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Division of Public Utilities

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MEMORANDUM

To: Utah Public Service Commission

From: Division of Public Utilities

Philip Powlick, Director
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Matt Croft, Utility Analyst
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Subject: Request for an Investigative Docket Regarding Bonus Depreciation

Date: December 15, 2010

Request for an Investigative Docket

The Division requests that the Commission initiate an investigative docket to explore the issues surrounding the extension of bonus depreciation through the end of 2010 and possibly through 2011, how it applies to both Questar Gas Company ("Questar") and PacifiCorp, dba in Utah as Rocky Mountain Power, and the appropriate regulatory response. The Division also requests that the Commission schedule a technical conference as soon as practicable to open the investigation, establish a scope of the issues and future schedule, and direct Questar and Rocky Mountain Power to lead (at the technical conference) an initial discussion of the issues.

Issue

On September 27th 2010, the Small Business Jobs Act of 2010 was signed into law. This law extended 50% bonus depreciation through the end of 2010. For tax purposes, and for qualifying assets placed into service during 2010, this law allows companies to record greater depreciation expense in the current period than they normally would. This results in a lower current tax expense but an offsetting increase in deferred income tax expense. These two expenses offset

each so there is a net effect of zero on the income statement. The deferred taxes however, are accumulated and recorded as a liability or deduction to rate base. The extension of 50% bonus depreciation through the end of 2010 has the effect of increasing accumulated deferred income taxes and reducing rate base. This reduction in rate base decreases the revenue requirement necessary to meet an authorized rate of return.

Implications for Rocky Mountain Power and Questar

Rocky Mountain Power's most recent general rate case, Docket No. 09-035-23, included a test year ending June 30, 2010. During the rate case it was unknown if bonus depreciation would be extended beyond 2009. As a result, the Company did not include bonus depreciation for the qualifying assets that were anticipated to be placed into service during the last six months (Jan 2010 – June 2010) of their forecasted test period. A similar situation existed with RMP's first Major Plant Addition (MPA 1) filing, Docket No. 10-035-13. The extension of bonus depreciation had not been passed and was therefore not included in MPA 1. As a result, rate base was greater than it would have been if bonus depreciation had been applied in the rate case or in the MPA I case and, therefore, revenue requirement was greater than it would have been in both cases. During the MPA 2 docket, the bonus depreciation extension was passed and included as part of the settlement stipulation.

Questar's situation is very similar to RMP. The extension of bonus depreciation was not known, and therefore not included in Questar's previous rate case, Docket No. 09-057-16, which included a December 2010 test year. During that case a settlement was reached in which Questar was allowed to implement a Feeder Line Replacement Tracker ("Tracker"). The settlement assumed that \$10.1 million of feeder line investment was included in rates set during the case and that the tracker would begin once the \$10.1 million of feeder line investment was placed into service. Since the extension of bonus depreciation was not known at the time of the agreement, it was not specifically mentioned in relation to the \$10.1 million already in rates or the subsequent investment that would be placed in service after the \$10.1 million. In its recent Tracker application, Docket No. 10-057-20, Questar did include the effects of bonus depreciation for the post \$10.1 million investment but not for the \$10.1 million already assumed to be in rates.

Future Implications for Questar and Rocky Mountain Power

On December 9th 2010, legislation was introduced¹ that would not only extend bonus depreciation through 2011 but would also increase the depreciation rate to 100%. Under the current language, the 100% bonus depreciation would apply to qualifying assets acquired and placed into service after September 8, 2010 and before January 1, 2012. If passed, this legislation could materially affect the rate case RMP anticipates filing in January 2011 and possibly the last four months of 2010 plant additions undertaken by Questar.

Conclusion

In summary, in a recent change to tax law, Congress extended the 50% bonus depreciation through December 2010. Both Questar and PacifiCorp have had rates set in recent cases where bonus depreciation was applied either partially or not at all to resource investments depicted in the test year. Application of bonus depreciation to these investments would have resulted in a lower rate base and, thus, lower rates. Depending on the timing of future rate cases, these rates could remain in effect for several years. Furthermore, current proposed legislative language contemplates further extension of bonus depreciation through December 2011 and possibly increasing the rate from 50% to 100% starting with qualifying property acquired and placed in service in September 2010. Depending on the regulatory treatment, the extension of bonus depreciation may materially affect PacifiCorp's next rate case and possibly investments in recent cases where bonus depreciation was not fully applied to test year investments. Therefore, the Division requests that the Commission initiate an investigative docket to explore these issues. As part of that docket, the Division also requests that the Commission schedule a technical conference in the near future.

CC Michele Beck, Office of Consumer Services
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¹ <http://thomas.loc.gov/cgi-bin/query/C?r111:./temp/~r111fBhKKS>