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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of Rocky Mountain Power’s Customer Owned Generation and Net Metering Report and Attachment A for the Period April 1, 2017 through March 31, 2018	Docket No. 18-035-28 Petition for Review and Reconsideration
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Utah Clean Energy (“UCE”) submits this Petition for Review and Reconsideration pursuant to Utah Code Ann. §§ 54-7-15 and 63G-4-301 requesting that the Public Service Commission (“Commission”) reconsider its August 30, 2018 decision “decline[ing] to modify the current treatment of expiring credits from Schedule 135 customers at this time.”¹

BACKGROUND

Rocky Mountain Power (“Rocky Mountain Power” or “Company”) filed its 2018 Net Metering Report on July 2, 2018. The Office of Consumer Services (“Office”), the Division of Public Utilities (“Division”), and Utah Clean Energy (“UCE”) filed comments in this docket on August 1, 2018 and the Office, the Division, UCE, the Utah Solar Energy Association (“USEA”), and Rocky Mountain Power filed reply comments on August 16, 2018. All parties’

¹ Correspondence from Gary L. Widerburg on August 30, 2018, Docket 18-035-28 at pg. 2.

comments noted that the value of the expired schedule 135 net metering credits (“NEM Credits” or “Credits”) is not currently resulting in incremental value and recommended that the value of the expired NEM Credits be reallocated.

In a recent meeting between Utah regulators, stakeholders, and Rocky Mountain Power, the Company said that although the expired NEM Credits are being attributed to the Company’s low-income bill assistance program (HELP), there are not enough qualified customers requesting assistance from the HELP program for all of the funds to be utilized. The Company reiterated this fact in its reply comments, explaining that the HELP fund has run a surplus since 2013.² The expired NEM Credits comprise a small portion of the budget for the HELP program, which is primarily funded through a bill surcharge. In other words, the minimal value that the expired NEM Credits add to the program is unused due to over-collection of program funds relative to program participation. As a result, the value of the expired NEM Credits is not creating any incremental value for low-income customers (through the utility’s low-income assistance program) or through another program approved by the Commission.

In initial and reply comments, UCE,³ the Office, the Division, and USEA all supported reallocating the expired NEM Credits to the Utah Weatherization Assistance Program (“WAP”).⁴

² Rocky Mountain Power’s August 16 Reply Comments at pg. 5.

³ To clarify UCE’s position on the low-income rooftop solar pilot program discussed on our initial and reply comments, UCE did not recommend that a certain portion of the expired NEM Credits *mandatorily* be allocated to a low-income rooftop solar pilot program. UCE’s position was, from the start, to allocate the expired NEM Credits wholly to the Utah WAP, and allow for the Utah WAP administrators to explore implementing a low-income rooftop solar pilot program, should they choose to do so. *See* UCE’s August 16, 2018 Reply Comments at pg. 2 (“In initial comments, Utah Clean Energy proposed that expired [NEM] credits are credited to the Utah Weatherization Assistance Program to provide additional weatherization services to low-income customers, and potentially a solar pilot program for low-income customers at the discretion of the weatherization office and service providers”).

⁴ UCE’s August 1, 2018 Initial Comments at pg. 4; UCE’s August 16, 2018 Reply Comments at pg. 1-2; Division’s August 1, 2018 Initial Comments at pg. 7; Division’s August 16, 2018 Reply Comments at pg.

The Office recommended transferring “Schedule 135 excess generation values to the low-income weatherization program instead of the low-income rate assistance program,”⁵ and clarifies in reply comments that “...this additional funding should be granted to the weatherization agencies for their use without consideration as to the specific electric energy savings attributable to the measures installed.”⁶ The Division “supports the Utah Weatherization Assistance Program portion of UCE’s proposal.”⁷ USEA also supports use of the expired NEM Credits for weatherization services and notes that this use for the Credits is consistent with the expectations of the NEM customers who generate the Credits.⁸ In reply comments, Rocky Mountain Power cites two impediments to use of the expired NEM Credits for additional weatherization services. First, the Company states that although the WAP has a waitlist, the billings for the Company’s Schedule 118 electricity weatherization program use only a fraction of the program’s current funding because the Company’s Schedule 118 funds can only be used for measures that reduce electricity usage, whereas most of the homes served have natural gas space and water heating. Therefore additional funding will not add any incremental value to the program.⁹ Second, the Company states that applying Schedule 118 services with the intent of reducing non-electrical consumption violates the terms of the Company’s administration of Schedule 118, which limits the scope of the Company’s involvement to reducing consumption of electricity only.¹⁰ In

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

⁵ Office’s August 1 Comments at pg. 7.

⁶ Office’s August 16 Reply Comments at pg. 3.

⁷ Division’s August 16 Reply Comments at pg. 4.

⁸ USEA’s August 16 Reply Comments at pg. 2.

⁹ Rocky Mountain Power’s August 16, 2018 Reply Comments at pg. 3-4.

¹⁰ *Id.*

response to these impediments, Rocky Mountain Power proposed that the expired NEM Credits be reallocated to the Lend-A-Hand program instead.

On August 30, 2018, the Commission issued a decision declining to modify the treatment of expired NEM Credits “[g]iven parties’ concerns regarding funding programs not related to reducing electric usage.”¹¹

ARGUMENT

Section 54-15-104(4) of the Utah Code directs excess Schedule 135 NEM Credits to be put into the “electrical corporation’s low-income assistance programs as determined by the governing authority; or for another use as determined by the governing authority.”¹² All parties largely agreed in comments that the legislative intent driving this statutory provision was for the expired NEM Credits to add incremental value to a low-income assistance program.¹³

In its order on October 30, 2014 in docket 14-035-116, the Commission confirmed that the value of the expired NEM Credits must provide incremental value to the program they are allocated to. Specifically, the Commission said “we clarify that the Schedule 37 avoided cost value of expiring credits is to be additional (rather than offsetting) to revenue collected under Schedule 91.”¹⁴

The expired NEM Credits must be reallocated to a program that can utilize them to satisfy the legislative intent behind §54-15-104(4), and the Commission’s order clarifies that the

¹¹ Correspondence from Gary L. Widerburg on August 30, 2018, Docket 18-035-28 at pg. 2.

¹² Utah Code Ann. section 54-15-104(4).

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

¹⁴ Docket No. 14-035-116, Order on October 30, 2014, pg. 7.

expired NEM Credits must add incremental value. All parties except the Company agreed that reallocating the expired NEM Credits to the Utah Weatherization Assistance Program would satisfy this intent.¹⁵ Rocky Mountain Power did not join the other parties in this agreement because it seemingly misunderstood or mischaracterized UCE's proposal.¹⁶

In initial comments, UCE proposed “that the balance of expired NEM credits reported by RMP in their 2018 Customer Owned Generation and Net Metering report . . . be disbursed to the Utah WAP under the Utah State Department of Workforce Services.”¹⁷ UCE further specified that the incremental value of the expired NEM Credits be allocated through the Utah Department of Workforce Services to the various nonprofit and government subsidiary organizations that provide the weatherization services.¹⁸ UCE's comments do not recommend that the expired NEM Credits be allocated for Rocky Mountain Power to administer through Schedule 118 or limited to measures that reduce electricity usage, nor was that our intent. UCE's comments also do not reference the Company's Schedule 118 Low Income Weatherization program tariff nor do we suggest that qualifications for this program be modified. Instead, UCE proposed that the expired NEM Credits be disbursed to the Utah WAP and administered by the Utah Department of Workforce Services and the various nonprofit and government subsidiary organizations that provide the weatherization services.

¹⁵ Office's August 1, 2018 Initial Comments at pg. 5-6; Offices August 16, 2018 Reply Comments at pg. 2-3; Division's August 16, 2018 Reply Comments at pg. 3-4; 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.

¹⁶ Rocky Mountain Power's August 16, 2018 Reply Comments at pg. 3-4.

¹⁷ UCE's August 1, 2018 Initial Comments at pg. 5.

¹⁸ See *Id.* at 7, 9.

There is no requirement that the expired NEM Credits exclusively fund programs that only reduce electric usage. The PSC has the authority to assign the expired NEM Credits under Schedule 135 to the WAP program to “another use as determined by the [PSC].”¹⁹ The legislature delegated this discretion and authority to the PSC likely to ensure that the value of the expired NEM Credits actually provided incremental assistance through the low-income assistance program or another program equally well-designed to benefit similarly situated Utahns. If the legislature’s intent was to accept that the funds may not actually be put to use it would have simply directed the funds to serve the utility’s low-income program under subsection 54-15-104(4)(a), whether that program could make use of the funds or not. Instead, the legislature tasked the PSC with the responsibility of finding a program under section 54-15-104(4)(b) that incrementally benefits from the funds.

Further, the statute says that the value may be assigned to any program the PSC deems fit. This broad discretion allows the Commission to consider the Utah WAP, which is well suited to both receive incremental benefit from the expired NEM Credits and to satisfy generating customer’s expectation of how their expired Credits are used.²⁰

¹⁹ Utah Code Ann. section 54-15-104(4)(b).

²⁰ Office’s August 16, 2018 Reply Comments at pg. 3 (“ . . . there continues to be a wait list for low-income weatherization services Therefore, the Office asserts that we should take advantage of this current opportunity and utilize these funds to provide weatherization services to as many low-income homes as can be accommodated by the provider agencies”); Division’s August 16, 2018 Reply Comments at pg. 3 (This would better align customer generation customers’ expectation of how their expired credits are used”).

CONCLUSION

Utah Clean Energy respectfully requests the Commission to reconsider its August 30, 2018 decision by either reassigning the expired NEM Credits to the Utah WAP, or by initiating a proceeding to determine which program will make the best use of the expired NEM Credits.

Respectfully submitted, September 28, 2018.

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CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of September, 2018 a true and correct copy of the forgoing was served upon the following as indicated below via electronic mail:

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