Commission issued an Action Request to the Division to investigate the tariff and schedule filing. This memo is the Division response to that Action Request.

DISCUSSION

The Ticaboo Utility Improvement District provides electric service, water, waste water and solid waste management to the residents of Ticaboo, Utah and is governed by the Improvement District Act §17B-2a-406.

The District continues to face the unique and challenging requirement to provide reliable utility services to a very small customer base. There are approximately 43 individual households, 1 small commercial customer (church), and 1 large commercial customer (Ticaboo Resort) receiving electrical service from the District. Due to the remote location of the district, electric service is generated from diesel powered generators.

Utah Code §17B-2a-406 outlines the Commission's jurisdiction and requirements for Improvement Districts and reads as follows;

- (6)(a) Section 54-7-12 does not apply to rate changes of an electric improvement district if:
- (i) the district is organized for the purpose of distributing electricity to customers with the boundary of the district on a not-for-profit basis;
 - (ii) the schedule of the new rates or other change that results in new rates has been approved by the board of trustees of the district;
 - (iii) prior to the implementation of any rate increases, the district first holds a public meeting for all its customers to whom mailed notice of the meeting is sent at least 10 days prior to the meeting; and
 - (iv) the district has filed the schedule of new rates or other change with the commission.

The current filing replaces the previous tariff in its entirety due to the many changes and updates that have been made. While the KWh rates for customers have not been changed, the filing includes several changes to the terms and language used in the tariff. The revised tariff also includes a significant increase in the fee for unauthorized connections and tampering with the electrical connections and the addition of an administrative fee.

One significant non-rate change to the tariff is new language that excludes service contracts with non-owners. Only property owners or a designated landlord will be able to receive utility service. The tariff does not allow tenants (renters) to sign up for utility services. (Section 08.02) It appears that the District is trying to strengthen the language of the tariff in order to collect monthly billing charges and assess fees directly from the land owners.

The revised tariff reflects a filing date of March 18, 2015 and an effective date of **March 14, 2014**. This effective date is prior to the most recent board approval date of January 15, 2015 and one year prior to the Commission filing date. Requesting an effective date that is prior to the

acknowledgement date of the Commission and approval of the board is in violation of Utah Code §54-3-3 which requires among other things, a 30 day notice prior to any change related to the tariff. While the §54-7-12 rate making procedures may not apply to Ticaboo, the remaining requirements for rate increases are still applicable.

The Division has had discussions with Chip Shortreed, District Manager for Ticaboo who indicated that additional board meetings were held on March 21, 2014 and April 17, 2014 where some of the changes to the tariff were approved. The District has provided copies of the resolutions and the minutes for both the March and April board meetings. Changes to the tariff Definitions (Section 02.01) and Abandonment of Utility Services (Section 03.12) were approved in the March 21, 2014 meeting. Changes to the tariff for Electric Service Billings (Section 08.02) were approved in the April 17, 2014 meeting. While the tariff changes were approved by the board, the changes were not submitted to the Commission for review. The revised tariff was approved by the board on January 15, 2015 and the District manager was authorized to file the changes with the Commission.

The effective date of the tariff has been discussed the District and remains an area of disagreement. In discussions with Mr. Shortreed, the Division has indicated that the effective date should be changed from the original filing. The District has agreed to change the effective date by one week from March 14, 2014 to March 21, 2014 but did not agree that the effective date should be after the January 15, 2015 board meeting. The Division has been unable to convince the District that the effective date of the tariff change cannot be prior to the January 15, 2015 board approval date and cannot be significantly earlier than the March 20, 2015 filing date with the Commission. The requested effective date of the tariff change is prior to the public meetings, prior to the board approval date and prior to the filing with the Commission. The filing does not meet the requirements outlined in §17B-2a-406 and §54-3-3 and should be rejected.

In addition to the items of concern noted above, the following changes have been included as revisions to the tariff language.

Section 02.01 – Definitions

Thirteen new definitions were added to this section as well as expanding some of the existing definitions. The District added definitions for a new administrative fee and an application fee for abandonment of utility services. The following definitions have been added to the tariff and identified by number. The lengthy definitions have not been included in this memo but can be reviewed in the filing document.

- 2 Administrative Fee
- 6 Application Fee

- 8 Budget Billing
- 11 Connection Fee
- 13 Contiguous Developed Properties
- 20 Developed Properties
- 31 Joint Developed Properties
- 32 kWh
- 33 Landlord
- 36 Meter Test Deposit Fee
- 44 Reconnection/Disconnection Charges
- 54 Tampering/Unauthorized Reconnection Charge
- 58 Tenant

Section 03.12 – Default by Customer

Section 03.12 describes the requirements for a property owner to permanently abandon utility services. At the property owner’s discretion, utility taps (service connections) may be abandoned in place or may be physically removed. Abandonment of utility services will only be allowed if the property has been continuously vacant and unused for at least 24 months and the property owner’s accounts with the District are current and in good standing.

A new paragraph has been inserted to this section that addresses the unauthorized use of utility services or the development of property without the proper application and payment. The District will impose a fee for each violation and will require the property owner to remove the unauthorized tap (service connection) at the owner’s expense. The specific amount of the fee is \$1,000 per day per incident and is identified under the Regulation Charges (RC) section of the tariff. Additional information concerning this fee has been included below.

This section is important to the District since Section 03.02 of the tariff states that all property owners that have taps for any utility must pay, at a minimum, the standby fees for all the district services (electric, water, wastewater, and solid waste). The minimum standby fees for all utilities total \$154 per month (\$1,848 per year) and are billed to all property owners even if the owned property is vacant land with no improvements. Abandonment of utility services will only be allowed if the property has been vacant for 24 months, payment of a \$75 application fee and all monthly standby fees have been paid in full.

Utah Admin. Code §746-200-7(I)(1) states in relevant part that “[t]he public utility shall disconnect the service within four working days of the requested disconnect date. The customer shall not be liable for the services rendered to or at the address or location after the four days, unless access to the meter has been delayed by the customer.” The requirement to continue

payment for utility services for 24 months for disconnected or non-connected utility service may be inconsistent with this rule.

Section 08.02 – Electric Service Billings

Section 08.02 concerns the guidelines for customer billing. A new section has been added to this section that identifies who will be allowed to sign up for billable service and represents a significant change from the current tariff. The new language reads as follows;

All accounts will be created and held by the Property Owner or Property Owners designated Landlord. Tenants may not create an account with the District, nor will the Tenant be held responsible for any payment of utility services on a monthly basis to the District. The Property Owner, or their designated Landlord, will be responsible for all aspects of the District's utility services, including but limited to, service and regulation charges.

The District will allow the Property Owner, or their designated Landlord, to pass-through, or have included in the Property Owners lease/rental agreement with the Tenant the actual cost for utility services. The Property Owner, or the designated Landlord, may not mark-up or increase the cost for utilities for their benefit or profit. A Property Owner, or designated Landlord may only charge a Tenant the actual cost of utility service as billed to the Property Owner, or their designated Landlord, by the District.

The change to require the property owners to be responsible for the utility bills represents a significant change. Chip Shortreed, District Manager, indicated that the District has lost a considerable amount of revenue from renters that have “skipped out” on paying their bills. The District felt that this change was necessary in order to address the transient nature of the visitors to Ticaboo. It is unclear to the Division if this requirement represents a violation of the District's obligation to serve the customers in the service territory. The Division is further uncertain as to whether this would prohibit service to the majority of residents. The Division is under the current understanding that most of Ticaboo's residents are on surface leases of Utah State lands and are therefore tenants not owners. In the Division's opinion it is unlikely that the State of Utah will agree to take responsibility for utility payment obligations.

Section RC – Regulation Charges

Section RC of the District's tariff identifies the nonrecurring charges for various services offered by the District.

RC-2 is a schedule of the applicable charges for electric service customers and includes a Tampering/Unauthorized Reconnection charge discussed above. The previous tariff identified this fee at \$1,000 per incident. The tariff language has been changed to a fee of \$1,000 **per day** per incident. Identical changes were added to the Tampering/Unauthorized Reconnection Charges for water (RC-4), waste water and solid waste charges (RC-5). The District has experienced instances of equipment tampering related to customer meters and unauthorized connections. Due to the number of these instances, the District has substantially increased the penalty for violations.

The Division is concerned with this change to the tariff. The Ticaboo Improvement District is organized as a not-for-profit entity with a very limited customer base and this charge appears to be excessive. For comparison, the Rocky Mountain Power tariff identifies a \$75 tampering/unauthorized reconnection charge.¹ The Division feels that the \$1,000 per day per instance fee is excessive.

RC-6 includes two new fees that have been added to the tariff. A \$75 application fee has been added for Abandonment of Utility Services. The \$75 application fee is applicable to each parcel and not for each service that is connected to the property. A \$40 administrative fee has also been added and is applicable to service and special project requests.

C O N C L U S I O N

The Division has reviewed the revisions to the Ticaboo Utility Improvement District (District) tariff sheets, along with the resolutions and board meeting minutes. The revised tariff filing does not change the acknowledged rates, but does include changes to the content of the tariff and scheduled fees. Changes to the tariff were approved in a public meeting by the Ticaboo board on January 15, 2015 and submitted to the Commission on March 20, 2015 with an effective date of March 14, 2014. Based on the information provided, it appears that the revised tariff filing does not comply with the guidelines specified under Utah Code §17B-2a-406 and §54-3-3. The Division recommends that the Commission reject the tariff filing and recommends that the District make the appropriate changes to the tariff, obtain board approval, properly notify customers and resubmit a revised tariff at a future date. The Commission should require the District to refund any fees that may have been collected under the tariff changes and reexamine allowing accounts to tenants as well as property owners. The Commission should further prohibit the District from collecting utility fees on disconnected properties pursuant to Administrative Code.

¹ Rocky Mountain Power Tariff, Electric Service Schedule No. 300

CC Chip Shortreed, Ticaboo Utility Improvement District
Michele Beck, Office of Consumer Services
Marialie Martinez, DPU Customer Service