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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of Rocky Mountain Power for Authority to Increase its Retail Electric Utility Service Rates in Utah and for Approval of its Proposed Electric Service Schedules and Electric Service Regulations, Consisting of a General Rate Increase of Approximately $161.2 Million Per Year, and for Approval of a New Large Load Surcharge	Docket No. 07-035-93 **CLOSING ARGUMENT OF ROCKY MOUNTAIN POWER**

The Public Service Commission of Utah ("Commission") requested that interested parties present a brief closing argument in writing. Rocky Mountain Power, a division of PacifiCorp ("Rocky Mountain Power" or "the Company"), hereby submits the following closing argument in support of the selection of a test period beginning July 1, 2008 and ending June 30, 2009.

I. LEGAL STANDARD

Utah Code Ann. § 54-4-4(3)(a) states that in determining just and reasonable rates, the Commission "shall select a test period that, *on the basis of evidence*, the commission finds *best reflects the conditions that a public utility will encounter during* *the period when the rates determined by the commission will be in effect*." (Emphasis added). In addition, the Commission, in its October 20, 2004 Order in Docket No. 04-035-42, identified nine factors that should be considered in test period selection. In the light of these standards, the evidence demonstrates that the Company's proposed test period should be selected by the Commission.

II. ARGUMENT

The Rate-Effective Period

Commissioner Campbell asked the parties to comment on what the phrase "rate-effective period" means. The Company agrees with Committee of Consumer Services ("Committee") witness Ms. DeRonne and UAE witness Mr. Higgins that this term generally refers to the first twelve months after rates become effective. Given that rates will first become effective in August 2008, the Company's proposed test period most closely aligns with the rate-effective period. The UIEC's proposed test period ending mid-year 2008 does not correspond in any way with the rate-effective period, while the calendar year 2008 test period proposed by UAE corresponds to only four months of the rate-effective period.

Conditions to Be Encountered During the Rate-Effective Period

The Company's witnesses testified on the conditions that the Company anticipates encountering during the rate-effective period. Mr. Walje testified that most of the major projects in the test period have already been completed and the others are being completed on schedule. Moreover, the projects are driven by factors that have nothing to do with temporary changes in economic conditions, such as the long-term need to assure reliability and to comply with government mandates.

Mr. Lasich addressed major new generation projects that will be completed during the June 2009 test period with a capital cost of $1.5 billion. Of the eight specific generation projects discussed by Mr.Lasich, four are already completed and four are under construction, all of which are on schedule and will be placed into service in the rate-effective period. Additionally, Mr. Bennion addressed the major transmission and distribution (T&D) projects included in the company's test period and indicated that they will be fully operational before the end of June 2009. Both witnesses confirmed that changes to Utah's economy will not materially change the Company's plans with respect to the generation and T&D projects included in the proposed test period.

Mr. Rife testified that the Company’s forecasts are based on the best data available to the Company and checked for reasonableness against historical growth patterns in Utah. The forecasted data has a proven track record—on average, since 1991, actual load growth has been within 0.5 percent of forecasted growth. Mr. Rife’s testimony was supported by Division of Public Utilities (“Division”) witness Dr. Zenger’s testimony that Company forecasts have been reliable in the past and may be relied on in this docket.

Mr. Duvall discussed the trends related to net power costs, described the forces that are driving the trend line upward, and gave a detailed description of the analytical tools (in particular the GRID model). Mr. Duvall testified that the net power costs in the test period are conservative estimates of cost anticipated during the rate-effective period.

Mr. McDougal testified that the test period was selected because it best represents the rate-effective period. He testified that he scrupulously applied the matching principle. When one factor is input into the test period data—such as new capital investment—

corresponding changes have been reflected for revenue, operations and maintenance expense, and other factors such as load and net power costs.[1] His calculations are based on non-speculative data that provides an accurate picture of the conditions in the rate-effective period. The Company's test period projections are also conservative. For example, Mr. Lasich noted that four capital expansion projects, the Rolling Hills wind project (99 MW), the Seven Mile Hill wind project expansion (19.5 MW), the Glenrock III wind expansion project (39 KW), and the Lake Side facility capacity expansion (10 MW) are planned to be in service in the first six months of 2009, but have not been included in Mr. McDougal's test period calculation.

Used and Useful

Mr. McDougal described the way that he included investments that will come on line and become "used and useful" during the test period. Importantly, these capital additions are included in the test period in a way that ensures fairness for all stakeholders and diffuses any argument rate base includes plant not used and useful. New capital investment is included in rate base only for the portion of the test period that it will be used and useful. For example, the Glenrock wind project will go into service in December 2008, and, therefore, only 7/13 of the investment associated with that project is included in test-period rate base.[2] Another project—the Jim Bridger environmental upgrade—is scheduled to be completed in May 2009; 2/13 of the cost of this project is

[1] Mr. McDougal testified that if forecasts deviate from projections, the test period is constructed to assure that all corresponding impacts change with the forecast, assuring that proper matching is achieved. And, of course, choosing the Company's proposed test period does not bind any party to the Company's proposed revenue requirement, including the underlying data or projections used to develop the revenue requirement. As Dr. Zenger and Ms. DeRonne testified, both the Division and Committee reserve the right to make adjustments and to propose "safeguards." All of these issues are subject to continuing discovery, testimony, and hearings.

[2] The Company uses 13 months to calculate average rate base in constructing its proposed test period.

included in rate base. Thus, the Company will not improperly recover costs for new plant added to rate base during the test period before it is used and useful.[3]

Under UIEC's June 30, 2008 test period, neither the cost of the Glenrock wind project nor the Jim Bridger environmental upgrade would be included in rate base. Under UAE's proposal, the Glenrock wind project would be included in rate base for only one month, and the Jim Bridger project would completely excluded. Without the ability to recover depreciation, a return on investment, and expenses for such projects for the portion of the test period they will be in service, the Company would be denied any meaningful opportunity to recover the costs that it will incur during the rate-effective period in providing service to customers.

The Division and Committee Positions

This issue presents the Commission with the unusual circumstance in which the Company, Division, and Committee agree on the test period that should be used in this case. Although there will likely be adjustments as to which the Company, Division, and Committee will disagree, this agreement is a strong indication that a test period ending on June 30, 2009 is appropriate. Apparently expecting a different answer, UIEC's counsel sought Ms. DeRonne's opinion on historical versus future test periods. Ms DeRonne

[3] Mr. Higgins testified and UIEC engaged in cross examination that appears to infer that the use of a forecasted test period would violate the so-called "used and useful" standard. There are three problems with that position. First, it is inconsistent with the test year proposed by UAE. Second, as discussed in the text, recovery on the plant is allowed only for the portion of the test period that it is used and useful. Allowing recovery under those circumstances is entirely consistent with Utah Code Ann. § 54-4-4(3)(b)(i). Thus, the Utah Legislature has authorized the Commission—an entity that is a creation of and must comply with governing statutes—to apply the used and useful standard in the manner proposed by the Company. Third, even if the use of a forecasted rate base is deemed to violate the used and useful standard as previously applied, there is nothing in Utah law to suggest that the Legislature may not change the standard. Although the Supreme Court has acknowledged that the Commission has followed a "used and useful" standard, it noted that "[i]n fixing rates, the legislature is free to determine its own economic policy." *Terra Utilities v. Public Serv. Comm'n*, 575 P.2d 1029, 1033(Utah 1978), citing *Utah Power & Light v. Public Serv. Comm'n*, 152 P.2d 542, 553 (1944). The 2003 amendment that created the current version of section 54-4-4(3) represents the Legislature's current "economic policy" on test-period selection. It is that economic policy that the Commission is legally bound to follow.

responded that she is completely comfortable working with future test periods and, in periods of rapid growth like we are now experiencing, they make particularly good sense. Ms. DeRonne outright rejected the advisability of using an historical test period under current conditions. Dr. Zenger agreed with Ms. DeRonne's position that the test period ending June 2009 best reflects conditions to be encountered in the rate-effective period.

The UAE, UIEC, and Ball Positions

UAE, UIEC, and Mr. Ball did not challenge the evidence regarding the conditions that the Company anticipates encountering during the rate-effective period. Instead, UAE and UIEC presented a variety of conceptual "what if" scenarios. What if the economy moves into recession? What if the load forecasts are overstated? Neither party presented evidence that their proposals best reflect conditions in the rate-effective period.

UAE and UIEC made two specific points that merit a brief response. First, UAE says that a June 30, 2009 test period is "aggressive" and "liberal," and that moving from a historical test period to the June 30, 2009 period would be "unprecedented." This argument is long on emotion and short on analysis because it completely ignores the statutory standard. The proper question is whether the selected test period best reflects the conditions that will exist when rates are in effect. To the extent UAE believes the terms "aggressive" or "liberal" are synonymous with "unreliable," its position ignores the evidence that a forecasted test period will be reliable. It also ignores the fact that both the Division and Committee have concluded that the test period can be appropriately audited and adjusted if necessary. UAE implies that regardless of what the statute says, a move to a forecasted test period should be taken in baby steps. UAE counsel also argues that he is unaware of other states that use the type of projected test period proposed here. As the Company's late-filed exhibit demonstrates, UAE did not look very hard: for example, just in PacifiCorp's territory, California, Oregon, and Wyoming allow projected test periods—in the case of California and Oregon, the projection may be up to 33 months from the last historical data, and 25 and 22 months respectively from the date of filing. California, Oregon and Wyoming also have mechanisms to annually update for changes in net power costs. Wyoming parties recently agreed in a settlement to modify the existing power cost adjustment mechanism so that it is based on forecasted costs.

Second, UAE and UIEC suggest that selecting the June 2009 test period somehow inappropriately shifts risk from shareholders to ratepayers. This argument amounts to a tacit acknowledgment that these parties wish rates to be set below the actual expected cost of service. The impact upon the Company between the full year 2008 test period and the June 30, 2009 test period is about $40 million. By requiring the Commission to pick a test period that best reflects conditions in the rate-effective period, the Legislature has defined the appropriate balance of risks. The recent downgrade by Standard & Poors ("S&P") of Idaho Power's bond rating indicates that the use of historical test periods does not reflect an appropriate balancing of risks. Idaho Power, in a recent SEC filing stated that S&P took the downgrade actions because "the proposed [rate] settlement fails to settle some important policy-related issues, such as the use of a forecast test year or the appropriate level of the load growth adjustment credit."[4] That downgrade will likely increase Idaho Power's cost of debt, which in turn will increase costs to customers.

Mr. Ball does not propose a specific test period; instead, he adjusts the Company's return on equity. This recommendation, as well as some of the other issues

[4] Idaho Power, 8K filing (January 31, 2008). The Idaho Power 8K filing can be found at http://www.idacorpinc.com/pdfs/financials/8k/20080201.pdf.

raised by Mr. Ball, are more appropriately addressed in the rate of return and revenue requirement proceedings.

Test Period Selection in Light of the Criteria Identified in Docket No. 04-035-42

Mr. McDougal directly addressed the nine test year criteria identified in Docket No. 04-035-42. It is worthwhile to view the test-period issue in light of those criteria. Similar criteria will be considered together:

> **Criteria 1 and 6: Test period should balance the utility's investment, revenues and expenses so that all elements of the rate case are matched on the same level of operations; ability to synchronize the utility's investment, revenues or expenses.**

Mr. McDougal has carefully applied the matching principle: he has matched investment, revenue, and expense (as well as other relevant factors). The Division and Committee are confident in their ability to audit this information and to sponsor adjustments they believe appropriate to the Company's data. No party presented any substantive evidence to challenge Mr. McDougal's position or Division's and Committee's positions on this issue.

> **Criteria 2 and 7: The general level of inflation; whether the utility is in a cost increasing or cost declining status**.

There is no dispute on either of these criteria: the Company is in the midst of a growth cycle and is presently experiencing significant inflationary pressures. Mr. Walje testified that the Company will experience increases in wages, that the cost of gas has increased significantly, that new capital investment is being made in all parts of the business, and that the cost of key components in these investments, such as cement and steel, has risen dramatically.

> **Criteria 3 and 5: Changes in the utility's investment, revenues, or expenses; availability and accuracy of data to the parties.**

The Company is in a time of broad expansion, with generation and T&D facilities being built or substantially upgraded, increasing load growth, increasing net power costs, and more government mandates. As to the accuracy of the data related to these events, the Company's witnesses demonstrated that the Company's forecasts are consistent with estimates of the Governor's office. Mr. Higgins commended the Company on its sharing of information. The Company is committed to continue to make relevant information on all these issues available.

Criteria 4: Changes in utility services.

Mr. McDougal noted that, in constructing the test period, he took into account savings from automated meter reading that will help control costs for the benefit of customers, as well as other applicable projects to ensure proper matching of revenues and expenses.

Criteria 8: Incentives to efficient management and operation.

Dr. Zenger and Mr. Higgins testified that, whether a future test period is used or not, Company management has an incentive to efficiently manage the business. Dr. Zenger testified that a future test period like the one proposed by the Company increases those incentives.

Criteria 9: The length of time the new rates are expected to be in effect.

Given the dramatic growth in new investment and other costs, it is impossible to predict precisely how long rates from this case will remain in effect if a future test period is used. But it is clear that if any of the other proposed test periods is used, the rates will be very short lived because the Company will be compelled to file another rate case just to have an opportunity to recover a return on the investments that will made in the second half of 2008 and the first half of 2009 (not to mention projects after mid-year 2009).

III. CONCLUSION

The evidence overwhelmingly supports the selection of a test period ending June 30, 2009 because it "best reflects the conditions [the Company] will encounter during the period when the rates determined by the commission will be in effect." If any of the other proposed test periods is chosen, the Company will not have an opportunity to recover its cost of providing service because the test period will not properly reflect the increased costs and investments that will occur during the rate-effective period. Rocky Mountain Power, therefore, respectfully requests that the Commission issue an order as soon as possible selecting the test period proposed by the Company.

DATED this 13th day of February, 2008.

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CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of February, 2008, I caused to be transmitted by electronic mail a true and correct copy of the foregoing **CLOSING ARGUMENT OF ROCKY MOUNTAIN POWER** to the following:

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