

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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In the Matter of the Application of Rocky Mountain Power for Approval of its Proposed Energy Cost Adjustment Mechanism ) ) DOCKET NO. 09-035-15  
In the Matter of the Application of the Utah Association of Energy Users for a Deferred Accounting Order Directing Rocky Mountain Power to Defer Incremental REC Revenue for Later Ratemaking Treatment ) ) DOCKET NO. 10-035-14  
REPORT AND ORDER ON DEFERRED ACCOUNTING STIPULATION  
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ISSUED: July 14, 2010

SYNOPSIS

The Commission approves the Stipulation and Joint Motion for Deferred Accounting Orders in Docket Nos. 09-035-15 and 10-035-14 and orders Rocky Mountain Power to establish separate deferred accounts for incremental net power costs and incremental renewable energy credit revenues in accordance with the terms and conditions of the stipulation.

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By The Commission:

On May 4, 2010, a Stipulation and Joint Motion for Deferred Accounting Orders (Stipulation) was filed in these dockets by Rocky Mountain Power, a division of PacifiCorp (Company), the Division of Public Utilities (Division), the Office of Consumer Services (Office), the Utah Association of Energy Users (UAE), the Utah Industrial Energy Consumers (UIEC), Wal-Mart Stores, Inc. and Sam's West, Inc; (Wal-Mart), Western Resource Advocates (WRA), and Utah Clean Energy (UCE) (collectively the Stipulating Parties). A hearing was held June 29, 2010 on the Stipulation.

At hearing, Yvonne R. Hogle, counsel for the Company and Gregory Monson, of the law firm Stoel Rives LLP, appeared on behalf of Rocky Mountain Power, Assistant Attorney General Patricia Schmidt appeared on behalf of the Division, Assistant Attorney General Paul Proctor appeared on behalf of the Office, Gary Dodge, of the law firm of Hatch, James & Dodge, appeared on behalf of UAE, William Evans of the law firm of Parsons, Behle & Latimer, appeared on behalf of UIEC, and Sophie Hayes appeared on behalf of Utah Clean Energy.

### **PROCEDURAL HISTORY**

On February 9, 2010, the Company filed a Motion for a Deferred Accounting Order (Company Motion) in Docket No. 09-035-15 (ECAM docket). The Motion requested an order of the Commission allowing the Company to defer, on a monthly basis, the difference between the net power costs (NPC) found just and reasonable in the Commission's final order in the Company's 2009 General Rate Case in Docket No. 09-035-23 (2009 General Rate Case) and the actual NPC incurred until the Commission issues a final order on the Application for Energy Cost Adjustment Mechanism [ECAM] of Rocky Mountain Power filed March 16, 2009 in Docket No. 09-035-15. The Division, Office, UAE and UIEC opposed the Motion.

On February 18, 2010, the Commission issued its Report and Order on Revenue Requirement, Cost of Service and Spread of Rates in the 2009 General Rate Case.

On February 22, 2010, UAE filed an Application for Deferred Accounting Order for Incremental REC Revenue (UAE Application) in Docket No. 10-035-14 (REC docket). The UAE Application sought a deferred accounting order commencing on the date of the application with respect to revenues recovered by the Company in connection with the sales of renewable energy credits (RECs), both in the form of unbundled RECs and the REC component of

renewable energy products bundled with RECs, in excess of those utilized in setting rates in the 2009 General Rate Case. The UAE Application sought a deferred accounting order to preserve the ability of parties to argue for or against the use of deferred REC revenue as a credit to ratepayers in a future ratemaking proceeding. On March 23, 2010, the Company filed Rocky Mountain Power's Unopposed Motion for Extension of Time to Respond to UAE's Application for Deferred Accounting Order for Incremental REC Revenues.

On March 9, 2010, the Commission issued notices in the REC docket and in the ECAM docket, setting scheduling conferences for March 16, 2010. The parties met at the scheduling conference on March 16, 2010, in the REC docket and the ECAM docket and discussed issues relating to the Company Motion and UAE Application. The parties met again on March 24, 2010 and April 14, 2010 to continue to discuss issues in and scheduling of the ECAM docket and the REC docket. Based upon those discussions, the Parties stipulated as set forth in the Stipulation and jointly moved that the Commission grant the Company Motion and UAE Application and to schedule proceedings in the ECAM docket.

On June 29, 2010, the Commission held a hearing on the Stipulation pursuant to notice given in the Scheduling Order issued June 7, 2010.

### **STIPULATION**

A copy of the Stipulation is attached to and incorporated in this order. For the sake of convenience, a summary of some of the terms in the Stipulation is provided in this order. This summary and other discussion of the terms of the Stipulation in this order is not intended to modify the terms of the Stipulation, and the language in the Stipulation controls.

The Stipulation requests that the Commission grant the Company Motion and the UAE Application and issue deferred accounting orders directing the Company (1) to defer incremental NPC in accordance with the Company Motion commencing February 18, 2010 and (2) to defer incremental REC revenue in accordance with the UAE Application commencing February 22, 2010. In both cases, the Stipulation provides deferral is pending the Commission's final determination of the ratemaking treatment of the deferred balance. The Stipulation notes that the agreement of the Stipulating Parties to the granting of the Company Motion and the UAE Application are mutually conditioned upon the Commission granting both without material change or condition.

The Stipulation provides that any party who wishes to assert that the deferred REC revenues should or should not be applied as a credit to offset deferred NPC in the initial ECAM balance or that future REC revenues should or should not be included as a component of an ECAM going forward, assuming in either case that an ECAM is ultimately adopted, may present evidence and argument in support of its position in Phase II of the ECAM docket.

The Stipulation specifies that the deferred accounting orders contemplated in the Stipulation do not create any presumption regarding future ratemaking treatment of the deferred amounts. Accordingly, by agreeing to issuance of the deferred accounting orders contemplated in the Stipulation, the Stipulating Parties are not stipulating or agreeing to any facts or legal arguments offered in support of or in opposition to either the Company Motion or the UAE Application.

The Stipulation specifies that the deferred accounting orders should require the Company to record NPC and REC revenues in separate accounts in sufficient detail and granularity to permit whatever ratemaking treatment may be ultimately ordered by the Commission for all or any part of the deferred NPC and REC revenues. The Stipulation further states that the deferred accounting orders should provide that amounts accumulated in each of the two deferred accounts will be subject to a carrying charge of 5.98 percent that is equivalent for ratemaking purposes whether the amounts are revenues or costs.

### **HEARING**

At the hearing on June 29, 2010, the Company, Division, Office and UAE provided testimony recommending the Commission approve the Stipulation and that granting the deferred accounting orders was in the public interest. The witnesses also responded to questions from the Commission. No party or interested person appeared at the hearing or filed written testimony or comments in opposition to the Stipulation.

### **DISCUSSION, FINDINGS AND CONCLUSIONS**

Utah Code Annotated § 54-7-1 encourages informal resolution of matters brought before the Commission. Most parties to these dockets joined in the Stipulation, and no party opposed it. The Stipulation was entered into based on arms-length negotiations by parties with opposing views and represents a reasonable compromise of positions. The deferred accounting orders do not create any presumption regarding future ratemaking treatment of the deferred amounts, and, by agreeing to the Stipulation, the Stipulating Parties are not stipulating or agreeing to any facts or legal arguments offered in support of or in opposition to either the Company Motion or the UAE Application.

After examining the Stipulation and the evidence contained in the record, we conclude its terms and conditions are just and reasonable. Our approval of the Stipulation, as in similar cases, is not intended to alter any existing Commission policy nor to establish any precedent by the Commission.

**ORDER**

Pursuant to our discussion, findings and conclusions made herein, it is hereby ordered that:

1. The joint motion for deferred accounting orders in Docket Nos. 09-035-15 and 10-035-14 is granted and the Stipulation is adopted and approved.
2. The Company shall record incremental NPC and incremental REC revenues in separate deferred accounts in accordance with the terms and conditions of the Stipulation.

Pursuant to Utah Code Annotated §§ 63G-4-301 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 a request for review or rehearing, it is deemed denied. Judicial review of the Commission's 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 Annotated §§ 63G-4-401 through -403 and the Utah Rules of Appellate Procedure.

DOCKET NOS. 09-035-15 & 10-035-14

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DATED at Salt Lake City, Utah, this 14<sup>th</sup> day of July, 2010.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard  
Commission Secretary  
G#67585 Docket No. 09-035-15  
G#67586 Docket No. 10-035-14