Effective 5/10/2016

54-7-12.8 Electric energy efficiency, sustainable transportation and energy, and conservation tariff.

(1) As used in this section:

(a) "Demand side management" means an activity or program that promotes electric energy efficiency or conservation or more efficient management of electric energy loads.

(b) "Pilot program period" means a period of five years, beginning on January 1, 2017, during which the sustainable transportation and energy plan is effective.

(c) "Sustainable transportation and energy plan" means the same as that term is defined in Section 54-20-102.

(d) "Utah solar incentive program" means the eligible utility rooftop solar pilot program established by commission order in 2012.

(2)

(a) As provided in this section, the commission may approve a tariff under which an electrical corporation includes a line item charge on the electrical corporation's customers' bills to recover costs incurred by the electrical corporation for demand side management.

(b) The commission shall authorize a large-scale electric utility that is allowed to charge a customer for demand side management under Subsection (2)(a) to:

(i) if requested by the large-scale electric utility, capitalize the annual costs incurred for demand side management provided in Subsection (2)(a);

(ii) amortize the annual cost for demand side management over a period of 10 years;

(iii) apply a carrying charge to the unamortized balance that is equal to the large-scale electric utility's pretax weighted average cost of capital approved by the commission in the large-scale electric utility's most recent general rate proceeding; and

(iv) recover the amortization cost described in Subsection (2)(b)(ii) and the carrying charge described in Subsection (2)(b)(iii) in customer rates.

(3) The commission shall, before January 1, 2017, authorize a large-scale electric utility to implement a combined line item charge on the large-scale electric utility's customers' bills to recover the cost to the large-scale electric utility of:

(a) demand side management, including the cost of amortizing a deferred balance;

(b) the sustainable transportation and energy plan; and

(c) the additional expense described in Subsection (5)(a)(i).

(4) On December 31, 2016, the commission shall end the Utah solar incentive program and surcharge tariff and the large-scale electric utility shall stop accepting new applications for solar incentive program incentives.

(5)

(a) The commission may authorize a large-scale electric utility that capitalizes demand side management costs under Subsection (2)(b) to:

(i) recognize the difference between the annual revenues the large-scale electric utility collects for demand side management and the annual amount of the large-scale electric utility's demand side management cost amortization expense as an additional expense;

(ii) establish and fund, via the additional expense described in Subsection (5)(a)(i), a regulatory liability; and

(iii) use the regulatory liability described in Subsection (5)(a)(ii) to depreciate thermal generation plant.

(b)

(i) The commission may authorize the large-scale electric utility to use the regulatory liability described in Subsection (5)(a)(ii) to depreciate thermal generation plant for which the commission determines depreciation is in the public interest for compliance with an environmental regulation or another purpose.

(ii) The commission may not consider the existence of the regulatory liability described in Subsection (5)(a)(ii) in a determination to accelerate depreciation under Subsection (5)(b)(i).

(c) The commission shall allow the large-scale electric utility to apply a carrying charge to the regulatory liability described in Subsection (5)(a)(ii) in an amount equal to the large-scale electric utility's pretax average weighted cost of capital approved by the commission in the large-scale electric utility's most recent general rate proceeding.

(d) The commission may allow a large-scale electric utility to use the regulatory liability carrying charge described in Subsection (5)(c) to offset the carrying charge described in Subsection (2)(b)(iii).

(e) The large-scale electric utility shall apply the carrying charge described in Subsection (5)(c) to funds that a large-scale electric utility is authorized to use to depreciate thermal generation plant under Subsection (5)(a) until the reduction in the large-scale electric utility's rate base associated with the thermal generation plant depreciation for which the funds are used is reflected in the large-scale electric utility's customers' rates.

(f) If the commission determines that funds established in the regulatory liability under Subsection (5)(a) are no longer needed for the purpose of depreciating thermal generation plant, the large-scale electric utility shall use the balance of the funds in the regulatory liability to offset the capitalized demand side management costs described in Subsection (2)(b)(i).

(6)

(a) During the pilot program period, of the funds a large-scale electric utility collects via the line item charge described in Subsection (3), the commission shall authorize the large-scale electric utility to allocate on an annual basis:

(i) $10,000,000 to the sustainable transportation and energy plan; and

(ii) the funds not allocated to the sustainable transportation and energy plan to demand side management.

(b) The commission shall authorize a large-scale electric utility to spend up to:

(i) $2,000,000 annually for the electric vehicle incentive program described in Section 54-20-103; and

(ii) an annual average of:

(A) $1,000,000 for the clean coal technology program described in Section 54-20-104; and

(B) $3,400,000 for the innovative utility programs described in Section 54-20-105.

(c) The commission shall authorize a large-scale electric utility to recoup the large-scale electric utility's unrecovered costs paid through the Utah solar incentive program from the funds allocated under Subsection (6)(a)(i).

(d) The commission may authorize a large-scale electric utility to allocate funds the large-scale electric utility collects via the line item charge described in Subsection (3) not spent under Subsection (6) to a conservation, efficiency, or new technology program if the conservation, efficiency, or new technology program is cost-effective and in the public interest.

(7) A large-scale electric utility shall establish a balancing account that includes:

(a) funds allocated under Subsection (6)(a)(i);

(b) the program expenditures described in Subsection (6)(b);

(c) the unrecovered Utah solar incentive program costs described in Subsection (6)(c); and

(d) a carrying charge in an amount determined by the commission.

(8) A customer that is paying a contract rate under an agreement with a large-scale electric utility as of January 1, 2016, is exempt from the costs recovered under Subsection (3), except for

costs created by or arising from the Utah solar incentive program included in Subsection 54-7-12.8(3)(b).

(9)

(a) In any proceeding commenced under Section 54-3-32, the commission may not consider or assess to an eligible customer an expenditure, cost, amortization, charge, or liability of any kind that is created by or arises in whole or in part from:

(i) any program created under Title 54, Chapter 20, Sustainable Transportation and Energy Plan Act; or

(ii) this section, except for costs created by or arising from the Utah solar incentive program included in Subsection 54-7-12.8(3)(b).

(b) Except as provided in Subsection (9)(a) and in Section 54-3-33, this section and Title 54, Chapter 20, Sustainable Transportation and Energy Plan Act, do not:

(i) amend or repeal any provision of Section 54-3-32; or

(ii) affect any right, defense, or credit available to an eligible customer under Section 54-3-32.

(10) Each electrical corporation proposing a tariff under this section shall, before submitting the tariff to the commission for approval, seek input from:

(a) the Division of Public Utilities;

(b) the Office of Consumer Services; and

(c) a person that files a request for notice with the commission.

(11) Before approving a tariff under this section, the commission shall hold a hearing if:

(a) requested in writing by the electrical corporation, a customer of the electrical corporation, or any other interested party within 15 days after the tariff filing; or

(b) the commission determines that a hearing is appropriate.

(12) The commission may approve a demand side management tariff under this section either with or without a provision allowing an end-use customer to receive a credit against the charges imposed under the tariff for electric energy efficiency measures that:

(a) the customer implements or has implemented at the customer's expense; and

(b) qualify for the credit under criteria established by the commission.

(13) In approving a tariff under this section, the commission may impose whatever conditions or limits it considers appropriate, including a maximum annual cost.

(14) Unless otherwise ordered by the commission, each tariff under this section approved by the commission shall take effect no sooner than 30 days after the electrical corporation files the tariff with the commission.

Amended by Chapter 393, 2016 General Session