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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

Rocky Mountain Power’s Customer Owned)	Docket No. 18-035-28
Generation and Net Metering Report and)	
Attachment A for the Period April 1, 2017 through)	Petition for Reconsideration
Mach 31, 2018)	

Pursuant to Utah Code § 63G-4-301 and Utah Code § 54-7-15, which provides for reconsideration of “any order or decision” of the Utah Public Service Commission (“Commission”), Petitioner Office of Consumers Services (“Office”) submits this Petition for Reconsideration seeking review of the Utah Public Service Commission’s (“Commission”) August 30, 2018 decision declining to “modify the current treatment of expiring credits from Schedule 135 customers at this time.”¹

BACKGROUND

On July 2, 2018, PacifiCorp d/b/a Rocky Mountain Power (“Rocky Mountain Power” or “Company”) filed with the Commission its Customer Owned Generation and Net Metering Report and Attachment A for the Period April 1, 2017 through March 31, 2018. On July 3, 2018, the Commission issued a Notice of Filing and Comment Period, providing for two rounds

¹ Correspondence from Gary L. Widerburg, Docket 18-035-28 at pg. 2.

of comments on the Report, initial comments on August 1, 2018 and reply comments on August 16, 2018. Pursuant to this Notice, the Office, the Division of Public Utilities (“Division”), Utah Clean Energy (“UCE”), Utah Solar Energy Association (“USEA”) and Rocky Mountain Power filed initial and/or reply comments addressing numerous issues, among them whether the treatment of expiring credits from Schedule 135 customers should be modified.

Apart from Rocky Mountain Power, all parties argued that in some fashion that the funds be transferred to the Utah Weatherization Assistance Program (“WAP”).² The Office specifically proposed that the funds bypass Rocky Mountain Power’s demand side management (“DMS”) group and be transferred directly to the WAP administrators.³ UCE and USEA made the additional proposal that a portion of the funds be allocated to a small pilot low-income roof top solar program.⁴ Contending that the transfer of funds to the WAP is not workable given the confines of Schedule 118, the current program tariff, Rocky Mountain Power suggested that the funds be transferred to the Lend-A-Hand program, a non-profit program assisting low-income customers in paying their electric bills.⁵ No party advocated that the treatment of expiring credits from Schedule 135 customers remain unchanged.

Nevertheless, the Commission decided that “given the parties’ concern regarding funding programs not related to electricity usage, the [Commission] declines to modify the treatment of expiring credits from Schedule 135 customers at this time.”⁶

² Office’s August 1, 2018 Initial Comments at pg. 5-6; Office’s August 16, 2018 Reply Comments at pg. 2-3; Division’s August 16, 2018 Reply Comments at pg. 2-4; UCE’s August 1, Initial Comments at pg. 3; UCE’s August 16, 2018 Reply Comments at pg. 1, 3-4; USEA August 16, 2018 Reply Comments at pg. 1-2.

³ August 16, 2018 Reply Comments at pg. 3.

⁴ UCE’s August 1, 2018 Initial Comments at pg. 4; UCE’s August 16, 2018 Reply Comments at pg. 6; USEA Reply Comments at pg. 2

⁵ Rocky Mountain Power’s August 16, 2018 Reply Comments at pg. 3-5.

⁶ Correspondence from Gary L. Widerburg, Docket 18-035-28 at pg. 2

ARGUMENT

As noted above, no party asserts that leaving the method of dealing with excess credits unchanged is in the public interest. Indeed, although the precise proposals differ in some respects, all parties apart from Rocky Mountain Power advocate that the funds be transferred to the WAP. Moreover, all parties acknowledge that the excess funds should be used to provide low-income customers incremental benefits, a result not achieved by leaving the method of dealing with excess credits unchanged. Finally, the Office's proposal to provide the funds directly to the WAP administrators resolves Rocky Mountain Power's contention that providing the funds to the WAP is unworkable given the requirements of Schedule 118.

A. PARTIES' POSITIONS

In its August 1, 2018 initial comments, the Office argued the value of expiring credits presently worth \$159,840.00 be transferred to the WAP for use in weatherization services. Unlike the current treatment of expiring credits, the WAP creates incremental value to low income customers. This suggested use is allowed by existing law. Moreover, the WAP is well established, has a waitlist for participants and the administrators can make immediate use of the additional funds. The Office's central contention, that the use of the credits should provide incremental value to low-income customers, is based on the Office's experience in the legislative process resulting in the passage of Utah Code § 54-15-104(4), the statute governing the treatment of excess credits.⁷ Section 54-15-104(4) provides:

At the end of an annualized billing period, an electrical corporation's avoided cost value of remaining unused credits described in Subsection (3)(a) shall be granted:

- (a) to the electrical corporation's low-income assistance programs as determined by the governing authority; or
- (b) for another use as determined by the governing authority.

⁷ Office's August 1, 2018 Initial Comments at pg. 5.

Specifically, the Office observed that during the legislative process “many solar advocates supported this treatment with the understanding that the value of the excess credits create incremental value to a low income program.”⁸ In their comments, UCE and USEA also stress the desire of solar customers and advocates that the value of the excess credits be used for programs that provide incremental value for low income customers.⁹ For its part, the Division notes that transferring the credits to the WAP aligns with “generation customers’ expectation of how their expired credits are used” and concurs with the Office’s recommendations.¹⁰ Finally, Rocky Mountain Power in contending that the funds from unused credits be transferred to the Lend-A-Hand program, asserts that this approach also “satisfies the intent of the stakeholders in the [section 54-14- 104(4) legislative process] as it provides incremental benefits to low income households.”¹¹ Indeed, the Commission previously ruled that the excess credits be transferred to the HELP program, a program providing low-income customers assistance in paying electrical bills, and the “value of expiring credits is to be additional (rather than offsetting) to revenue

⁸ *Id.*

⁹ UCE’s August 1, 2018 Initial Comments at pg. 4; UCE’s August 16, 2018 Reply Comments at pg. 6; USEA Reply Comments at pg. 2.

While UCE and USEA’s position aligns with the Office’s contention concerning the generation customers’ expectations regarding the passage of section 54-15-104(4) and the appropriateness of using the value of expiring credits to provide funds to the WAP, the Office, Division and Rocky Mountain Power oppose the UCE and USEA’s proposal of using some funds for a small low-income roof top solar pilot program. Office’s August 16 Reply Comments at pg. 3; Division’s August 1, 2018 Initial Comments at pg. 7; Division’s August 16 Reply Comments at pg. 3-4; Rocky Mountain Power’s August 16, 2018 Reply Comments at pg. 4-5. While these parties do not oppose the concept of a low-income solar pilot program, they all are concerned that UCE’s proposal is premature and such a program should not be implemented on the basis of this record but only after the details are presented to the Commission and commented upon by stakeholders, particularly given concerns about the costs, cheaper efficiency gains and limits on the number of customers that can be served. Office’s August 16 Reply Comments at pg. 3; Division’s August 1, 2018 Initial Comments at pg. 7; Division’s August 16, 2018 Reply Comments at pg. 3-4; Rocky Mountain Power’s August 16, 2018 Reply Comments at pg. 4-5.

¹⁰ Division’s August 16, 2018 Reply Comments at pg. 1, 3-4.

¹¹ Rocky Mountain Power’s August 16, 2018 Reply Comments at pg. 5.

collected under Schedule 91.”¹² Thus, the Commission has previously determined that the excess credits should provide low-income customers with incremental benefits.

Just as all parties agree that the intent behind the passage of section 54-14-104(4) was to provide additional assistance to low-income customers, all parties agree that the present system does not achieve this result.¹³ Currently, the value of the excess credits are transferred to the HELP program which provides qualified low-income customers with a credit on their electricity bills. However, this funding does not add additional funds to the program but only supplants funding from the amounts collected through the Schedule 91 surcharge to fund the low-income residential lifeline program.¹⁴ Therefore, while the transfer of the value of the expired credits results in a small decrease in the Schedule 91 surcharge, which provides a small benefit to all customers, it does not result in incremental benefits to low-income customers. As noted above, this situation is contrary to the Commission’s initial ruling providing that excess credits be transferred to the HELP program where the Commission ruled that the “value of expiring credits is to be additional (rather than offsetting) to revenue collected under Schedule 91.”¹⁵

In its August 16, 2018 Reply Comments, the Office refined its proposal by explaining “the additional funding should be granted to the weatherization agencies for their use without consideration as to the specific electrical energy savings attributable to the measures installed.

¹² *In the Matter of the Disposition of Remaining Unused Credits Associated with Excess Customer-Generated Electricity Provided Under Utah Code Ann. § 54-15-104(4)*, Docket 14-035-116, Order, at pg. 7, 2014 WL 5794708 (October 30, 2014, Utah P.S.C.)

¹³ Office’s August 1, 2018 Initial Comments at pg. 5; Division’s August 16, 2018 Reply Comments at pg. 2-3; UCE’s August 1, 2018 Initial Comments at pg. 4; USEA’s August 16, 2018 Reply Comments at pg. 2; Rocky Mountain Power’s August 16 Reply Comments at pg. 5.

¹⁴ Office’s August 1, 2018 Initial Comments at pg. 5; Division’s August 1, 2018 Initial Comments at pg. 7; UCE’s August 1, 2018 Initial Comments at pg. 4; Rocky Mountain Power’s August 16, 2018 Reply Comments at pg. 5.

¹⁵ *In the Matter of the Disposition of Remaining Unused Credits Associated with Excess Customer-Generated Electricity Provided Under Utah Code Ann. § 54-15-104(4)*, Docket 14-035-116, Order, at pg. 7, 2014 WL 5794708 (October 30, 2014, Utah P.S.C.)

Thus, these funds should not be handled through the Company's demand-side management (DSM) group"¹⁶ Such an approach, resolves the difficulties resulting from the requirements of Rocky Mountain Power's tariff Schedule 118 which largely limits participation in the weatherization program to the small group of customers that have electric heating and/or electric water heaters thereby greatly reducing accessibility to the program.¹⁷ By bypassing Rocky Mountain Power's DSM program, including Schedule 118, and providing the funds directly to the agencies that administer the WAP, the funds can be used by a wider array of low-income households. This approach is also consistent with section 545-14-104(4)(b), which allows these funds to be credited to "another use as determined by" the Commission.

In Rocky Mountain Power's August 16, 2018 Reply Comments, written without the benefit of the Office's August 16th Reply Comments, the Company argues against providing funds to the WAP largely because such an approach is unworkable given the confines of Schedule 118.¹⁸ That is, given the requirements of Schedule 118, the number of qualified applicants do not exhaust the funds available for the program in any given year and therefore adding additional funds will not increase the number of homes weatherized.¹⁹ Alternatively, "if the Company were required to change the qualifications for funding projects by removing the requirement that they directly relate to electricity consumption, . . . [t]his change would be inconsistent with the current tariff and a departure from the intent of the Company's role in participating in the WAP."²⁰ These arguments don't address the Office's contentions that the

¹⁶ Office's August 16, 2018 Reply Comments at pg. 3.

¹⁷ See Rocky Mountain Power's August 16, 2018 Reply Comments at pg. 3.

¹⁸ *Id.* at pg. 3-4.

¹⁹ *Id.*

²⁰ *Id.* at pg. 4.

funds should not be administered by the Company's demand side management group and Schedule 118 but should be furnished directly to the agencies administering the WAP.

B. ROCKY MOUNTAIN POWER'S OBJECTIONS

As noted above, Rocky Mountain Power makes two arguments in opposing transferring the value of excess credits to the WAP administrators, (1) that given the requirements of Schedule 118 transferring these funds to the WAP will not result in more homes being weatherized, and alternatively (2) if the requirements of the program that the funds spent on the WAP directly relate to electricity consumption are relaxed, then the program would be inconsistent with Schedule 118 and the intent of Rocky Mountain Power in participating in the WAP.²¹ The Commission accepted these arguments in ruling that given "concerns regarding funding programs not related to electricity usage" it will not modify the treatment of excess credits at this time.²²

However, also as noted above, the Office's recommendation that the transfer of these funds directly to the WAP administrators resolves these concerns. Moreover, the Office's proposal is consistent with using these funds for weatherizing purposes, which all parties but Rocky Mountain Power support, and will provide incremental benefit to low-income households, which all parties support.

Providing the funds directly to the WAP's administrators, would result in providing weatherization services to households that otherwise would not qualify for services under Schedule 118. This will significantly increase the number of customers who can qualify for the program, relieve some of the backlog, and allow the administrators to use these funds

²¹ *Id.* at pg. 3-4.

²² Correspondence from Gary L. Widerburg, Docket 18-035-28 at pg. 2.

immediately.²³ In addition, weatherizing service provides low-income customers with incremental savings for several years as opposed to Rocky Mountain Power's proposal of providing assistance with an electricity bill that has no long-term impact. Also, unlike Rocky Mountain Power's proposal, weatherization services result in the conservation of energy which is both consistent with the generating customers' goals and in the public interest.²⁴ Finally, and again, this proposal is consistent with all parties' positions apart from Rocky Mountain Power.

Bypassing Rocky Mountain Power's DSM programs, including Schedule 118, also resolves Rocky Mountain Power's concerns regarding the issue of acting inconsistent with the tariff and the manner in which the Company presently participates in the WAP. The Office's proposal does not require a change in Schedule 118 or Rocky Mountain Power's involvement in the program pursuant to Schedule 118. The proposal simply provides the administrators of the WAP additional funds they can use without the restrictions imposed by Schedule 118. Nothing in the Office's proposal changes the way the Company participates in the WAP pursuant to Schedule 118.

Finally, the Office urges the Commission to reconsider its contention that this is not the appropriate time to modify the "treatment of expiring credits from Schedule 135."²⁵ All parties support using the funds in a manner to provide incremental benefits to low income customers. The current treatment fails to accomplish this purpose and no party has advocated for the current treatment to remain unchanged. Moreover, based "on this one-year report we cannot be certain if the level of funding will be available in the future, therefore, the Office asserts that we should

²³ See Office's August 1, 2018 Initial Comments at pg. 5-6.

²⁴ See Utah Code § 54-3-1 ("The scope of definition 'just and reasonable' may include, . . . means of encouraging conservation of resources and energy.")

²⁵ Correspondence from Gary L. Widerburg, Docket 18-035-28 at pg. 2.

take advantage of the current opportunity and utilize these funds to provide weatherization services to as many low-income homes as can be accommodated by the providing agencies.”²⁶

In sum, using the funds for additional low-income weatherizing purposes is in line with all parties’ positions, apart from Rocky Mountain Power, and accomplishes the goal of using the funds to provide incremental benefits to low income customers, which all parties support. It also resolves Rocky Mountain Power’s objections to the use of the funds for weatherizing low income households. Finally, given that the availability of this level of funding is not certain to continue, now is the time for modifying the current treatment of excess credits from Schedule 135 generating customers. Particularly when the present system, as it does not provide incremental benefits to low-income customers, is not the best method of accomplishing the public interest and conflicts with the Commission’s prior order.

CONCLUSION

The Commission should reconsider its August 30, 2018 decision and adopt the Office’s proposal of providing the value of the excess credits directly to the administrators of the WAP to be used without regards to the requirements of Schedule 118. This treatment is aligned with the positions of the majority of the parties and accomplishes the goal of providing low-income households with incremental benefits, which all parties support.

Respectfully submitted, September 27, 2018.

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²⁶ Office’s August 16, 2018 Reply Comments at pg. 3.