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MEMORANDUM

To: Utah Public Service Commission

From: Utah Division of Public Utilities
Phil Powlick, Director
Artie Powell, Energy Section Manager
Jamie Dalton, Utility Analyst II
Abdinasir Abdulle, Technical Consultant

Date: November 19, 2009.

Re: Docket Number: 08-999-05 In the Matter of the Consideration of the Amendment of Title 16 U.S.C. 2621(d) and the Addition of Title 42 U.S.C. 6344 by the U.S. Energy Independence and Security Act of 2007. Rate Design Modification to Promote Energy Efficiency Investments

RECOMMENDATION

The Division of Public Utilities (Division) recommends that the Public Service Commission (Commission) not adopt the EISA standards of rate design modification to promote energy efficiency investments. The Division believes that current rate designs and the DSM activities in Utah are in line with the requirements of Standard (17) and any modifications to the current rate designs need to be made in a rate case setting. Therefore, the Division recommends that no further actions are required.

ISSUE

The Energy Independence and Security Act of 2007 (EISA) requires that the Utah Public Service Commission (Commission) consider and make a determination to either adopt, modify or not adopt new standards for rate design modifications to promote energy efficiency investments. This memo addresses the addition to the Public Utility Regulatory Policies Act (PURPA) of 1978 section 111(d) standards (17)(A) and (17)(B). Among other things, these standards require that the rates charged by any electric utility be aligned with the delivery of cost-effective energy efficiency. It also requires that each regulatory authority and each non-regulated utility consider removing the throughput incentive, providing utility incentives for successful management of energy efficiency programs, adopting rate designs that encourage energy efficiency for each rate class, and allowing timely recovery of energy efficiency-related costs. These standards are listed in Appendix A attached to this memo.

BACKGROUND

On September 8, 2008, the Utah Public Service Commission (“Commission”) issued a notice for a technical conference to be held on November 5, 2008. In this technical conference, the Commission staff explained the Energy Independence and Security Act of 2007 (“EISA”) and the four new electricity standards added to the Public Utility Regulatory Policies Act (“PURPA”) by EISA. In Utah, any standard that the Commission determines as appropriate to adopt would only apply to Rocky Mountain Power (“Company”). Assignments were made during the technical conference to various groups to address the new PURPA standards.

One such group, the DSM Rate Design Group, accepted an assignment to evaluate the standards for the rate design modifications to promote energy efficiency investments (“the standard”). This group was also working on rate design proposals to promote conservation and energy efficiency that resulted from the Cost of Service, Rate Spread, and Rate Design Stipulation of Docket No. 07-035-93. The group worked on these two tasks concurrently. Upon completion of the work group’s evaluation of the standard, the Commission requested that the Division file a memo with the Commission containing its recommendation either adopting the standards as stated in the EISA or proposing alternative standards.

The intent was for the Division's memo to serve as a catalyst for comments from interested parties that the Commission could consider in determining whether to adopt the EISA standard. All participating parties provided input. While the Division has attempted to incorporate those comments into the final version of this memo, the comments and recommendations herein are solely those of the Division. As such, we encourage others to file comments with the Commission as envisioned by the Commission's process. This memo presents the Division's recommendations regarding the standard of rate design modification to promote energy efficiency investments.

Work Group Meetings and Participants

The DSM Rate Design Group held five meetings on November 10, 2008, January 8, 2009, February 5, 2009, February 26, 2009, and March 12, 2009. At the first meeting, the group reviewed its assignment and agreed upon a list of issues to be discussed in the subsequent meetings. At the January 8, 2009 meeting, Jim Lazar, a representative for the Regulatory Assistance Project ("RAP"), gave a presentation on rate design options and revenue decoupling. The members of the DSM Rate Design Group were representatives of the Division, the Office of Consumer Services, the Commission Staff, the Company, Western Resource Advocates, South West Energy Efficiency Project, Central Valley Water, Utah Association of Energy Users, Parsons Behle and Latimer, ETC/Intermountain CHPRAC, Utah Clean Energy, Wal Mart, Salt Lake Community Action Plan, Wasatch Clean Air Coalition, Questar Gas Company, NUCOR Steel, Utah Rate Payer Association, and AARP.

DISCUSSION

In each meeting, the group discussed possible cost based rate designs for various classes of customers that would promote energy efficiency. At the January 8th meeting, Mr. Lazar provided a foundation for these discussions by presenting an overview of potential rate designs. Mr. Lazar recommended inverted block rates for residential class, either time of use (TOU) rates or critical pricing if savings can justify the cost of advanced meters, if not, then an inverted block rate based on historical usage for small commercial, and TOU rates in addition to critical peak pricing for large commercial and industrial groups.

There was a general consensus among the group members that rates should be designed according to a particular rate class. Group members generally agree that TOU rates based on real time costs are consistent with the regulatory principle of cost causation and are the theoretically the best pricing scheme for sending appropriate pricing signals to customers to promote efficiency. However, given the costs of real time meters and the signaling equipment necessary for adopting TOU rates, this option is neither available nor cost effective for residential customers. The group believes that the next best option is inverted block rates.

For the residential class, Rocky Mountain Power currently uses a summer inverted block rate design, which has been in place for approximately six years. The design has three summer blocks, one flat winter energy charge, and a customer charge. This inverted block rate design is intended to meet the various goals of rate design considered by the Commission. These goals include: setting rates to reflect cost causation, the promotion of conservation and energy efficiency, administrative ease, public understanding, and equity. The group believes that inverted block designs, if designed properly, can be cost based and function as an appropriate seasonal rate, and provide appropriate price signals to residential customers.

However, the group differs in how many blocks should be used, what the appropriate customer charge should be, and what block rate differentials are appropriate. However, decisions regarding how the current rate design should be modified could be made in a rate case setting. The Division believes that a residential rate design that promotes energy efficiency is potentially already in place and modifications deemed necessary should be done in a rate case setting.

Regarding the Commercial class, Mr. Lazar recommended and the group agreed that TOU rates with fixed time periods are appropriate if interval metering is not in place and recommended implementation of TOU plus critical peak pricing if interval metering is in place. Currently, the rate design for the commercial class in Utah has seasonal demand and energy charges. In addition, there are energy time of day and demand time of day options available for the customers in this class. These designs are intended to promote energy efficiency and conservation. However, in Utah, customers in this class vary widely in their load factors. This creates problems in balancing the demand and energy charges. A higher demand charge or energy charge would negatively affect both low and high load factor customers. The Division

thinks that further study is needed in understanding the characteristics of the customers in these classes so that rate designs that treat these customers fairly and promote energy efficiency can be determined. The Division believes that a rate case is the appropriate setting to explore any potential rate design modifications .

For the industrial class, Mr. Lazar recommended and the group generally agreed with the adoption of TOU rates in addition to critical peak pricing. Currently, the rate designs for Utah's industrial customers have seasonal time of day use demand and energy charges. The rate structure for this class is designed to promote energy efficiency and conservation. Therefore, the Division believes that any modifications to the rate design of this class needs to be done in a rate case setting. This will allow the Commission to balance different rate design objectives.

In addition to rate designs that would promote energy efficiency, the group discussed the disincentives the Company is facing in implementing energy efficiency programs. Utah's current rate structures are such that some of the fixed costs are recovered through volumetric charges. Energy efficiency programs designed to reduce energy usage may make it difficult for the Company to recover all of its fixed costs. This may create a financial disincentive for the Company to promote energy efficiency.

The group discussed various alternative mechanisms to eliminate this disincentive including establishing a separate entity that would manage energy efficiency programs, developing rate designs that would allow the Company to recover its fixed costs through fixed charges, and revenue decoupling. In general, the group does not believe collecting fixed costs through high fixed charges is a viable option and that other alternative collection mechanisms require further study.

However, the Division notes that the Company currently acquires a cost-effective portfolio of energy efficiency and demand-side management programs in Utah absent of the alternative mechanisms listed above. Additionally, the Company has been able to recover prudently-incurred DSM expenditures in a separate tariff rider adjusted periodically to track the level of DSM investment. DSM is a cost-effective resource that helps the Company meet a portion of its rapidly growing resource deficit position and the Company has recently either altered or

expanded existing Utah programs to target greater participation levels and energy savings. The costs recovered through the tariff rider, however, do not include the revenue loss due to the reduced sales. Therefore, the Division believes that further analysis and consideration of methods to eliminate or reduce the utility's financial disincentives associated with investments in energy efficiency programs is needed.

In conclusion, the Division believes that current rate designs and the DSM activities in Utah are in line with the requirements of Standard (17) and any modifications to the current rate designs need to be made in a rate case setting. Therefore, the Division recommends that no further actions are required.

APPENDIX A.

PURPA 111(d) Standard (17)

(17) RATE DESIGN MODIFICATIONS TO PROMOTE ENERGY EFFICIENCY INVESTMENTS.

- (A) IN GENERAL.— The rates allowed to be charged by any electric utility shall-
- (i) Align utility incentives with the delivery of cost-effective energy efficiency; and
 - (ii) Promote energy efficiency investments.
- (B) POLICY OPTIONS.- In complying with subparagraph (A), each State regulatory authority and each nonregulated utility shall consider-
- (i) Removing the throughput incentive and other regulatory and management disincentives to energy efficiency;
 - (ii) Providing utility incentives for the successful management of energy efficiency programs;
 - (iii) Including the impact on adoption of energy efficiency as 1 of the goals of retail design, recognizing that energy efficiency must be balanced with other objectives;
 - (iv) Adopting rate designs that encourage energy efficiency for each customer class;
 - (v) Allowing timely recovery of energy efficiency-related costs; and
 - (vi) Offering home energy audits, offering demand response programs, publicizing the financial and environmental benefits associated with making home energy efficiency improvements, and educating homeowners about all existing Federal and State incentives, including the availability of low-cost loans, that make energy efficiency improvements more affordable.