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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of Rocky Mountain Power for Approval of Its Proposed Energy Cost Adjustment Mechanism	DOCKET NO. 09-035-15 OPPOSITION OF DIVISION OF PUBLIC UTILITIES TO ROCKY MOUNTAIN POWER'S MOTION FOR A DEFERRED ACCOUNTING ORDER
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The Division of Public Utilities (Division) urges the Commission to deny Rocky Mountain Power's (RMP or the Company) February 9, 2010 Motion for a Deferred Accounting Order (Motion). Accounting standards and public policy reasons support the Commission denying the Motion.

Background

A high level review of the activities in this docket will help put the Company's Motion in perspective. The Company initiated its ECAM docket in March 2009 by filing an application and direct testimony, consisting of a total of approximately 13 narrative pages, from two witnesses.¹ The Commission then sought and received information from parties regarding the appropriate scope of issues for this docket. As a result, the

¹ In August, the Company filed additional testimony in support of its application.

Commission in its order of June 18, 2010, established a bifurcated proceeding in which Phase I would address whether an ECAM was in the public interest, and Phase II would explore the design of an ECAM.² Subsequently, in July, prior to the filing of additional testimony and the hearing to address Phase I issues, RMP filed its motion for Ruling on Implementation of ECAM, which addressed the relationship between this docket and the Company's general rate case in Docket No. 09-035-23. In January 2010, a hearing was held to address Phase I issues. Notably, the Company alone supported its ECAM proposal.³ Indeed, all the intervenors, except for the Division, urged the Commission to find that the docket need not proceed to Phase II. The Division stated that while the specific ECAM proposed by the Company was not in the public interest, an ECAM could be designed that could be in the public interest, and that the matter should proceed to Phase II. In its February 8, 2010 order, the Commission moved the proceeding into Phase II. In doing so, however, the Commission did not narrow the scope of the inquiry, for example by either accepting or rejecting the Company's proposal or by ordering parties to look at specific categories of net power cost.

Proposed Deferral Does Not Meet Accounting Standards

As explained in more detail in Attachment 1 hereto, accounting principles support denying the Motion. The Division has repeatedly testified that costs to be deferred should be extraordinary or unforeseen and/or of future net benefit to ratepayers. Net power costs (NPC) fail to meet the criteria suggested by the Division, which are consistent with regulatory accounting principles. In particular, the Company's Motion should be denied because the Commission has not established an ECAM by order, thus

² See June 18, 2009 order.

³ The importance of the lack of support for the as-proposed Company ECAM is discussed further below.

making a deferral account associated with an ECAM speculative and immeasurable. In addition, other accounting grounds support denial of the Motion.

Only with an ordered ECAM can net benefit to ratepayers be determined. The absence of an ordered ECAM means that the amount of the actual NPC shortfall or surplus cannot be determined. The Commission at this time has not identified whether any or all of NPC are unforeseen or outside of the Company's control or ability to mitigate and thus recoverable in rates through an ECAM mechanism.

In addition, the existence of a regulatory asset has not been determined as required by various accounting standards employed by the Statement of Financial Accounting Board, the Federal Energy Regulatory Commission, and the Securities and Exchange Commission. Without an ordered ECAM, recovery cannot be said to be probable, and thus there is no regulatory asset to be recognized. Moreover, the amount of the regulatory asset, if its existence were determined, would be purely speculative given the absence of an ordered ECAM and the current uncertainty as to the potential scope of such a mechanism. Because the Motion is not supported by regulatory accounting principles, the Motion should be denied.

The Company's Motion is Premature

Through its Motion, the Company appears to be urging the Commission to implement the Company's proposed ECAM mechanism despite no Commission finding that the Company's proposed ECAM, or any specific ECAM, is in the public interest. The Company's Motion collapses the two phase, measured approach adopted by the Commission in this docket. The Company seeks, in effect, implementation of an order establishing an ECAM before such order is issued by the Commission. The Company's

actions are inconsistent with the regulatory process, and are not necessarily in line with good public policy. Accordingly, the Company's premature Motion should be denied.

The Company's Motion Seeks to Implement an ECAM Rejected by the Parties

Not only is the Company's Motion premature, but also it attempts to implement a universally opposed ECAM design. Only the Company favored its proposed ECAM design. Other parties objected to the design of the particular ECAM proposed by the Company. Moreover, in its February 8, 2010 report and order moving the docket to Phase II (Order), the Commission specifically stated, "We make no conclusion relative to the specific ECAM and operation PacifiCorp proposed in Phase I . . . All parties must have the opportunity to address any and all aspects of PacifiCorp's proposed ECAM."⁴ By creating a deferral account, the Commission would be, in effect, denying the parties the opportunity to voice in more detail their concerns over the Company's proposed ECAM. Also, creating a deferral account at this particular point in the docket could be seen as a "soft" approval of the Company's proposal, in direct contravention to the words of the Commission's order stating that it has drawn no conclusion regarding the specific proposed ECAM. Thus, the Motion should be denied.

For the reasons set forth above, the Company's Motion should be denied. This docket should proceed as ordered by the Commission.

Respectfully submitted this _____ day of February 2010.

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⁴ Order at p. 2.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing OPPOSITION OF DIVISION OF PUBLIC UTILITIES TO ROCKY MOUNTAIN POWER'S MOTION FOR A DEFERRED ACCOUNTING ORDER was served by email this _____ day of February, 2010, on the following:

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