



SPENCER J. COX
Governor

DEIDRE M. HENDERSON
Lieutenant Governor

UTAH DEPARTMENT OF COMMERCE

Division of Public Utilities

MARGARET W. BUSSE
Executive Director

CHRIS PARKER
Division Director

Comments

To: Public Service Commission of Utah

From: Utah Division of Public Utilities

Chris Parker, Director
Brenda Salter, Assistant Director
Doug Wheelwright, Utility Technical Consultant Supervisor
Bob Davis, Utility Technical Consultant
Matthew Pernichele, Utility Analyst

Date: February 26, 2024

Re: **Docket No. 24-035-05** Application of Rocky Mountain Power for an Exemption by Appeal under Utah Admin. Code R746-210-4 and for Approval of a Temporary Master Metering Contract

Recommendation (Approval with Recommendation)

The Division of Public Utilities (Division) recommends the Public Service Commission of Utah (Commission) approve Rocky Mountain Power's (RMP) proposed Exemption by Appeal under Utah Administrative Code R746-210-4 and approve its temporary master metering contract (Application) with an expiration date of September 1, 2024. Any extension beyond that date should require an additional Commission approval.

Issue

RMP filed its Application on January 25, 2024. The Commission issued an action request to the Division on January 25, 2024. The Commission asked the Division to review RMP's Application, make recommendations, and report back by February 23, 2024. On January 25, 2024, the Commission issued its Notice of Filing and Comment Period asking any interested person to submit comments by February 26, 2024, and reply comments by March 12, 2024.

Division of Public Utilities

Heber M. Wells Building • 160 East 300 South • P.O. Box 146751 Salt Lake City, UT 84114-6741
www.dpu.utah.gov • telephone (801) 530-7622 • toll-free in Utah (877) 874-0904 • fax (801) 530-6512

Background

RMP received a request from a customer (Developer) in the final stages of building an apartment complex that will provide housing for 72 tenants. The Developer ordered the meter bases and various other supporting materials to install the meters for each of the apartment units in May 2023. Due to supply chain delays, the Developer is not expecting to receive delivery of its electrical equipment until August 2024.

Subsequently, the Developer contacted RMP to explain the delivery delay and requested master metering under Utah Administrative Code R746-210, Utility Service Rules Applicable Only to Electric Utilities, to provide electricity to its tenants as early as February 2024. RMP determined the Developer does not qualify for either automatic exemption under Utah Administrative Code R746-210-2 or exemption through the cost-effective test under Utah Administrative Code R746-210-3. The Developer filed an informal complaint with the Division on September 7, 2023.¹ RMP filed this Application on behalf of the Developer to seek an Exemption by Appeal under Utah Administrative Code R746-210-4.

Discussion

The Division is aware of the supply chain issues plaguing the country that have been persistent since COVID began in 2020. The information available to the Division does not reveal the full timing or extent of the Developer's attempts to procure the necessary equipment through its usual vendor or others. The Division understands the Developer's potential financial difficulties and inability to house tenants as a result of the delayed delivery date of the equipment. However, the Division is tasked with determining compliance with Utah Code and its accompanying administrative rules to evaluate the public interest.

Utah Administrative Code R746-210-4 has specific requirements that must be met before the Commission can approve an Exemption by Appeal. Namely, a benefit-to-cost determination. It also requires a showing that a granted exemption status will be consistent

¹ Docket No. 24-035-05, *RMP Application*, Confidential Attachment 1, filed January 24, 2024, <https://pscdocs.utah.gov/electric/24docs/2403505/331970RdctdAplctn1-24-2024.pdf>.

with the stated purposes of Title I of Public Utility Regulatory Policy Act (PURPA), i.e., conservation, efficiency, and equity.

RMP responded to several data requests from the Division relating to the benefit-to-cost and PURPA requirements.² The majority of the Division's data requests related to tenant billing and how the Commission will be notified once the meter bases are installed and the tenants put on their individual meters.

RMP's responses to the Division's data requests provides evidence of a significant loss of revenues and a potential default of the Developer's loan should the Commission deny the Exemption by Appeal. The Division is unable to investigate or verify the benefit-to-cost detail any further with the provided information.

If this exemption is not granted, there will be no tenants until meters are in place. This means comparison between Schedule No. 6 and Schedule No. 1 is not practical. RMP responded to the Division's inquiries related to tenant billing in Division DR 1.3 explaining how the tenants would be billed under Electric Service Schedule No. 6 through a third-party billing service and notified of the temporary nature of their service. The Division understands the tenants will eventually be billed under Electric Service Schedule No. 1 once the individual meters are installed.

The public interest is the Commission's overarching mission. The rules concerning master metering do not seem to address a situation like the present one. No one is proposing to provide an exemption from the prohibition on master metering in perpetuity. Rather, the choice is whether to keep dozens of housing units unoccupied or to allow their occupancy with temporary master metering. Given the public interest in the availability of housing, granting a time-limited exemption from the rules seems wise in this instance. However, the Commission should take care to limit that exemption, requiring it to end by a date certain. September 1, 2024, is the date by which RMP's and the Developer's agreement

² Docket No. 24-035-05, *RMP Responses to UT 24-035-05 DPU Set 1 (1-5) 2-9-2024*, see Attachment 1.

contemplates service being switched to individual metering. The Commission should require additional process to extend any exemption past that date.

With regard to PURPA's consideration of efficiency measures, RMP indicates it will rely on the tenants understanding that they will eventually be billed individually within a few months, the Developer's installation of energy efficient appliances, HVAC, and lighting, and asking the tenants to curtail their energy use to keep costs low for themselves and their neighbors. While these measures rely heavily on individual decisions, the short duration of the proposed exemption should not markedly hinder efficiency efforts, especially in the longer term.

Conclusion

The Division reviewed RMP's Application for Exemption by Appeal for approval of a temporary master metering contract. The Division is sensitive to these types of requests especially when individual customers, renters in this case, might be harmed by rigid application of PURPA requirements. While better planning might have minimized the supply chain issues, the nature of the potential burden to the Developer and the public need for housing, weigh in favor of approval of this temporary request. The Division recommends the Commission approve RMP's Application with the recommendation that the Exemption expire on September 1, 2024, with tenants switched to individual metering by then.

cc: Jana Saba, RMP
Katherine Smith, RMP
Michele Beck, OCS

ATTACHMENT 1

24-035-05 / Rocky Mountain Power February 9, 2024, DPU Data Request 1.1

DPU Data Request 1.1

In reference to paragraphs 3-5 under the Background Section of the Application, please verify that the language is referring to the meter *bases* and not the individual meters. The Division's understanding is that RMP purchases and installs its own meters and not those provided by the developer (customer). Please verify that RMP has, or will have, the required individual meters on-hand and provide those individual meters when the meter bases become available.

Response to DPU Data Request 1.1

Rocky Mountain Power (RMP) has individual meters on hand to measure the usage of residential customers. All references to the equipment the developer is waiting for in the Company's Application should have referred to meter bases.

24-035-05 / Rocky Mountain Power February 9, 2024, DPU Data Request 1.2

DPU Data Request 1.2

In order for the Commission to issue a waiver, Utah Administrative Code R746-210-4 not only requires a benefit to cost determination, but also a showing by the customer that a granted exemption status will be consistent with the stated purposes of Title I of PURPA; i.e., conservation, efficiency, and equity. The Division wishes to know:

- (a) The cost to the customer of the delay if the waiver is not granted;
- (b) Proof from the customer's supplier that the meter base gear will be delivered as expected in August of 2024.

Confidential Response to DPU Data Request 1.2

(a) With the clarification that the Company is seeking an exemption by appeal (not a waiver) through the process established in Public Service Commission of Utah (UPSC) Rule R746-210-4 in this filing, occupancy of the multi-unit residential building will be delayed from April 1, 2024, to September 1, 2024, if temporary master metering is not permitted. The customer estimates lost rental income during this period would be approximately

(b) Please refer to Confidential Attachment DPU 1.2 which provides information provided by the Company's customer to support the stated meter base gear delivery date of August 2023. Confidential Attachment DPU 1.2 is an annotated invoice from the Company's customer's electrical gear supplier.

Confidential information is provided subject to Public Service Commission of Utah (UPSC) Rules R746-1-601-606.

24-035-05 / Rocky Mountain Power February 9, 2024, DPU Data Request 1.3

DPU Data Request 1.3

The Division understands that the temporary plan is to have a single master meter for the development and a single sub-meter for each of the two units. Please explain in detail:

- (a) How will the tenants be billed for their monthly energy use;
- (b) If the customer covers the billing for its tenants until such time that the individual meters are installed and the tenants are responsible for their own energy use, please explain how the tenants will be encouraged to conserve and be efficient with their energy use;
- (c) Which electric service tariff will the billing be under;
- (d) If the customer pays the tenants' bills until such time as individual meters can be installed, does the customer plan to back bill the tenant for energy use during the waiver period?

Response to DPU Data Request 1.3

The Company clarifies that the residential apartment complex will be temporarily master-metered, but the 72 residential units will not be sub-metered. With the foregoing clarification, the Company's responds as follows:

- (a) The customer intends to use a third-party service to bill tenants for a pro rata share of the electric bill. The customer will comply with all applicable regulations and legal requirements.
- (b) With the understanding that they will be individually billed within a few months, tenants will have the typical attention to the efficiency of appliances that average consumers have when selecting an apartment. That understanding may also discourage tenants from acquiring appliances or other household items that consume large amounts of energy. Tenants will still receive a portion of the total building bill during the months that the apartment building is master-metered and may still be incentivized to collectively keep costs low for themselves and their neighbors.
- (c) While the residential units are temporarily master metered, the billing will be under Schedule 6 (General Service Distribution Voltage).
- (d) The customer will have one bill for usage from the master-meter that will include the tenants' rent until such time as individual meters can be installed.

24-035-05 / Rocky Mountain Power February 9, 2024, DPU Data Request 1.4

DPU Data Request 1.4

Section 8 of the contract requires that all inspections and permits have been completed. Please provide proof that the local governing body having jurisdiction over this project approves of this master metering plan.

Response to DPU Data Request 1.4

Please refer to Confidential Attachment DPU 1.4 which provides a one-line drawing of the temporary master-metering plan as stamped and approved by Salt Lake City (SLC) Building Services. Confidential information is provided subject to Public Service Commission of Utah (UPSC) Rules R746-1-601-606.

24-035-05 / Rocky Mountain Power February 9, 2024, DPU Data Request 1.5

DPU Data Request 1.5

How does Rocky Mountain Power intend to inform the Commission once the meter bases and individual meters have been installed and the waiver is no longer needed?

Response to DPU Data Request 1.5

The Company clarifies that its request in this proceeding is not for a “waiver” of any Public Service Commission of Utah (USPC) rule or requirement. The Company is requesting the UPSC grant an exemption by appeal through the process established in UPSC Rule R746-210-4. With the foregoing clarification, the Company responds as follows:

The Company designed the contract with penalties to incentivize the customer (developer) to expeditiously install individual meters and will impose a monthly penalty beginning November 1, 2024, if individual meters are not installed by October 1, 2024. If desired by the UPSC, or other party, the Company would agree to file a notice in this docket once the individual meters have been installed.