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November 21, 2011

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

RE: Docket No. RM11-001 – In the Matter of the Adoption of Rules Regarding Renewable Energy Credits and Renewable, Recycled, and Conserved Energy; Gas and Electric Customer Billing

Dear Ms. Van Gerpen:

Thank you for the opportunity to comment on the South Dakota Public Utilities Commission's Rule-Making Docket No. RM11-001 - In the Matter of the Adoption of Rules Regarding Renewable Energy Credits and Renewable, Recycled, and Conserved Energy; Gas and Electric Customer Billing.

We applaud the Commission for its 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 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.

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.

While we believe the rules as drafted would permit load management to qualify as conserved energy, the following revision would provide clarification on this critical point for those utilities with Smart Grid systems that yield conservation:

> "Demand response," temporary changes in energy use by end-use customers from their normal consumption patterns in response to changes in the price of energy over time, <u>periods of high energy use,</u> or in response to incentive payments designed to induce lower energy use at times of high wholesale market prices, <u>high energy use,</u> or when system reliability is jeopardized;

There may be periods when conservation actions are taken that do not necessarily correlate to periods of high market prices particularly for those utilities (including cooperatives, investor-owned, and municipal utilities) that are not actively participating in MISO. This modification would ensure appropriate conservation efforts under those circumstances are counted on par with situations involving price or reliability.

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, Basin Electric has filed in its June 30, 2010, letter in RM09-002 comments describing how certain improvements at the generation and transmission level should qualify for the REO. East River agrees with these comments and has initiated 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. Otherwise, cooperatives and municipal utilities might not receive the same benefit from generation and transmission improvements that investor-owned utilities could.

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