

July 6, 2018

MEMORANDUM

TO: Public Service Commission
FROM: Robin Arnold, Bob Decker, Zack Rogala
SUBJECT: Reconciliation of Energy West's No Interest Loan Program in West Yellowstone

PURPOSE

The purpose of this memo is to provide further staff analysis and recommendation on the application from Energy West Montana ("EWM") for approval of the reconciliation of its No Interest Loan Program ("NIP") in West Yellowstone.

BACKGROUND

EWM and the MCC entered into a stipulation agreement regarding EWM's West Yellowstone NIP ("Stipulation"). During a regularly scheduled work session on June 26, 2018, the Commission voted to postpone making a final decision on EWM's Application, pending two outstanding issues. First, the Commission sought additional explanation regarding the legal authority of the stipulation's proposed refund to EWM's West Yellowstone customers, and explanation regarding the Stipulation's currently proposed \$3,100.33 refund, as opposed to a greater amount. Second, the Commission sought a better understanding of the actual USB revenue collections from 1997-2017 and the relation of that amount to: 1) the USB revenue required by PSC administrative rule (Mont. Admin. R. 38-5-7020(2)); and 2) the USB revenue required by statute (Mont. Code Ann. § 69-3-1408(2)).

LEGAL AUTHORITY & RATE CREDIT AMOUNT

The question presented is what legal authority allows the parties to stipulate to refund—and why \$3,100.33 specifically—a portion of EWM's USB revenue to its West Yellowstone Customers?

In response to questions from staff, the parties state that they believe the statutory requirements do not allow EWM to refund a larger portion of EWM's over-collection to its customers. The statute in question states in full:

Mont. Code Ann. § 69-3-1408. Universal system benefits programs -- establishing nonbypassable rate -- exemption. (1) Except as provided in subsection (4), a natural gas utility shall implement, upon commission approval and subject to ongoing commission oversight and direction, a universal system benefits program.

(2) Except as provided in subsection (4), the commission shall establish a universal system benefits charge that natural gas transmission services providers

or distribution services providers, or both, in the state of Montana shall charge to all end-use customers, taking into consideration the current level of expenditure by the natural gas utility, cost-effectiveness, and similar costs imposed in other states. The charge may be established and revised through a universal system benefits charge tracking procedure. The method of assessing the charge may not disproportionately burden a large transmission services provider's customers. *Within the universal system benefits charge, beginning January 1, 2007, a natural gas utility's minimum annual funding requirement for low-income weatherization and low-income energy bill assistance is established at 0.42% of a natural gas utility's annual revenue for the previous year. [Emphasis added.]* A natural gas utility must receive credit for its internal programs or activities that qualify as universal system benefits programs.

The operative language is italicized above. The parties state that it is their understanding that the Commission cannot order a refund that would be below the 0.42% required by statute.

Accordingly, when the 0.42% statutory minimum collection amount is subtracted from the 0.57% on average over-collection that EWM has generated since 1997, this amounts to the \$3,100.33 rate credit agreed-to in the stipulation as outlined below.

Total Sales Revenue (1997-2017)¹	\$ 26,134,493
USB Revenue Minimum (1.12% rate) ²	\$ 292,706
USB Revenue Actual (0.57%) ³	\$ 148,621
USB Expenditure Actual	\$ 35,756
Over-collection⁴	\$ 112,865
USB Statutory Minimum Revenue (0.42% rate) ⁵	\$ 109,765
Proposed Customer Refund⁶	\$ 3,100

Staff agrees with the parties that the Commission does not have the authority to order a refund greater than the difference between EWM's over-collection in the 1997-2017 period (equivalent to an actual rate of 0.57% during the period) and the statutory minimum (0.42%). The law as currently written states that the 0.42% is from 2007 onward; however, the 0.42% was also

¹ For the West Yellowstone service area of Energy West Montana.

² As required by Mont. Admin. R. 35.5.7020(2); $\$26,134,493 \times 0.0112 = \$292,706$.

³ As collected by EWM; $\$148,621 \div \$26,134,493 = 0.0057$.

⁴ USB Revenue Actual minus USB Expenditure Actual; $\$148,621 - \$35,756 = \$112,865$; \$112,865 includes repayment from Great Falls USB of \$31,764.

⁵ Minimum required by Mont. Code Ann. § 69-3-1408(2); $\$26,134,493 \times 0.0042 = \$109,765$.

⁶ Statutory minimum subtracted from over-collection; $\$112,865 - \$109,765 = \$3,100$.

originally included in the 1997 statute, with the only relevant modification in 2007 to change the 0.42% to a minimum percentage, as opposed to a required percentage at a level of 0.42%.⁷

Accordingly, staff finds that EWM was required to not only collect 0.42% from its customers for the 1997-2006 period, but also required by PSC rule to collect 1.12% from 1998 onward as well. While a Commission waiver of the 1.12% USB rate, applied retroactively, may be logical in light of the over-collection that occurred at the actual USB rate of 0.57% for the 1997-2017 period, we do not believe the statutory requirement for USB collections can be disregarded, retroactively or otherwise.

A retroactive Commission waiver of Mont. Admin. R. 38-5-7020(2) for the 1998-2017 period and the resulting \$3,100.33 rate credit reflecting the difference from EWM's over-collection and the statutory minimum provides a short-term, yet permissible, benefit to EWM's West Yellowstone customers. This short-term benefit, combined with over-collection revenue of \$109,765, which is to be held in an interest-bearing account and must be expended on USB initiatives for West Yellowstone customers, presents a reasonable resolution of the issues presented.

ACCOUNTING OF USB REVENUE COLLECTIONS FOR 1997-2017

The data in the USB Summary table above addresses the second question posed by the Commission. In general terms, EWM's *actual* USB revenue for 1997-2017 was greater than what was required by statute, but less than what was required by PSC administrative rule.

USB revenue minimum by rule ⁸	\$292,706 (1.12% of sales)
USB revenue actual	\$148,621 (0.57% of sales)
USB revenue minimum by statute ⁹	\$109,765 (0.42% of sales)

STAFF RECOMMENDATION

Based on the preceding analysis, staff recommends the Commission approve the stipulation proposed by MCC and EWM.

⁷ 1997 Mont. Laws 2888 ("Within the universal system benefits charge, a natural gas utility's annual funding requirement for low-income weatherization and low-income energy bill assistance is established at 0.42% of a natural gas utility's annual revenue.")

⁸ Mont. Admin. R. 38.5.7020(2).

⁹ Mont. Code Ann. § 69-3-1408(2).