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State of Utah
DEPARTMENT OF COMMERCE
Office of Consumer Services

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To: The Public Service Commission of Utah

From: The Office of Consumer Services

Michele Beck, Director

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Date: November 22, 2016

Subject: Office of Consumer Services' Comments: In the Matter of PacifiCorp's Revisions to Schedule 135, Net Metering Service and Proposal for New Schedule 135A, Net Metering – Transition Service. Docket No. 16-035-T14

Background

On November 9, 2016, Rocky Mountain Power (Company) filed with the Utah Public Service Commission (Commission) proposed tariff sheets revising Schedule 135, Net Metering Service and creating a new Schedule 135A, Net Metering – Transition Service. The Company requests an effective date of December 10, 2016.

The Company also seeks approval of minor revisions to the currently effective residential and commercial interconnection agreements.

In conjunction with this Schedule 135A filing, the Company filed what it titled a "Compliance Filing and Request to Complete All Analyses Required Under the Net Metering Statute for the Evaluation of the Net Metering Program" in Docket 14-135-114. This request includes what the Company asserts is a response to what the Commission ordered earlier in the 114 docket, which is a requirement for the Company to conduct a cost of service study with and without net metering to evaluate potential cost shifting. This request also includes a proposed new Schedule 136 that proposes changes for net metering customers from all customer classes and a new Schedule 5 that the Company would like to apply to future residential net metering customers.

On that same date, November 9, 2016, the Commission issued a Notice of Filing and Comment Period in the T14 docket regarding the proposed changes to 135 and 135A,

establishing November 22, 2016 and November 29, 2016 for comments and reply comments, respectively.

Overview of the Requests in this Docket

As noted above the Company's request in this T14 docket includes three separate but related issues:

- 1) **Schedule 135** is the current tariff that includes the terms and conditions under which the Company offers net metering service to residential, small non-residential, and large non-residential customers. The Company proposes to close this tariff to new customers after December 9, 2016.
- 2) **Schedule 135A** is proposed as a new tariff to be effective December 10, 2016 until the Commission determines the outcome of Docket No. 14-035-114. The proposed tariff does not increase rates, charges or conditions as they currently exist in Schedule 135. Schedule 135A adds the following language in the Availability Section:
"Customers will be subject to all changes to net metering service including changes to credits, charges or rate structures offered herein and in related tariffs resulting from the final determination under Utah Code Ann. § 54-15-105.1 which may include, without limitation, a transfer from this tariff to all new applicable service schedules approved by the Commission."
- 3) **Interconnection and Net Metering Agreements Forms** are proposed to be modified to comport with the requested changes to Schedule 135 and Schedule 135A.

Discussion

The Company asserts that the proposed Schedule 135A will not create increased costs, or make changes that will result in more restrictive charges, thus keeping the Tariff advice outside the constraints of R746-405-2(E) which requires a "finding by the Commission that the increases or changes are justified." However, the Office contends that whether and to what degree net metering customers will be affected cannot be known until the Commission has ruled in the current 14-035-114 proceeding. Whether there will be increases or changes that result in more restrictive conditions for NEM customers is presently unknown and unknowable, although the Company has proposed such changes in the related docket. Any such increases or changes could not be implemented absent a "finding by the Commission that the increases or changes are justified." Because the proposed 135A pre-defines which customers would be subject to the changes, in the Office's view these dockets are inextricably linked and should be evaluated under the same standard.

The Commission is under no obligation to act on this tariff request separate from the other docket or on any particular timeline. Both Utah Code 54-3-3 and R746-405-1(B)(1) state that the statutory notice period shall be not less than 30 days from the filed date. There is no outer limit for the time the proposed tariff becomes effective.

The Office believes that expedited approval of the Tariff Advice filing could be misconstrued as a strong signal that the Commission has pre-judged the outcome of the Company's rate change request in the Compliance Filing or key issues contained within that case. For example, while the proposed changes in this T14 docket may not contain any actual increases, it serves to create a division between existing net metering customers and new net metering customers. Thus, approving the Company's request may be seen as an endorsement of either the concept of grandfathering or the cutoff date for grandfathering or both. While the Office is not asserting that any ruling in this case precludes future Commission actions, it could serve to further confuse interested parties. The Anecdotal evidence indicates that confusion already exists as to the status of the Tariff Advice in this proceeding and the requests at issue in 14-035-114.

In summary, the Office believes that the public interest would best be served by addressing the issues raised in this docket simultaneously with the issues raised in 14-035-114 for at least two key reasons. First, the intertwined nature of the issues makes it more efficient to evaluate them together. Also, ruling on this tariff request quickly will likely add further chaos and confusion to a process that will already be challenging to navigate. The Office acknowledges that delaying a decision about Schedule 135A may result in accelerated efforts in the marketplace for additional rooftop solar installations before a perceived future cutoff date. The Office appeals to those in the industry to ensure that customers always receive robust, complete, and accurate information about the nature of the investment decisions or other commitments customers make in choosing rooftop solar as well as the possible rate and regulatory changes that are underway. The Office requests that the Commission consider how it might provide a statement to the public in its order in this docket to signal that changes to net metering rate design will be evaluated in 14-035-114, the proper method to participate, and perhaps including a statement that whether, when, and how customers might be grandfathered would be addressed in the other docket.

Recommendation

The Office recommends that the Commission take whatever procedural steps are necessary to merge the issues raised in this tariff docket into the concurrent proceeding of Docket 14-135-114 and order on all related issues at the same time.

The Office further requests the Commission to consider how it might take steps to provide clear guidance to interested parties regarding what types of changes will be reviewed and how to participate in the appropriate docket. Although such guidance is not typical for this type of Commission order, given the public interest in the case the Office asserts it would be helpful and in the public interest to do so.