



State of Utah

Department of Commerce
Division of Public Utilities

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Action Request Response

To: Public Service Commission of Utah

From: Utah Division of Public Utilities

Chris Parker, Director

Artie Powell, Manager

Doug Wheelwright, Utility Technical Consultant Supervisor

Bob Davis, Utility Technical Consultant

Date: March 1, 2021

Re: **Docket No. 21-035-04**, No Recommendation, In the Matter of the Formal Complaint of Tyler and Meredith Jensen against Rocky Mountain Power.

No Recommendation

The Division of Public Utilities (“Division”) does not have a recommendation for the Public Service Commission of Utah (“Commission”) at this time. The Division lacks sufficient information about communications between the parties to determine whether any relief is warranted.

Issue

On or around January 25, 2021, Tyler and Meredith Jensen filed a formal complaint against Rocky Mountain Power (“RMP”) with the Commission. On January 28, 2021, the Commission issued an Action Request to the Division to review the Complaint and Indicate Whether the Division has a Recommendation. The Commission asked the Division to report back by March 1, 2021. On January 28, 2021, the Commission issued its Notice of Filing and Comment Period allowing RMP to submit a written response on or before March 1, 2021. That schedule also

allowed the complainants to submit a written reply on or before March 16, 2021. This filing represents the Division's response to the Commission's Action Request.

Background

On November 14, 2017, the Commission approved Schedule No. 136, Transition Program for Customer Generation. On November 15, 2017, Schedule No. 135, Net Metering Service, was closed to new customers. Schedule Nos. 135 and 136 offer grandfathering to customers as long as they meet certain criteria.¹ On December 1, 2017, Rocky Mountain Power filed its Application to Establish Export Credits for Customer Generation Commission in Docket No. 17-035-61. The record for Docket No. 17-035-61 is lengthy and not repeated here. On October 30, 2020, the Commission filed its Order in Docket No. 17-035-61 ("Order") effectively closing Schedule No. 136, Transition Program for Customer Generators, to new customers.² On November 25, 2020, the Commission approved RMP's Schedule No. 137, Net Billing, export credit rates ("ECR").

On January 25, 2021, Tyler and Meredith Jensen filed a formal complaint with the Public Service Commission of Utah addressing its Order changing credit rates and complaining about RMP's purported lack of transparency to provide accurate information about the pending transition from Schedule No. 136 to Schedule No. 137.³

Discussion

The stipulation between signatory parties approved by the Commission at the conclusion of Docket No. 14-035-114 was very specific regarding the timing and closure of Schedule No.

¹ See Rocky Mountain Power, Utah Rate Schedules and Rules, https://www.rockymountainpower.net/content/dam/pcorp/documents/en/rockymountainpower/rates-regulation/utah/rates/135_Net_Metering_Service.pdf, and https://www.rockymountainpower.net/content/dam/pcorp/documents/en/rockymountainpower/rates-regulation/utah/rates/136_Transition_Program_for_Customer_Generators.pdf, respectively.

² See Public Service Commission of Utah, Order, Docket No. 17-035-61, October 30, 2020, <https://pscdocs.utah.gov/electric/17docs/1703561/3161911703561o10-30-2020.pdf>.

³ See Formal Complaint of Tyler and Meredith Jensen, January 23, 2021, <https://pscdocs.utah.gov/electric/21docs/2103504/317121FrmlCmplnt1-25-2021.pdf>.

136.⁴ Either one or both of two criteria, when met, would conclude Schedule No. 136 and close that tariff to new customers. The stipulation required the Commission to close Docket No. 136 when it issued its Order in the matter, or when installed solar reached the pre-set megawatt (“MW”) caps. During the period leading up to the Order, RMP provided a link on its website reporting the total and pending installed MWs under Schedule No. 136.

The Commission held a hearing to establish the export credit rate for customer generated electricity from September 29, 2020 through October 6, 2020. At any point after that hearing, the Commission could have entered an order that would close Schedule 136. RMP and other interested parties should have been aware of this fact.

The Commission’s Order was issued on October 30, 2020. The record for Docket No. 17-035-61 is extensive, ranging over the course of three years that includes numerous rounds of litigation, public comment, and local and national coverage through industry trade articles. The Division concludes that the transparency of this matter over the past three years was high and any party interested in customer generation had the opportunity to participate at the relevant times and the opportunity to remain informed on the proceedings. To those following the process it was clear that a decision from the Commission was imminent. Nevertheless, a member of the general public might not be fully aware of the proceedings without further study.

Generally, the relationships between customers and non-utility vendors, such as customer generation sales, are beyond the scope of the Division’s regulatory role. The Division is not aware of the content of solar vendor marketing programs and the information provided to the complainants regarding changes in the export credit rates. To the extent that the export credit rates significantly affect their business, the Division would expect solar industry vendors to be informed of the ongoing procedures. They should also have conveyed that information to potential customers, especially as the above-mentioned hearings concluded. The solar industry was represented by multiple trade associations in Docket No. 17-035-61 and vendors should have been aware of the docket and its consequences. To provide the Commission with context as

⁴ See Public Service Commission of Utah, Order Approving Settlement Stipulation, September 29, 2017, <https://pscdocs.utah.gov/electric/14docs/14035114/29703614035114oass9-29-2017.pdf>, page 5, footnote 4.

to the population of customers that might fall into certain ranges of dates, the Division requested that RMP provide it with the number of customer generation applications received during the two-weeks prior to October 30, 2020 and the number of applications since that time in DPU Data Request 1.2. RMP's response to the Division's data request shows that 1,477 residential and non-residential customers were in the process of permitting solar systems in the two-weeks prior (October 15 to October 30) to the Commission's Order. On October 30, the day of the Order, 622 applications were filed, which was more than six-times the number of applications on any other day in the period. This suggests customers, the solar industry, or both were well aware of the Order's consequences and acted accordingly when the Order was issued. There have been a total of 1,941 residential and non-residential customers seeking approval under Schedule No. 137 since that time (October 31 to February 22).⁵ The Division recommends no modifications to the Commission's October 30 Order.

As noted above, the Division has insufficient information about the communication between the complainants and RMP to determine whether any customer-specific relief is warranted.

Conclusion

The Division recognizes that the termination of Schedule No. 136 results in reduced export compensation for customers who will now participate in Schedule 137. There will always be a last customer under the interim rate schedule and a first customer under the new schedule. The cutoff mechanism for the end of the Transition Program was agreed to by the earlier docket's signatory parties to the settlement and approved by the Commission. The consequences of the Commission's Order for new customers were clear and knowable in advance. They should not be altered in this docket. However, the Division has no recommendation for the complaint in this matter because it lacks sufficient information about the parties' communication. Whether RMP made any representations that warrant redress is a question of fact for the Commission.

Cc: Jana Saba, RMP
Tyler and Meredith Jensen

⁵ Rocky Mountain Power response to Division of Public Utilities Data Request 1.12, February 23, 2021.