MEMORANDUM

DATE: February 18, 2010

BY: David T. Thomson, Technical Consultant
Utah Division of Public Utilities (Division)

Re: Motion For A Deferred Accounting Order
Docket No. 09-035-15
In the Matter of Application of Rocky Mountain
Power for Approval of its Proposed Energy
Cost Adjustment Mechanism

PURPOSE

The purpose of this memorandum is to outline the accounting reasons supporting denial of the motion.

HISTORY

Rocky Mountain Power (RMP or the Company) filed an application for approval of its proposed energy cost adjustment mechanism (ECAM) in docket No. 09-035-15 (Order). On August 4, 2009, the Public Service Commission (Commission) issued an order bifurcating the proceeding into two phases. On February 8, 2010, the Commission issued a report and order which stated, "Wherefore, we enter this Order, wherein we give notice that we will proceed to Phase II of this docket to consider PacifiCorp's proposed ECAM and any modifications or alternatives which parties might propose."[1]

On February 9, 2010, RMP filed a motion asking the Commission for entry of a deferred accounting order to allow the Company to defer, on a monthly basis, the difference between the net power costs (NPC) allowed by the Commission's final order in the Company's 2009 General Rate Case in Docket No. 09-035-23 and the actual NPC incurred until the Commission issues a final order in Phase II of the ECAM proceeding.[2]

ACCOUNTING REASONS FOR THE DENIAL OF THE MOTION

In previous dockets, the Division has provided a list of guidelines for the allowance of deferred accounting. Exhibit 1.1 attached to this memorandum is an exhibit filed with my testimony in Dockets No. 06-035-13; No. 07-035-04 and No. 07-035-14 and is a copy of those guidelines. Basically, those guidelines indicate that for costs to be deferred, those costs should be extraordinary or unforeseen and/or of future net benefit to ratepayers. Because NPC are a part of normal operations, ongoing, and are not unique

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[1] Commission Report and Order under Docket No. 09-035-15 dated February 8, 2010 page 3.
[2] See RMP motion for a deferred accounting order under Docket No. 09-035-15, page one, first paragraph.

and unusual, NPC cost are not extraordinary or unforeseen so the Company's deferral request fails this test.[3]

Since no ECAM mechanism has been ordered by the Commission it is impossible to determine if the deferral has a net benefit to ratepayers. For accounting purposes, without an order outlining the ECAM provisions and the actual use of an ECAM, the amount to be deferred cannot be calculated because the actual NPC shortfall or surplus cannot be determined. Thus, the Company's deferral request fails the net benefit test. Accordingly, the Company's deferral motion fails to qualify under the DPU accounting guidelines for deferral and, due to the above, the motion should be denied.

Under Statement of Financial Accounting Standard ("SFAS") No. 71 as promulgated by the Financial Accounting Standards Board, certain costs can be deferred and recovered in future periods if "rate action of a regulator can provide reasonable assurance of the existence of an asset."[4] Such costs pending recovery are called regulatory assets and are a deferral of costs for rate recovery in a future period. If an ECAM deferral meets the provisions of SFAS No. 71 it is required to be treated as a regulatory asset: "SFAS 71 requires a rate-regulated utility to capitalize as a regulatory asset and incurred cost that would otherwise be charged to expenses if future recovery in rates is probable. Probable is defined in SFAS 5, *Accounting for Contingencies*, (ASC 450-20-25-1) as 'likely to occur' which is a high test to meet."[5]

The Federal Energy Regulatory Commission (FERC) in its definitions for its chart of accounts defines a regulatory asset or liability as follows, "Regulatory Assets and Liabilities are assets and liabilities that result from rate actions of regulatory agencies."[6] "The SEC has increasingly scrutinized documentation of the basis for recording regulatory assets. The SEC staff has unofficially suggested that evidence that could supports future recovery and corroborates utility management's representation includes: (1) Rate orders from the regulator specifically authorizing recovery of the costs in rates (2) Previous rate orders from the regulator allowing recovery for substantially similar costs (3) Written approval from the regulator approving future recovery in rates (4) Analysis of recoverability from internal and external legal counsel."[7]

The Commission has not issued an ECAM rate order or a rate action, has not given written approval for future recovery of NPC in rates and thus it is not probable that there will be future recovery of NPC in rates at this time.

Without an ECAM order there are no accounting grounds to explore whether it is appropriate to defer NPC costs to a regulatory asset for future rate recovery as explained

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[3] The Division makes this determination because 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.
[4] SFAS 71, paragraph 9 (ASC 980-340-25-1).
[5] Accounting for Public Utilities, Robert L. Hahne, Volume 1, Section 12.02 (Hahn), page 12-5, second paragraph.
[6] See 18 CFR Chapter I, definitions section, definition No. 30.
[7] Hahne, Section 12.02, page 12-5, second paragraph.

above. It would also be impossible to determine what amount should be deferred as a regulatory asset. Thus, RMP's motion should be denied.

The Division would like to note, that to do such exploration, the Commission would have to order immediately some NPC rate recovery mechanism (the Company suggests in its motion that the Commission use its proposed mechanism). In its motion to deny the Division explains why this would not necessarily be in line with good public policy and not in line with the regulatory process as outlined in this Docket.

DIVISION ACCOUNTING RECOMMENDATION

Based upon the above accounting reasons, the Division's recommendation, as put forth in this memorandum, is that the Company's motion for a deferred accounting order be denied at this time.