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June 30, 2010

Ms. Patricia Van Gerpen, Executive Director  
South Dakota Public Utilities Commission  
500 East Capitol  
Pierre, SD 57504-5070

RE: Docket No. RM09-002 – In the Matter of the Adoption of Rules Regarding  
Renewable, Recycled, and Conserved Energy

Dear Ms. Van Gerpen:

Thank you for the opportunity to comment on the South Dakota Public Utilities Commission's Rule-Making Docket No. RM09-002 - In the Matter of the Adoption of Rules Regarding Renewable, Recycled, and Conserved Energy.

We applaud the Commission for their efforts to recognize the important roles that demand response and energy efficiency play in our state's energy future. The rural electric cooperatives have a long history of promoting these goals and have been leaders in developing new programs and technologies in these areas. For East River and its members, twenty-four rural electric cooperatives and one municipally-owned electric system in South Dakota and Minnesota, many of these efforts have taken place on a federated basis providing efficient, coordinated delivery of services at the wholesale and retail levels with the ultimate benefits flowing to the member consumers.

East River supported the Commission's initiative, in 2009, to amend the state's renewable energy objective to count energy efficiency and conservation toward the REO. However, during the discussions regarding Senate Bill 57, we did raise an issue as to whether or not East River's load management system would qualify towards the REO. We are pleased to see that the proposed rules, with some possible minor modifications, appear to permit East River's load management system to meet the definition of "demand response" and also qualify towards the conserved energy portion of the REO.

While more detailed suggestions on individual rules will follow later in these comments, three critical features of the rules to East River are:

1. Eligibility of our load management system to qualify as conserved energy under the REO.

2. Ability to count any existing (pre-2009) efforts so long as those programs or investments yield forward-looking benefits and otherwise meet the definition of conserved energy.
3. Acknowledgment of the on-going benefits of certain energy efficiency and demand response efforts, including recognition of both energy and capacity conserved, and the assurance that measures with long-term, annual benefits be eligible not just for one year or a few years but for as long as those measures are producing benefits.

As to the first point, load management in the East River system refers to the control of various customer electric loads during times of peak usage on the electric system. By managing loads so that they are not all on at the same time, East River and its members are able to reduce the need for additional generation resources. Over 60,000 different electric loads in homes, farms, and businesses of member consumers throughout eastern South Dakota and western Minnesota are connected to the system. These loads include electric water heaters, air conditioners, irrigation systems, and large industrial processes. The customers voluntarily decide whether or not to participate in the program and turn over the functionality of load control to East River. Control is initiated through a highly sophisticated system that communicates with load control devices connected to the various loads.

East River operates the load management system on a federated, cooperative basis with its member systems. For more than two decades, East River's distribution members have aggressively marketed the voluntary use of load management by offering incentives in rates for consumers to participate. This "carrot" approach, emphasizing voluntary participation by consumers through incentives, has been remarkably successful with the benefits ultimately flowing to the member consumers that own those distribution systems. This load management system was a "Smart Grid" application long before the phrase came into vogue.

Regarding the second point listed above, established programs that meet the conserved energy standards should count towards the REO. Otherwise, the rules would penalize early adopters that promoted energy efficiency and conservation before any requirement to do so.

A good illustration of the third point, acknowledging long-term benefits of certain initiatives, would be ground source heat pumps and the substantial, on-going savings they provide throughout their useful lives. Other examples are upgrades to improved commercial lighting, Energy Star appliances, and compact florescent lights (CFLs). All of these reap benefits not just in the first year or first few years but for many years to come. It appears to us that the proposed rules would permit the utility to count existing efforts and any on-going benefits year after year. If that is not the case, East River would request the rules be modified to do so.

In addition to these three critical issues, East River would also highlight two other important points. First, any references to "retail" and "utility" type obligations should permit action and aggregating at the wholesale power supply level. This is a typical practice for regulatory compliance in South Dakota and other states. If such aggregation is not permitted, we would suggest amending the rules accordingly. Second, we anticipate Basin Electric will file comments describing how certain improvements at the generation and transmission level should qualify for the REO. East River agrees with these comments, and plans to make

significant investments in upgrades to our transmission system and related facilities that will yield energy efficiency benefits. Accordingly, we believe these sorts of improvements should count towards the REO and, if needed, be specifically written into the rules.

The following paragraphs outline some comments specific to the noted rules:

**20:10:38:01. Definitions.**

East River would suggest slightly modifying the definition of “demand response” to acknowledge that the action may be taken not just by the consumer but also by the utility or wholesale power supplier on behalf of the consumer. This could be accomplished by adding the underlined phrase:

“temporary changes in energy use by end use consumers, or by the utility on their behalf, ...”

To ensure load management is eligible under the definition of “demand response,” East River would suggest including the following language at the end of the “demand response” definition:

“Demand response shall include, but is not limited to, direct control of member load by the utility.”

**20:10:38:02. Measurement and verification of energy efficiency measures.**

The second sentence refers to “retail provider.” East River would likely do this on behalf of our members, so we would suggest either amending the rules to reflect that a wholesale supplier could do this on behalf of its members or have the Commission acknowledge it will interpret the rules in this fashion.

**20:10:38:06. Annual report requirements.**

(8) The amount of **energy** and **capacity** the retail provider conserved through **energy efficiency measures**;

(9) The amount of the reduction of **energy** and **capacity** the retail provider achieved through **demand response measures**;

(emphasis added)

For the reporting requirement under section (8), the “capacity” conserved will be harder to quantify and under section (9) the energy reduction will be harder to quantify.

Let’s look at these reporting requirements in conjunction with the other rules.

**20:10:38:02. Measurement and verification of energy efficiency measures.**

“The amount of conserved energy achieved through energy efficiency measures shall be validated by the use of an energy efficiency impact evaluation” through either a Deemed Savings (20:10:38:03) or Measured Savings approach (20:10:38:04).

Both the Deemed Savings and the Measured Savings describe energy savings only, **capacity** is not mentioned. The energy conserved from energy efficiency measures is pretty straight forward, for example, those achieved through Energy Star appliances, commercial lighting upgrades, or CFLs. However capacity savings from energy efficiency measures is not so simple, for example, the Energy Star rating system does not mention capacity (kW) as far as East River can ascertain. While East River believes certain energy efficiency measures result in capacity savings, we do not routinely calculate that and have not yet developed a methodology for determining it.

**20:10:38:05 Measurement and verification of demand response measures:**

The amount of conserved **energy** achieved through demand response measures shall be validated by the use of a "demand response impact evaluation".

Regarding conserved energy from demand response measures, while East River believes utilization of our load management system results in energy conservation, we have not calculated that specifically in the past and have not yet developed the methodology to determine it.

As far as conserved capacity, we have a defined methodology for determining the capacity conserved, so that will not be an issue. However, **capacity** is not mentioned in the description of a "demand response impact evaluation."

It would appear that East River can fairly easily report the energy conserved from energy efficiency and capacity conserved from demand response. However, the rules, while asking for the amount of conserved energy and capacity for both energy efficiency and demand response measures, set guidelines for determining only conserved energy, and conserved capacity is not mentioned. Perhaps inserting "and capacity" in the appropriate spots would clarify the standards.

In conclusion, East River stands ready to work with the Commission and staff to address these and any other issues that may arise through the rule-making process. We extend our appreciation to you for what has potential to be one of the most thoughtful approaches to energy efficiency and conservation standards in the nation.

Sincerely,



Robert K. Sahr  
General Counsel

RKS/sl