

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application of Rocky Mountain Power, a Division of PacifiCorp, for Authority to Change its Depreciation Rates Effective January 1, 2008)
)
) DOCKET NO. 07-035-13
) ORDER ADOPTING AND APPROVING
) STIPULATION ON DEPRECIATION
) RATE CHANGES
)
)

ISSUED: February 4, 2008

By the Commission:

On January 15, 2008, pursuant to the Revised Scheduling Order issued October 26, 2007, the Commission held a hearing in this docket. Gregory Monson, of the law firm Stoel Rives LLP, appeared on behalf of Rocky Mountain Power (Rocky Mountain Power or the Company), Assistant Attorney General Michael Ginsberg appeared on behalf of the Utah Division of Public Utilities (Division), Assistant Attorney General Paul Proctor appeared on behalf of the Utah Committee of Consumer Services (Committee). The only other party to this docket, the Utah Association of Energy Users (UAE), did not appear at the hearing.

Rocky Mountain Power, the Division and the Committee entered into a Stipulation on Depreciation Rate Changes (Stipulation). The Stipulation resolved all issues in this docket. The parties to the Stipulation (Stipulating Parties) represented to the Commission that UAE was aware of the Stipulation and had no objection to it. Accordingly, the purpose of the hearing was to hear evidence and argument regarding adoption and approval of the Stipulation. A copy of the Stipulation is attached to this Order.

Procedural Background

On March 14, 2007, Rocky Mountain Power filed an Application for an order authorizing a change in depreciation rates effective January 1, 2008. The Application was filed prior to completion of a final depreciation study so that interested parties would have an opportunity to engage consultants, review a preliminary study in a public process, including discovery, and provide recommendations that would be considered by the Company in completing its final depreciation study. The Commission issued a Scheduling Order on April 27, 2007, acknowledging this process, directing Rocky Mountain Power to provide a status report, scheduling technical conferences and setting a discovery schedule and a schedule for the filing of testimony and hearings. Between March and August of 2007, the parties held a number of discussions and technical conferences, including multi-state conferences at which any interested party was allowed to participate. During this process, UAE sought and was granted intervention. No other party sought intervention in this docket.

On August 31, 2007, Rocky Mountain Power filed direct testimony of Henry E. Lay, Mark C. Mansfield and Donald S. Roff. A depreciation study was an exhibit to the testimony of Mr. Roff. Based on December 31, 2006, depreciable plant balances and relative allocation factors, Rocky Mountain Power's proposed depreciation rates resulted in a decrease in annual Utah depreciation expense of \$10.0 million. On October 15, 2007, the Division filed testimony of David T. Thomson and Charles W. King, recommending depreciation rates that would result in a decrease in depreciation expense of \$39.4 million. On the same day, the Committee filed the testimony of Daniel E. Gimble and Jacob Pous, recommending depreciation

rates that would result in a decrease in depreciation expense of \$37.1 million. The Division and Committee subsequently filed errata to their testimony filed on October 15, 2007.

Following a duly noticed Scheduling Conference, the Commission issued a Revised Scheduling Order on October 26, 2007. Pursuant to the Revised Scheduling Order, the Company filed rebuttal testimony of Messrs. Mansfield and Roff and Bruce N. Williams on November 6, 2007. Thereafter, Rocky Mountain Power filed an Unopposed Motion to Amend Revised Scheduling Order, requesting vacation of the date for filing surrebuttal testimony on the ground that the parties had reached a settlement in principle. The motion requested that the hearing set for January 15, 2008, be maintained for presentation of the settlement. The Commission issued an Order Partially Vacating Schedule on December 19, 2007, vacating the date for filing surrebuttal testimony. The Stipulation was filed on January 11, 2008.

At the hearing on January 15, 2008, the Stipulating Parties offered the testimony they had previously filed into evidence as background for and in support of the Stipulation. The testimony was admitted without objection. They then presented testimony in support of the Stipulation. Rocky Mountain Power presented the testimony of David L. Taylor, the Division presented the testimony of Mr. Thomson and the Committee presented the testimony of Mr. Gimble. The witnesses were made available for cross examination and responded to questions from the Commission. In addition, Messrs. Lay for Rocky Mountain Power, King for the Division and Pous for the Committee were available by telephone to answer questions regarding the Stipulation.

Standard for Approval of Stipulations

Utah Code Section 54-7-1(1) provides, “Informal resolution, by agreement of the parties, of matters before the commission is encouraged as a means to: (a) resolve disputes while minimizing the time and expense that is expended by: (i) public utilities; (ii) the state; and (iii) consumers; (b) enhance administrative efficiency; or (c) enhance the regulatory process by allowing the commission to concentrate on those issues that adverse parties cannot otherwise resolve. Further, the Commission “may adopt any settlement proposal entered into by two or more of the parties . . . at any stage of the adjudicative procedure. Utah Code Section 54-7-1(13)(b) and (e)(i). The Commission “may adopt a settlement proposal if: (A) the commission finds the settlement proposal is just and reasonable in result; and (B) the evidence, contained in the record, supports a finding that the settlement proposal is just and reasonable in result. Utah Code Section 54-7-1(3)(d)(i). Finally, the Commission “shall conduct a hearing before adopting a settlement proposal if requested by: ... (C) an intervening party to the adjudicative proceeding. Utah Code Section 54-7-1(3)(e)(ii).

Accordingly, we must determine whether the Stipulation in this case is just and reasonable and in the public interest. In making this determination, we refer to the definition of just and reasonable in section 54-3-1: “The scope of definition of ‘just and reasonable’ may include, but shall not be limited to, the cost of providing service to each category of customers, and on the well-being of the state of Utah; methods of reducing wide periodic variations in demand of such products, commodities or services, and means of encouraging conservation of resources and energy. In reviewing a stipulation, the Commission may also consider whether it

was the result of good-faith, arms-length negotiations. *Utah Department of Administrative Services v. Public Service Commission*, 658 P.2d 601, 614, fn. 24 (Utah 1983).

Description of the Stipulation

The following description of the Stipulation is provided without in any way amending or altering the terms and conditions of the Stipulation: The Stipulation proposes depreciation rates that are set forth in detail in Schedule 1 attached to and incorporated in the Stipulation. As applied to depreciable plant balances as of December 31, 2006, the proposed depreciation rates result in a decrease in Rocky Mountain Power's annual depreciation expense in Utah of \$22.1 million. The Stipulation provides that Rocky Mountain Power will complete a new depreciation study within five years of the date of the Commission's order in this docket or prior to the Company's next request for a change in depreciation rates, whichever comes first. The Stipulation provides that, effective January 1, 2008, when the Company is reimbursed by a third party for a retirement of plant, the amounts the Company is reimbursed will first be treated as credits against the removal costs on the related project and, to the extent there are excess reimbursed amounts beyond the removal costs incurred in connection with the project, the excess reimbursement will be credited against the cost of replacing the plant and shown in contributions in aid of construction. Finally, the Stipulating Parties agree that the proposed depreciation rates should become effective on January 1, 2008, that they should be incorporated into Rocky Mountain Power's calculation of its revenue requirement in its currently pending general rate case, Docket No. 07-035-93, and that the rates are fair, just, reasonable and in the public interest. A copy of the Stipulation is attached hereto as Exhibit A.

Discussion, Findings and Conclusions on Stipulation

As noted above, testimony in support of adoption and approval of the Stipulation was provided by Mr. Taylor for Rocky Mountain Power, Mr. Thomson for the Division and Mr. Gimble for the Committee. No party provided testimony in opposition to adoption and approval of the Stipulation and no party otherwise opposed its adoption. After describing their positions and the terms of the Stipulation, each witness testified that the depreciation rates proposed in the Stipulation were the product of arms-length negotiations between the Stipulating Parties aided by the depreciation consultants retained by the parties. They further testified that the depreciation rates were fair, just, reasonable and that adoption of them would be in the public interest.

Based upon the foregoing uncontroverted evidence, the Commission finds and concludes that adoption and approval of the Stipulation is just and reasonable and in the public interest. The Stipulating Parties agree and we find and conclude that the Stipulation provides a reasonable compromise of their positions in this docket. Our conclusion that the terms and conditions of the Stipulation are just and reasonable and that adoption and approval of the Stipulation is in the public interest is bolstered by the fact that the Stipulation was the product of arms-length negotiations and that the parties were assisted in the development of their positions and in their negotiations not only by their staffs and employees, but by outside experts. As discussed previously, there is no evidence in the record conflicting with our finding and conclusion that adoption and approval of the Stipulation is just and reasonable and in the public interest. However, as we have indicated in previous orders approving stipulations, approval of

the Stipulation is not intended to alter any existing Commission policy or to establish any precedent by the Commission.

Based on the foregoing and good cause appearing, the Commission issues the following Order:

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The attached Stipulation is adopted and approved, and incorporated into this order of the Commission as if fully set forth herein.
2. Rocky Mountain Power is authorized to implement the depreciation rates proposed in the Stipulation effective January 1, 2008.
3. Rocky Mountain Power shall incorporate the depreciation rates approved in this Order into its calculation of its revenue requirement in its currently pending general rate case, Docket No. 07-035-93.
4. Rocky Mountain Power shall complete a new depreciation study, including a review and analysis of net salvage values, within five years of the date of this Order or prior to the Company's next request for a change in depreciation rates, whichever comes first.
5. Effective January 1, 2008, when Rocky Mountain Power is reimbursed by a third party for a retirement of plant, the amounts the Company is reimbursed shall first be treated as credits against removal costs on the related project; to the extent there are excess reimbursed amounts beyond the amount of removal costs incurred in connection with the

DOCKET NO. 07-035-13

-8-

project, the excess reimbursement shall then be credited against the cost of replacing the plant and shown as contributions in aid of construction.

Pursuant to Utah Code Ann. §§63-46b-12 and 54-7-15 agency review or rehearing of this order may be obtained by filing a request for review or rehearing with the Commission within 30 days after the issuance of the order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission fails to grant a request for review or rehearing within 20 days after the filing of the request for review or rehearing, it is deemed denied. Judicial review of the Commissions final agency action may be obtained by filing a petition for review with the Utah Supreme Court within 30 days after final agency action. Any petition for review must comply with the requirements of Utah Code Ann. §§ 63-46b-14 and 63-46b-16 and the Utah Rules of Appellate Procedure.

DATED at Salt Lake City, Utah this 4th day of February, 2008.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary
G#56005

Justin Lee Brown (8685)
Senior Counsel
Rocky Mountain Power
201 South Main Street, Suite 2300
Salt Lake City, UT 84111
(801) 220-4050
(801) 220-3299 (fax)
justin.brown@pacificorp.com

Gregory B. Monson (2294)
Stoel Rives LLP
201 South Main Street, Suite 1100
Salt Lake City, UT 84111
(801) 578-6946
(801) 578-6999 (fax)
gbmonson@stoel.com

Attorneys for Rocky Mountain Power

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of ROCKY
MOUNTAIN POWER for Authority to Change
Its Depreciation Rates Effective January 1,
2008

Docket No. 07-035-13

**STIPULATION ON DEPRECIATION
RATE CHANGES**

Pursuant to Utah Code Ann. § 54-7-1 (Supp. 2005) and Utah Administrative Code R746-100-10.F.5 (2005), Rocky Mountain Power, a division of PacifiCorp (“Rocky Mountain Power” or the “Company”), the Utah Division of Public Utilities (“Division”), and the Utah Committee of Consumer Services (“Committee”) (for purposes of this Stipulation, Rocky Mountain Power, the Division, and the Committee are referred to as “Stipulating Parties”), submit this Stipulation on Depreciation Rate Changes (“Stipulation”) in resolution of all issues in this docket and

request that the Commission approve new depreciation rates for Rocky Mountain Power as stipulated herein to become effective on January 1, 2008. The Utah Association of Energy Users (“UAE”) is a party in this docket and has represented to the Stipulating Parties that it does not oppose the Stipulation.

PROCEDURAL BACKGROUND

1. On March 14, 2007, Rocky Mountain Power filed its Application for an order authorizing the Company to change depreciation rates effective January 1, 2008, and seeking approval of a procedural schedule under which the Company would file its depreciation study no later than September 1, 2007.

2. On April 6, 2007, the Division recommended that the Commission initiate a Scheduling Conference and enter a scheduling order that would establish a procedural schedule, allowing all Utah interested parties an opportunity to review and comment on the Company’s depreciation methodologies and assumptions.

3. A Scheduling Conference was held on April 20, 2007 resulting in a Scheduling Order dated April 27, 2007 that set a schedule for testimony filings and hearings in this matter.

4. On July 10, 2007, the UAE moved to intervene as a party. The Commission granted UAE’s motion on July 31, 2007. No other person or entity sought to intervene in this matter.

5. On August 31, 2007, Rocky Mountain Power filed direct testimony of Henry E. Lay, Mark C. Mansfield, and Donald S. Roff. A depreciation study, recommending depreciation rates for all depreciable plant accounts, was an exhibit to the testimony of Mr. Roff. Based on

December 31, 2006 depreciable plant balances and relative allocation factors, Rocky Mountain Power's proposed depreciation rates resulted in a decrease in depreciation expense of \$10.0 million in Utah.

6. On October 15, 2007, the Division filed the direct testimony of David T. Thomson and Charles W. King. An exhibit to Mr. King's testimony recommended alternative depreciation rates. Based on December 31, 2006 depreciable plant balances and relative allocation factors, the Division's proposed depreciation rates resulted in a decrease in depreciation expense of \$39.4 million in Utah.

7. On October 15, 2007, the Committee filed the direct testimony of Daniel E. Gimble and Jacob Pous. An exhibit to Mr. Pous's testimony recommended alternative depreciation rates. Based on December 31, 2006 depreciable plant balances and relative allocation factors, the Committee's proposed depreciation rates resulted in a decrease in depreciation expense of \$37.1 million in Utah.

8. On October 16, 2007, the Committee filed an erratum to the direct testimony of Mr. Gimble.

9. Following a Scheduling Conference held on October 25, 2007, the Commission issued a Revised Scheduling Order on October 26, 2007.

10. On November 1, 2007, the Division filed an erratum to the direct testimony of Mr. King.

11. On November 6, 2007, Rocky Mountain Power filed rebuttal testimony of Messrs. Mansfield, Roff, and Bruce N. Williams.

TERMS AND CONDITIONS

Substantive Terms of the Stipulation

12. The Stipulating Parties have engaged in good faith, arms-length negotiations in an effort to resolve this matter. The retained experts of the Stipulating Parties have participated in the negotiations. The negotiations have resulted in the agreement of the Parties on the terms and conditions as set forth herein.

13. The Stipulating Parties agree that the proposed depreciation rates set forth in Schedule 1 attached hereto and incorporated herein, represent just and reasonable depreciation rates for Rocky Mountain Power in Utah commencing January 1, 2008.

14. The depreciation rates proposed in Schedule 1 result in a decrease of approximately \$22.1 million in Rocky Mountain Power's annual depreciation expense in Utah based on December 31, 2006 depreciable plant balances and relative allocation factors.

15. Among significant factors involved in the changes in rates are the following major components:

a. the accrual rate for steam production is reduced as a result of a combination of generally increasing depreciation lives of steam plants to 61 years, except the Gadsby and Carbon plants that are increased to 64 years, increasing negative net salvage value from \$25 to \$40 per Kilowatt and including estimated production plant in service balances through December 31, 2007¹;

¹ 2007 plant balances are based on 10 months of actual additions and 2 months of estimated additions for purposes of updating remaining lives.

b. the accrual rate for hydroelectric production is increased as a result of recognizing the terminal removal costs based on Federal Energy Regulatory Commission license expiration dates and the probability of removal of some of the minor generating units;

c. the accrual rate for other production plant is reduced by increasing the depreciation lives of combustion turbine and combined cycle combustion turbine plants to 30 and 40 years, respectively;

d. the accrual rate for system transmission plant is decreased as a result of increasing the average service lives by approximately one year and increasing the average negative net salvage values by approximately 0.7%;

e. the average accrual rate for Utah distribution plant is unchanged, but the average negative net salvage is reduced by approximately 1.3% and the average service lives are increased by approximately one-half year;

f. the accrual rate for mining operations is reduced as a result of an increase in average service lives by approximately 5.6 years; and

g. the accrual rate for Utah general plant is reduced as a result of an increase in positive net salvage value for Account 390 Structures and Improvements.

16. The Stipulating Parties agree that Rocky Mountain Power shall complete a new depreciation study, including a review and analysis of net salvage values, within five years of the date of the Commission's order in this matter or prior to the Company's next request for a change in depreciation rates, whichever comes first.

17. The Stipulating Parties agree that, effective January 1, 2008, when the Company is reimbursed by a third party for a retirement of plant, the amounts the Company is reimbursed shall first be treated as credits against removal costs on the related project; to the extent there are excess reimbursed amounts beyond the amount of removal cost incurred in connection with the project, the excess reimbursement shall then be credited against the cost of replacing the plant and shown as contributions in aid of construction.

18. The Stipulating Parties agree that, if this Stipulation is approved by the Commission, the depreciation rates set forth on Schedule 1 should become effective on January 1, 2008 and should be incorporated into Rocky Mountain Power's calculation of its revenue requirement in its Utah general rate case, Docket No. 07-035-93.

19. The Stipulating Parties agree that this Stipulation is in the public interest and that all of its terms and conditions are fair, just and reasonable.

General Terms and Conditions

20. All negotiations related to this Stipulation are privileged and confidential and no party shall be bound by any position asserted in negotiations. Neither the execution of this Stipulation nor the order adopting this Stipulation shall be deemed to constitute an admission or acknowledgment by any Stipulating Party of any liability, the validity or invalidity of any claim or defense, the validity or invalidity of any principle or practice, or the basis of an estoppel or waiver by any Stipulating Party other than with respect to issues resolved by this Stipulation; nor shall they be introduced or used as evidence for any other purpose in a future proceeding by any Stipulating Party except a proceeding to enforce the approval or terms of this Stipulation.

21. The Stipulating Parties each agree to present testimony of one or more witnesses to explain and support this Stipulation. The witnesses of the Stipulating Parties will be available for cross examination. So that the record in this docket is complete and in support of this Stipulation, the Stipulating Parties may move for the admission of testimony and exhibits that have been filed; however, notwithstanding the admission of filed testimony, the Stipulating Parties shall support the Commission's approval of the Stipulation.

22. The Stipulating Parties agree that if any person challenges the approval of this Stipulation or requests rehearing or reconsideration of any order of the Commission approving this Stipulation, each Stipulating Party will use its best efforts to support the terms and conditions of the Stipulation. As applied to the Division and Committee, the phrase "use its best efforts" means that they shall do so in a manner consistent with their statutory authority and responsibility. In the event any person or party seeks judicial review of a Commission order approving this Stipulation, no Stipulating Party shall take a position in that judicial review opposed to the Stipulation.

23. Except with regard to the obligations of the parties under the three preceding paragraphs of this Stipulation, this Stipulation shall not be final and binding on the Stipulating Parties until it has been approved without material change or condition by the Commission in an order that is no longer subject to any further reconsideration or appellate review. In the event the Commission rejects any part or all of this Stipulation, or imposes any additional material change or condition on approval of this Stipulation, or in the event the Commission's approval of this Stipulation is rejected or conditioned in whole or in part by a court, each Stipulating Party

reserves the right to withdraw from this Stipulation. If such an order is issued, the Stipulating Parties agree to meet and discuss the applicable Commission or court order within five business days of its issuance and to attempt in good faith to determine if they are willing to modify the Stipulation. No Stipulating Party shall provide notice of withdrawal prior to complying with the foregoing sentence. In the event that no modified stipulation is reached, any Stipulating Party may withdraw from this Stipulation by giving written notice of withdrawal to the Commission and the other Stipulating Parties. Any such notice shall be given within five business days after reaching impasse in any discussions regarding modifying the Stipulation. If any Stipulating Party withdraws from this Stipulation pursuant to this paragraph, no Stipulating Party shall be bound or prejudiced by the terms and conditions of this Stipulation, which have been accepted by the parties in consideration of this Stipulation and which may have been contested but for this Stipulation, and each Stipulating Party shall be entitled to undertake any step or to assert any position it deems appropriate without regard to this Stipulation.

BASED ON THE FOREGOING, the Stipulating Parties request that the Commission issue an order approving this Stipulation and adopting the terms and conditions of this Stipulation.

RESPECTFULLY SUBMITTED: January 11, 2008.

/s/ Gregory B. Monson
Justin Lee Brown
Rocky Mountain Power

Gregory B. Monson
Stoel Rives LLP

Attorneys for Rocky Mountain Power

/s/ Patricia E. Schmid
Michael Ginsberg
Patricia E. Schmid
Assistant Attorney Generals

*Attorneys for Utah Division of Public
Utilities*

DOCKET NO. 07-035-13

-17-

/s/ Paul H. Proctor

Paul H. Proctor

Assistant Attorney Generals

*Attorneys for Utah Committee of
Consumer Services*

DOCKET NO. 07-035-13

-18-

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **STIPULATION ON DEPRECIATION RATE CHANGES** was served upon the following by electronic mail, on January 11, 2008:

Michael Ginsberg
Patricia E. Schmid
Assistant Attorney Generals
500 Heber M. Wells Building
160 East 300 South
Salt Lake City, UT 84111
mginsberg@utah.gov
pschmid@utah.gov

Paul H. Proctor
Assistant Attorney Generals
500 Heber M. Wells Building
160 East 300 South
Salt Lake City, Utah 84111
pproctor@utah.gov

Gary A. Dodge
Hatch, James & Dodge
10 West Broadway, Suite 400
Salt Lake City, UT 84101
gdodge@hjdllaw.com

/s/ Ted D. Smith _____