- 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	)	DOCKET NO. 09-035-23 ORDER ON REQUEST FOR CLARIFICATION OR RECONSIDERATION OF NOVEMBER 9, 2009, ORDER

ISSUED: November 25, 2009

By The Commission:

By petition dated November 19, 2009, Rocky Mountain Power (RMP) requests we clarify our November 9, 2009, order, whereby we stayed an October 19, 2009, order, as requested in an October 22, 2009, RMP petition for stay. The October 19, 2009, order directed the Division of Public Utilities, and requested other parties in this docket, to address questions contained in the October 19, 2009, order regarding whether the continued use of certain mechanisms to set RMP's Utah revenue requirement "does and will produce results in Utah which are just, reasonable, and in the public interest." The mechanisms, associated with a 2004 stipulation submitted by parties in Docket No. 02-035-04, are revisions or deviations from the Commission's Rolled-in interjurisdictional cost allocation method. These revisions alter RMP's Rolled-in based Utah revenue requirement calculation upon which the Commission evaluates whether RMP's customers' rates and charges should be changed. RMP apparently misunderstands the December 19, 2004, order issued in Docket No. 02-035-04, as RMP mischaracterizes it and its effects in its November 19, 2009, petition.

In the December 19, 2004, order the Commission reexplained why the Rolled-in allocation method is the appropriate interjurisdictional allocation method for setting rates and

trying to achieve other regulatory policies in pursuit of the public interest. The order acknowledged the assistance gained from a multi-party, multi-state examination of allocation issues, referred to as MSP, and the influence it had on the parties' stipulation submitted in Docket No. 02-035-04. The parties in that docket and the December 19, 2004, order also acknowledged the failure of the multi-state process to reach a consensus on interjurisdictional allocations, each state was left to consider and implement an interjurisdictional allocations method and process, that could be found in the public interest, on a state-by-state basis. Referencing the projections, calculations and testimony received in evidence in Docket No. 02-035-04, the Commission explained why use of the 2004 stipulation mechanisms, while deviating from the Rolled-in allocation method, may produce customer rates which could be found just and reasonable and also help achieve other regulatory goals associated with integrated system operations and least-cost principles.

The October 19, 2009, order referenced some of the Docket No. 02-035-04, December 14, 2004, order's reasoning, caveats and conditions to broach the question whether the use of the 2004 stipulation mechanisms in calculating RMP's revenue requirement continues to produce a basis upon which one could conclude rates charged to Utah customers are just and reasonable. By petition dated October 22, 2009, RMP requested we stay the October 19, 2009, order. RMP claimed it would be very difficult to adequately address issues relating to alternative interjurisdictional allocation methods at that and any subsequent stage of this case. RMP noted the difficulty of addressing allocation methods and still complete the resolution of disputes associated with the calculation of RMP's revenue requirement within the 240-day period

referenced in Utah Code 54-7-12(3). RMP stated it was not willing to extend the 240-day period to resolve disputes directed to the revenue requirement to be used in this case. Other parties joined with RMP in apprising the Commission of their difficulties to address questions related to allocations and have all parties and the Commission complete the revenue requirement determination within the 240-day period. Based upon the parties' positions, the Commission's November 9, 2009, order granted RMP's requested stay of the October 19, 2009, order. Our November 9, 2009, order acknowledged the parties' constraints to prepare and present their positions associated with interjurisdictional allocations for consideration in this docket. We ordered that parties need not address the questions posed in the October 19, 2009, order and associated interjurisdictional allocation issues in their testimony to be presented in this docket.

In its November 19, 2009, petition for clarification, RMP notes the distinction between staying an order and vacating an order. RMP asks the Commission "clarify" the November 9, 2009, order by changing the stay to a vacation of the October 19, 2009, order. We as well recognize the lawyers' distinction between staying and vacating an order. Although RMP obtained the stay which it originally requested, but which it now wishes to change to a vacation, the language used in and the result of our November 9, 2009, order is clear – parties need not address issues related to interjurisdictional allocations in their testimony to be presented in this docket. If there remains any ambiguity or confusion as to the effect of the November 9, 2009, order, we clarify it herein in different wording – the parties and the Commission will continue to use the 2004 stipulation's mechanisms to calculate RMP's Utah revenue requirement and in all

stages of this docket through to the ultimate rate changes which may be made in this general rate case; no other process need be presented, explored or considered by the parties in this docket.

RMP also requests we "clarify" the November 9, 2009, order to indicate our intent to address interjurisdictional allocation issues and the reasonableness of any allocation process prior to any future rate change specifically means in RMP's next general rate case. RMP requests, if we do not make this specific-event-reference "clarification," we, alternatively, reconsider the November 9, 2009, order to make this specific event reference. We are unable to do so. RMP points to, and statutory provisions and Utah case law identify, a number of ways through which rates and charges may be changed. Rate changes are not confined to what may be called a general rate case. All rates or charges demanded of RMP's Utah customers are to be just and reasonable. Utah Code 54-3-1. There is no statutory provision or interpretive case law which allows the ultimate conclusion in rate setting, that the result is found to be in the public interest and rates are just and reasonable, to vary dependent upon the setting or procedure through which customer rate changes are made. There is case law that this ultimate conclusion (and the considerations by which the Commission may reach it) is the same regardless of the means by which the Commission may change rates. Utah Department of Business Regulation vs. Utah Public Service Commission, 614 P.2d 1242 (Utah 1980). We are not able to follow RMP's request to single out one rate change process, a general rate case, to the exclusion of all others.

RMP effectively asks us to make advisory decisions that prejudge and affect future proceedings. We decline to do so. We conclude it a better practice, in this regard, to address future rate changing cases as they come, in the circumstances in which they present

themselves, rather than attempt to divine them at this time. RMP references an anticipated application filing, in 2010, for major plant additions, pursuant to Utah Code 54-7-13.4, and presages difficulties for that case. We note that an application for alternative cost recovery of major plant additions under that section does not necessarily result in rate changes coming at the end of that application's proceeding. A deferral is also possible and in all cases the Commission may apply conditions which are necessary to ensure the public interest is obtained. Utah Code 54-7-13.4. Even with future major plant addition applications, RMP itself asserts "the allocation of the costs of the plant additions would be essentially identical" under the different allocation processes which could be applied. November 19, 2009, Petition, page 9. RMP also notes the deferred impact the issue has on the other cases it references. Given this, we question the need to make the limitation requested by RMP, let alone the basis upon which we could do so.

Based on the foregoing, we issue this order in response to RMP's petition for clarification or reconsideration of the November 9, 2009, order in the limited fashion discussed herein.

Wherefore, it is hereby ORDERED that parties in this docket may continue to use the 2004 stipulation's mechanism in the preparation and presentation of their evidence to be submitted in this docket in regards to revenue requirement, cost of service and rate design. They need not address the questions contained in the October 19, 2009, order.

DATED at Salt Lake City, Utah this 25th day of November, 2009.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary
G#64486