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January 24, 2007

VIA ELECTRONIC & HAND DELIVERY

Utah Public Service Commission
Heber M. Wells Building, 4th Floor
160 East 300 South
Salt Lake City UT 84111

**Re: Docket 06-999-03; EPAct of 2005 Amendments to PURPA; UIEC
Comments on Division of Public Utilities' Recommendations
Concerning Adoption of the Federal Time-Based Metering and
Communications Standard**

Attention Julie P. Orchard, Commission Secretary:

On January 9, 2007, the Public Service Commission of Utah ("PSC" or "Commission") issued an order inviting interested parties to submit detailed written comments responding to the recommendation submitted by the Division of Public Utilities ("DPU" of "Division") "regarding the PURPA Time-Based Metering and Communications Standard including concurrence or disagreement with the Division's recommendation and/or whether the Commission should adopt this standard, decline to adopt this standard, or adopt a modified standard." The Utah Industrial Energy Consumers or ("UIEC")¹ hereby submit their written comments as follows.

¹ The group of electrical power customers referred herein as the UIEC are those identified in the opening of this docket.

Comments

As part of the Energy Policy Act of 2005 (“EPAct 2005), Congress made certain amendments to the Public Utilities Regulatory Policy Act of 1978 (“PURPA”). In doing so, it set forth certain standards and mandated, not that the states adopt the standards, but instead that the states consider the standards and make an informed decision about whether to adopt them. 16 U.S.C. § 1621 (a). One of these standards is the Time-Based Metering and Communications standard. That standard provides, in applicable part, as follows:

(A) Not later than 18 months after the date of enactment of this paragraph, each electric utility shall offer each of its customer classes, and provide individual customers upon customer request, a time-based rate schedule under which the rate charged by the electric utility varies during different time periods and reflects the variance, if any, in the utility’s costs of generating and purchasing electricity at the wholesale level. The time-based rate schedule shall enable the electric consumer to manage energy use and cost through advanced metering and communications technology.

...

(C) Each electric utility subject to subparagraph (A) shall provide each customer requesting a time-based rate with a time-based meter capable of enabling the utility and customer to offer and receive such rate, respectively.

...

(F) Notwithstanding subsections (b) and (c) of section 2622 of this title, each State regulatory authority shall, no later than 18 months after the date of enactment of this paragraph conduct an investigation in accordance with section 2625(i) of this title and issue a decision ***whether it is appropriate to implement the standards set out in subparagraphs (A) and (C).***

16 U.S.C. § 1621(d)(14) (emphasis added).

As established in the technical conferences conducted pursuant to this docket, Rocky Mountain Power Company (“Rocky Mountain” or the “Company”) currently already offers some type of time-of-use pricing to all its customer classes. In addition, currently the Company provides customers requesting a time-based rate with a time-based meter.

Therefore, the Company already provides and installs time-based meters and communications devices for each of their customers who want to participate in time-based pricing rate schedules, and arguably, the Company already meets the “standards set out in subparagraphs (A) and (C).” 16 U.S.C. § 1621(d)(14)(F).

The only question of whether the Company already meets this standard lies in the vagueness of the statement that “The time-based rate schedule shall enable the electric consumer to manage energy use and costs through advanced metering and communications technology.” Id. § 1621 (d)(14)(A). Arguably, it does.

The UIEC agrees with the Division to the extent that the Division recommends that the standard not be adopted. The existing tariffs of the Company satisfy the requirements of subsection (A) and (C) of the standard. Also, due to the vagueness of the language and lack of authoritative interpretation, more harm than good would likely come from adoption of the standard as written. However, the UIEC disagrees with the remainder of the Division’s recommendation.

First, the Division has recommended that the 2006 General Rate Case stipulation commitments to investigate winter on-peak period timing and on-peak/off-peak price differential be incorporated into some larger nebulous investigation into time-based metering and communication. The UIEC believes that this cannot be done. The 2006 General Rate Case stipulation was entered into by several parties, most of which have not been a part of the discussions of this docket. Its scope and timing were agreed to by those parties and approved by the Commission. The UIEC does not believe that a separate order can be issued to engulf that separate agreement between those separate parties so as to amend that stipulated agreement.

Also, there is a great deal of disagreement as to the benefit of the scope of investigation suggested by the Division without more well-defined parameters. The Division’s proposed investigation is too broad and lacks specific well-defined questions to be investigated.

What would be useful to be investigated is how the Company’s current cost of service methodology could be changed to accommodate more advanced metering and communications technologies. The Company’s current cost of service methodology is based on averaging and uses old models and methodologies that do not accommodate any perceived benefits that might be derived from using newer technologies. The current technologies in place for time-of-use customers are probably adequate for the current rate structures. More advanced metering and communications serve little purpose and are a waste of resources unless the cost of service methodology is entirely revamped to be based instead on real-time, seasonal, and daily variations in load. If any investigation is done, it

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should be done to determine what information can be captured by new technologies and in turn how that information can be structured to result in meaningful rates.

The UIEC does not disagree that some types of investigations may be beneficial. But, it should be made clear that the costs of such investigations are to be borne by the utility or by the class that is the subject of the investigation. Customers over 1MW are already on mandatory time-of-use metering and where their businesses allow it, they have already changed their behavior or else they pay the price of not doing so. Therefore, no further investigations are needed for these classes of customers as long as the current cost of service protocol remains in place. Accordingly, for equitable rates, these customers should not be required to bear the costs of the Division's proposed investigations for other classes.

Conclusion

Based on the foregoing, therefore, the UIEC recommends that the Commission **NOT** adopt the PURPA standard for Time-Based Metering and Communications. The UIEC recommends that the commitments of the 2006 General Rate Case stipulation be left separate to go forward as agreed in that separate Commission-approved stipulation. Finally, the UIEC recommends that if any investigation is ordered, that the scope be well-defined and narrowly drawn and that the cost of such investigations be ordered to be borne by the utility or by the classes which are the subject of such investigations.

Sincerely,

Parsons Behle & Latimer

Vicki M. Baldwin

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