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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of	**)**	
Rocky Mountain Power for Authority	**)**	**Docket No. 09-035-23**
to Increase its Retail Electric Utility	**)**	**Rebuttal Rate Design**
Service Rates in Utah and for	**)**	**Testimony of**
Approval of Its Proposed Electric	**)**	**Michele Beck**
Service Schedules and Electric	**)**	**For the Office of**
Service Regulations	**)**	**Consumer Services**

March 23, 2010

I. INTRODUCTION

Q. PLEASE STATE YOUR NAME, POSITION AND YOUR BUSINESS ADDRESS.

A. My name is Michele Beck. I am the Director of the Office of Consumer Services. My business address is 160 East 300 South, Salt Lake City, Utah.

Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL RATE DESIGN TESTIMONY?

A. I present the Office's policy on and rebut the Division's proposal for residential decoupling. Dan Gimble responds to the other rate design proposals applicable to residential, small business and irrigator classes in his rebuttal testimony.

Q. PLEASE GIVE A BRIEF BACKGROUND REGARDING THE ROLE OF THE OFFICE AND YOUR QUALIFICATIONS TO PRESENT THE OFFICE'S POLICY RECOMMENDATIONS.

A. The Office is the state agency with the mandate to assess the rate impacts of utility actions on residential and small commercial consumers and to advocate positions advantageous to these consumers. I was appointed as Director by Governor Huntsman in November 2006. As such, my statutory mandate includes representing the interests of residential consumers. My experience in utility regulation includes fifteen years of work on behalf of consumers, in a regulatory agency in Minnesota, a consumer-owned utility and now with the Office. I have worked on numerous rate design, resource and transmission planning, and other energy issues and have testified before this Commission, the Minnesota Public Utilities Commission and the Federal Energy Regulatory Commission.

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II. OVERVIEW

Q. PLEASE SUMMARIZE THE DIVISION'S DECOUPLING PROPOSAL, INCLUDING THE MOTIVATION UNDERLYING THE PROPOSAL.

A. As part of its primary rate design proposal, the Division recommends the Commission adopt a residential decoupling mechanism that would be used to recover the fixed distribution costs allocated to the residential class. The proposed decoupling mechanism is patterned after Questar's existing mechanism, with an important distinction: decoupling would apply only to the residential class whereas Questar's applies to residential and commercial customers. The Division proposes that the decoupling mechanism be implemented under a three-year pilot tariff subject to annual reviews. An accrual account would be established under the tariff with accruals and amortizations capped at specified levels.

Q. WHAT IS THE OFFICE'S REACTION TO THE DIVISION'S PROPOSED DECOUPLING MECHANISM?

A. The Office believes that the Division's decoupling proposal is not in the public interest and cannot be just and reasonable for the following reasons:

- Untimeliness of the proposal, which does not allow for full review and participation;
- Design flaws, including prohibited discrimination against one rate class; and
- Lack of demonstration of need.

In addition, the Office also has the following concerns about the decoupling proposal:

- The potential to create intra-class inequities; and
- The inconsistency of the proposal with rate design principles advanced by the Division and others.

<u>III. UNTIMELINESS OF PROPOSAL</u>

Q. WHAT ARE THE OFFICE'S CONCERNS REGARDING THE UNTIMELINESS OF THE DIVISION'S PROPOSAL?

A. The Division's decoupling proposal represents a major policy shift in the way revenues would be collected from a single customer class; a policy change that was inexplicably filed by the Division in the final phase of a long rate case that began back in June 2009. There was no indication in earlier phases of this rate case that the Division was thinking about combining its residential rate design proposal with a decoupling proposal applicable to only the residential class.

By filing its decoupling proposal after the conclusion of the revenue requirement and cost-of-service phases of this case, the Division has compromised parties' ability to effectively respond in several important ways. First, the timeline simply doesn't allow for the issues to be fully vetted and alternatives explored. Second, parties are unable to present assessments of the risk impacts of the decoupling mechanism and possibly recommend an adjustment to RMP's cost of capital to reflect a reduction in risk. Such a risk assessment and recommended adjustment to RMP's cost of capital would normally be presented in testimony in the revenue requirement phase of a rate case, which is already completed. Finally, the policy was presented well after the deadline for intervention with little remaining time to the overall case. Parties that chose not to participate in the case, based on the original understanding of what issues would be included, are now precluded from participation despite the fact that they may have a strong interest in the decoupling issue.

IV. DESIGN FLAWS OF THE PROPOSAL

Q. DOES THE OFFICE BELIEVE THAT THE DECOUPLING DESIGN PROPOSED BY THE DIVISION IS APPROPRIATE?

A. No. It is completely inappropriate for the proposal to target only one rate class, particularly a class with a history of providing revenues at or above its cost of service. Further, the design doesn't appropriately account for risk by adjusting the ROE nor does it tie cost recovery to any performance goals. Finally, the proposal does not appropriately consider the full scope of design alternatives; it simply adopts the same design as used for Questar's decoupling mechanism without a demonstration that the circumstances are the same.

Q. HAS THE DIVISION DEMONSTRATED WHY IT WOULD BE APPROPRIATE TO APPLY DECOUPLING ONLY TO THE RESIDENTIAL CLASS?

A. No, and their proposal is surprising for three reasons. First, the Division indicated that it patterned its proposal after the existing Questar decoupling mechanism, which includes all virtually all customers except industrial and NGV customers. Second, the Division admitted in discovery that they had performed no study in which the residential class did not meet or exceed cost of service. Without evidence of under-performance by this class, it does not make sense why the entire proposal would focus on only residential customers. Third, the Division performed no study that determined that decoupling benefited ratepayers or was necessary to implement new or enhance existing DSM programs.

Q. ANOTHER KEY DESIGN ISSUE FOR MANY DECOUPLING PROGRAMS IS AN ROE ADJUSTMENT. DOES THE DIVISION ADEQUATELY ADDRESS THIS ISSUE?

A. No. The Division simply quotes two studies with differing opinions and sets the issue aside. Although the Office has not done a comprehensive study of the issue (primarily because we did not engage our Cost of Capital expert for this portion of the proceeding, not anticipating that this type of proposal would be filed without notice), we have reviewed the work of the two authors quoted by Dr. Powell and did not draw the same conclusions as were presented in his testimony. Dr. Powell also dismisses the issue of a declining risk profile by giving hypothetical examples of where it would not be true, citing the difficulty of quantification and suggesting that other alternatives (than a reduced ROE) might be preferable. Nowhere in this discussion does the Division demonstrate why these responses regarding declining risk profile may or may not specifically apply to Rocky Mountain Power [Powell Direct, lines 380-387]. Most troubling of all, however, is Dr. Powell's response regarding the potential shifting of risk to consumers when he states: "Even if such risk shifting exists, the costs of that risk shifting must be weighed against the benefits consumers receive from having a financially healthy utility and, thus, is an empirical question." [Powell Direct, lines 423 – 426] In response to discovery from the Office, the Division indicated that they had not conducted the empirical analysis he describes.

Q. WHAT ARE OTHER DESIGN ISSUES ARE NOT ADDRESSED BY THE DIVISION'S DECOUPLING PROPOSAL?

A. Other jurisdictions that have carefully considered the impact of decoupling on consumers implement design considerations such as tying cost recovery directly to the achievement of certain conservation goals or mandating a demonstration that the lower revenues are attributable to conservation efforts before they can be recovered. The design proposed by the Division appears explicitly to only address benefits (revenue assurance) to the Company and makes no attempt to provide any commensurate benefit to consumers[1].

Q. WOULDN'T IT BE A BENEFIT TO CONSUMERS IF DECOUPLING ALLOWS A RATE DESIGN THAT REDUCES OVERALL CONSUMPTION?

A. Such a benefit would likely be difficult to quantify and dependent on whether the reduction in overall consumption is significant enough that it lowers future energy costs by delaying or reducing the need for new supply-side resources. However, there is no demonstration that the residential rate design proposed by the Division along with the decoupling would result in significant incremental conservation, or any at all. As suggested in Mr. Gimble's testimony, conducting price elasticity studies may be helpful to better understanding consumer behavior rather than approaching these rate design issues from the perspective of trial and error.

If decoupling is implemented without the result of materially impacting future energy costs, the result would be the worst case scenario described above: a program that created new benefits to the utility (revenue assurance) without any benefits to consumers. Presumably this is why many decoupling programs are

[1] The Office notes there are a variety of decoupling designs in place, including the one approved by the WUTC for Avista Corporation in Washington in 2007. This design defers 90% of the margin difference (negative or positive) for subsequent action (recovery or rebate) based on an earnings test and DSM conservation target test. Failure to meet these tests would result in all or a portion of deferred funds deemed as unrecoverable. In fact, in its Order dated December 22, 2009, the WUTC concluded that only 45 percent of Avista's lost revenues were attributable to conservation efforts and set maximum recovery at that level.

tied specifically to new DSM goals. Absent this clear link to DSM performance, or conversely breaking the link entirely between the utility and DSM via a third party administrator, moving forward with decoupling makes no sense from the perspective of residential customers.

Q. WHAT EVIDENCE DOES THE DIVISION PROVIDE SUPPORTING THEIR DESIGN?

A. In his direct testimony, Dr. Powell, relies, in part, on a recent Electricity Journal article[2] by Pamela Lesh to support his general conclusion that electric decoupling has had a minimal impact on customer bills, which along with their experience with Questar appears to give the Division confidence that the same mechanism will work in Rocky Mountain Power's circumstance. What Dr. Powell does not include is that the report[3] on which this article was based shows that, in stark contrast to the Division's proposed decoupling mechanism that singles out the residential class, *all existing electric decoupling mechanisms target residential and commercial (general service) classes and, in some instances, even industrial classes.*

I think the key points to be taken from Ms. Lesh's paper are that only 12 out of approximately 210 investor-owned electric utilities in the United States presently have decoupling mechanisms in place and all 12 mechanisms apply to more than one customer class. Thus, electric decoupling mechanisms are in the early stages of being developed and implemented and the mechanisms currently in effect are more broadly applied among customer classes compared to the Division's proposal.

Q. WHAT ARE THE OFFICE'S RECOMMENDATIONS REGARDING DESIGN.

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[2] Pamela G. Lesh, "Rate Impact and Key Design Elements of Gas and Electric Utility Decoupling: A Comprehensive Review," Electricity Journal, Oct. 2009, Vol. 22, Issue 8, pp. 65-71.

[3] The Electricity Journal article was based on an earlier and more extensive thirty-five page Report published by Ms. Lesh in June 30, 2009, which on pages 9-35 surveys current gas and electric utility decoupling mechanisms by state. The report is available on the Regulatory Assistance Project's website (www.raponline.org.)

A. No decoupling design should be considered until after certain cost of service issues have been resolved.

Evidence presented to and reviewed by the Commission earlier in the cost-of-service phase of this case indicates the large industrial class (Schedule 9) has underperformed in recent years and the earned returns of the large commercial class (Schedule 6) have been more variable compared to other classes. In the cost-of-service phase of this case, the Commission directed the Division to convene work groups to examine the reliability of the Company's load research data, the Company's load forecast methods and jurisdictional-class calibrations, and the treatment of weather normalization in developing peak load forecasts. The Office strongly urges the Commission to complete this important work effort towards developing a more accurate cost-of-service basis to guide cost allocation at the class level, prior to giving consideration to a decoupling proposal. It would be unconscionable to implement a program that guarantees revenue levels from one class while knowingly allowing rates that do not collect full costs-of-service from other rate classes and on the basis of inaccurate and inadequate class load data.

In addition, elsewhere within my testimony I describe other studies that need to be done (such as an examination of elasticity mentioned earlier and a full analysis of issues impacting earnings). Only if these studies confirm that there is a potential earnings impact from specific rate design elements under consideration should the Commission move forward to consider if decoupling is the appropriate remedy and in what form.

<u>V. LACK OF DEMONSTRATION OF NEED</u>

Q. HAS THE DIVISION DEMONSTRATED THAT DECOUPLING IS NECESSARY FOR ROCKY MOUNTAIN POWER?

A. No. The Division simply suggests that it is necessary to allow flexibility to pursue rate designs that promote conservation and to remove any disincentive for the

Company to pursue DSM programs. However, the Division does not appear to believe strongly that such disincentives exist as it notes that Rocky Mountain Power does not have declining usage per customer and has a history of supporting the acquisition of cost-effective DSM programs. They do note, however, that "the Company's promotion of DSM *may potentially* affect its profitability." [Powell Direct, lines 233 – 234, emphasis added]

Q. DID THE DIVISION PRESENT EVIDENCE TO SUPPORT ITS ASSERTIONS?

A. No. The Division offers no residential price elasticity study or earnings analysis as evidence in support of its proposition that decoupling revenue from sales is a necessary step to facilitate its residential rate design proposal. The Division presents no compelling evidence that demonstrates residential class revenue shortfalls will occur as a result of its rate design proposal or that residential class earned returns have been volatile in the past due to annual variations in summer temperatures (weather). Thus, there has been no showing by the Division that RMP's revenue collection will be impaired due to its proposed changes to the summer energy rate structure. The evidence the Commission has on the record in this case is that the residential class has been a strong performer since the advent of the summer inverted block rate structure in 2004, with residential class earned returns at or above unity (1.00) since that time.[4]

Q. WHAT DOES THE OFFICE PROPOSE WITH RESPECT TO POTENTIAL UNDER-EARNINGS ISSUES?

A. It would be inappropriate to propose a remedy before first establishing that there is a problem and then determining the underlying causes. The Office notes that the Company itself has long asserted a problem of under-earnings without directly tying the problem to conservation. Therefore, the Office asserts that it is necessary to explore and understand the issues associated with this Company's earnings prior to pursuing any rate design proposals that give the Company revenue assurances.

[4] Gimble Rebuttal, Docket 09-035-23, COS/RS,Table 3, pg 4.

Q. DOES THE DIVISION SUGGEST THAT DECOUPLING IS NECESSARY FOR THE COMPANY TO APPROPRIATELY PURSUE DSM PROGRAMS?

A. No. The Division indicates that the Company has done a good job with its DSM programs and that this issue is only a secondary reason for pursuing the decoupling proposal.

Q. DOES THE COMPANY'S DSM HISTORY SUGGEST A NEED FOR DECOUPLING?

A. No. Over the past decade RMP has acquired a diverse set of DSM programs targeting industrial, commercial, and residential customers absent a decoupling mechanism. The successful acquisition of DSM programs resulted in the DSM tariff rider increasing from approximately 2.1% to 4.7% in 2009.[5] The originally proposed increase prompted opposition from certain large customer groups, resulting in a lengthy Commission process (which has not yet been completed) examining the appropriate levels of spending and recovery mechanisms. Thus, it certainly appears that expanding the DSM programs significantly beyond the current levels of expenditure would be met with resistance

Additionally, PacifiCorp currently faces substantial resource deficits, future fuel price risk as new natural gas plants are acquired, and potential carbon legislation. Thus, removing disincentives via a decoupling mechanism does not appear necessary to ensure DSM continues to play a vital role in RMP's future resource and business plans.

Q. WHAT ADDITIONAL EVIDENCE OR REASONS DID THE DIVISION OFFER FOR WHY DECOUPLING IS NECESSARY?

A. None.

[5] RMP initially proposed a higher DSM tariff rider increase of approximately 6.2%, which was later reduced as part of a settlement.

VI. OTHER CONCERNS

Q. WHAT FAIRNESS CONCERNS ARE RAISED BY THE DIVISION'S PROPOSAL?

A. Not only does the proposal raise questions of inter-class fairness, it also raises questions of intra-class fairness among the residential consumers. The Division's decoupling proposal is applied to all residential customers, irrespective of a particular customer's level of summer usage or whether the customer is a new or existing customer on RMP's system. Many residential customers have embraced a conservation ethic as evidenced by their active participation in DSM programs and behavior changes to cut wasteful electricity usage. Other residential customers have limited electrical consumption due to limited ability to pay. These low-use customers will now pay a decoupling surcharge to compensate the Company for a possible lower revenue stream due to changes in behavior of larger residential users. It isn't at all clear that such a redistribution of costs fairly represents these lower users' contribution to overall costs. This redistribution is particularly troublesome in the case of low income customers and residential customers who are renters. Both sets of customers typically have less access to DSM programs and are less able to undertake conservation measures themselves. Thus, these subsets of the residential customers are in danger of paying much more than their ability to reap any benefits.

Q. DOES THIS CONCERN VIOLATE ANY FUNDAMENTAL RATE DESIGN PRINCIPLES?

A. Many utility consumer advocates and low income advocates adhere to the position that utility rate design should ensure that some moderate level of energy should be obtainable at very affordable rates. This underlying principle has informed the specific positions taken by the Office in designing the first block of summer energy, in concert with changes to the customer charge and other energy blocks. Since the decoupling account balances would be recovered through charges on all energy consumed, the balance of a low-cost first block of energy would be jeopardized.

Q. IS DECOUPLING INCONSISTENT WITH ANY RATE DESIGN PRINCIPLES ADVANCED BY THE DIVISION?

A. Yes. Dr. Abdulle states, in part, that “the Division’s rate design objectives are for the rates to be stable, simple, understandable and acceptable to the public. . .” [Abdulle Direct, lines 154 – 155] I do not believe that decoupling in any way could be characterized as simple and understandable to the average ratepayer. Further, in my view, if the average ratepayer did fully understand the concept of decoupling, it is highly debatable whether it would be found acceptable. Certainly the Division has made no showing that their proposal is consistent with this aspect of their own rate design principles.

VII. SUMMARY AND RECOMMENDATIONS

Q. WHAT ARE THE OFFICE’S RECOMMENDATIONS REGARDING ADDITIONAL STUDY AND ANALYSIS THAT WOULD BE NECESSARY PREREQUISITES BEFORE PURSUING DECOUPLING FOR ROCKY MOUNTAIN POWER?

A. Before any revenue assurance mechanism is pursued, the Commission must ascertain the reasons behind the Company’s recent history of under-earning. Without understanding those issues, these rate design “solutions” could be misdirected or misapplied. Next, it would be helpful to have a better understanding of consumer behavior with respect to prices and conservation to develop rate designs that promote conservation. Finally, analysis needs to be undertaken to determine what impact such rate designs would have on Company earnings. Only if that impact is negative should decoupling be explored.

If decoupling is to be explored, there are a variety of electric decoupling mechanisms that utility commissions have recently implemented (mainly on a pilot basis) or are currently being examined for possible adoption. It would make a great deal of sense for the Commission to examine the pros and cons of these alternatives through a more deliberate and fact-finding process than the rate design phase of the current rate case. For example, presentations by Pamela

Lesh (Graceful Systems, LLC), Jim Lazar (RAP) and possibly others would be a useful starting point for the Commission and parties to begin examining the merits of electric decoupling. However, the Commission's review should not be limited to a survey of decoupling alternatives, but should encompass a detailed analysis of need, applicability, fairness, design, term, and customer safeguards. The deliberate analysis that is required should not be hurried along within the time confines of the current rate case.

Q. PLEASE SUMMARIZE THE OFFICE'S RECOMMENDATIONS REGARDING THE DIVISION'S DECOUPLING PROPOSAL.

A. From policy, procedural and practical standpoints, the Office suggests that the Division's decoupling proposal is untimely, unnecessary, and unfair to the residential class. The Office recommends the Commission reject the Division's residential decoupling proposal as it would not be in the public interest and would not be likely to result in just and reasonable rates for the residential rate class as a whole. The Commission must place the burden of proof on the party making the proposal. The Division fails to demonstrate the need for decoupling. In particular, the Division did not support its proposition that decoupling should be limited to a single rate class when other classes have shown either more variability in revenues (Schedule 6) or persistent revenue shortfalls (Schedules 9 and 10) in RMP's COS study results over the past few years. The Division's residential decoupling proposal raises significant policy and factual issues relating to timeliness, applicability, need and fairness.

Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY IN THE RATE DESIGN PHASE OF THIS CASE?

A. Yes it does.