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DEPARTMENT OF COMMERCE
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Date: December 21, 2010

Subject: Office of Consumer Services Position Statement. In the Matter of the Application of Rocky Mountain Power for Approval of Settlement Agreement with Heber Light & Power Company and Amendment of Certificate of Public Convenience and Necessity. Docket No. 10-035-117

The Office of Consumer Services (Office) is responsible for assessing the impact of utility rate changes and regulatory actions upon residential and small commercial customers. In connection with the proposed settlement of the long standing dispute between Rocky Mountain Power and Heber Light and Power, our analysis focused upon the whole of Rocky Mountain Power's customers as well as the much smaller group of customers who will no longer be served by Rocky Mountain Power or who will become Rocky Mountain Power customers. It is from this perspective that we undertook our analysis of the settlement proposed in this docket. We reviewed the settlement application, testimony and attachments, issued data requests and reviewed responses to our data requests as well as those submitted by the Division of Public Utilities. Those responses included public, confidential and highly confidential material.

Discussion

This settlement agreement resolves long-standing disputes between Rocky Mountain Power (RMP) and Heber Light and Power (HL&P) (together the Parties) regarding the

certificated territory within which each utility has the right and responsibility to serve Wasatch County, Utah customers.

The settlement transfers approximately 1,000 customers currently being served by RMP to HL&P and 300 customers served by HL&P to RMP. Additionally, certain assets will be transferred between the parties and joint or shared use and maintenance agreements will govern other utility plant and facilities. Our primary focus was the impact of the settlement upon rates and service quality.

In direct testimony Mr. Moench states that the overall average increase in monthly charges for RMP customers that become HL&P customers will be less than \$5.00 assuming past usage continues (lines 563-565). Currently HL&P's customer charge is greater than RMP's but the energy rate is less. This estimated \$5.00 differential does not take into account the forthcoming January 1, 2011 rate increase for Rocky Mountain Power customers nor the potential rate increase anticipated to go into effect in September 2011 from RMP's next rate case. Thus, the monthly rate differential would be even less if measured ten months from now. Conversely, the typical HL&P customer being transferred to RMP will initially see a slight reduction in his monthly bill. Once the RMP rate increases of January 1, 2011 and the expected increase in September 2011 occur that may change. However, there is no guarantee that under HL&P customers would not also experience rate increases in the near future nor is there any way to predict the magnitude of such increases. Because the rates are always subject to change and the current difference is small we do not believe it should be a barrier to the approval of the agreement.

In prior dockets that considered the RMP and HL&P service territory dispute, parties including the Office have voiced concern that customers who are transferred to a utility not regulated by the Commission, are provided an equivalent forum to resolve rate and service disputes. Under HL&P's franchise agreements as the Office understands them, transferred RMP customers will have access to an ombudsman who will review, investigate, mediate and arbitrate customer complaints. Franchise agreements for HL&P require equal treatment for customers living outside of HL&P's member municipal boundaries to those within. Therefore, transferred customers should not be disadvantaged by this settlement agreement.

While access to the ombudsman will benefit transferred RMP customers, HP&L customers that are being transferred to RMP will have the right to file complaints regarding RMP's service with the PSC as is the practice for current RMP customers.

The settlement resolves issues that have resulted in years of litigation between the parties. This lengthy litigation has costs both in terms of dollars and time that could better be spent on other issues. Resolving the issue of who has the right and responsibility to serve customers in various Wasatch County locations will allow both utilities to proceed with necessary infrastructure and resource planning with greater certainty that the dispute over certificated territory will not interrupt or make such work more costly. Given the

projected growth in areas of Wasatch County, it is essential that the matter of which utility has the responsibility to serve be resolved.

Some of the Wasatch County areas RMP would potentially be serving without this agreement would require substantial infrastructure, wheeling fees, power purchase agreements, etc., which would likely result in cost increases for all RMP customers. Several of these Wasatch County locations are in proximity to HL&P lines so that HL&P should be able to provide service to those customers without incurring the same degree of costs that RMP would experience. Thus, this agreement appears to provide an overall more cost efficient method of serving the customers of Wasatch County, as well as to facilitate a more cost effective method for RMP to serve its own customers which will help to keep overall rates reasonable.

Certain other provisions of the settlement agreement result in the transfer of facilities from RMP to HL&P and from HL&P to RMP. The Office has not identified any financial inequity in facilities transferred between the parties. Furthermore, there are not extensive facilities being transferred and so any additional expense due to having to replace or upgrade these transferred facilities is likely insubstantial.

The Office views this agreement as a settlement of disputed issues. However, it is not preapproval of any associated costs. At such time as RMP actually incurs costs and includes them in a general rate case for cost recovery it is our intent to analyze the reasonableness of those costs.

Office Position

It is the Office's position that RMP customers will not be harmed by the settlement and in fact will likely be better off than if the litigation continues or RMP were required to serve customers in some Wasatch County areas that are more remote from its existing transmission lines and other facilities. Therefore, the Office does not oppose this settlement agreement.