ROCKY MOUNTAIN POWER
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November 19, 2015

***VIA ELECTRONIC FILING***
***AND HAND DELIVERY***

Public Service Commission of Utah
Heber M. Wells Building, 4th Floor
160 East 300 South
Salt Lake City, UT 84114

Attention: Gary Widerburg
Commission Secretary

RE: Request for Agency Action to Review the Carrying Charges Applied to Various Rocky Mountain Power Account Balances, Docket No. 15-035-69.

In accordance with the Scheduling Order issued by the Public Service Commission of Utah (the "Commission") on September 2, 2015, Rocky Mountain Power ("Company") submits the following comments in response to the initial recommendation filed by the Utah Division of Public Utilities ("DPU") on October 27, 2015.

**<u>DIVISION OF PUBLIC UTILITIES INITIAL RECOMMENDATION</u>**

The DPU recommends the Commission replace existing carrying charge rates with the average of the annual Aaa and Baa Corporate interest rates for the preceding calendar year as published by the Federal Reserve Board of Governors. This carrying charge rate change would affect the following:

- Utah demand side management ("DSM") tariff rider balancing account
- Renewable Energy Certificate ("REC") Balancing Account ("RBA")
- Energy Balancing Account ("EBA")
- Customer Security Deposits
- Home Energy Lifeline Program ("HELP")
- Utah Solar Incentive Program ("USIP")
- Blue Sky Program
- Customer Overpayments

The DPU proposes that the carrying charges paid on the eight accounts identified above ("the Accounts") be updated annually every March 1, with the first update occurring on March 1, 2016.

**<u>ROCKY MOUNTAIN POWER REPLY COMMENTS</u>**

**Overview of Rocky Mountain Power Reply Comments**

The Company concurs that routinely updating carrying charges in a predictable manner may be beneficial to customers. However, the Company disagrees with the DPU proposal that carrying charges for the Accounts under consideration in this docket should be based on an annual average of corporate interest rates, which based on 2014 data would be 4.5 percent, as this does not take into account the actual financing that occurs and that the Commission considers in setting rates. Furthermore, carrying charges that have been agreed to as part of a Commission approved stipulation or agreement should not be changed. The Company proposes the appropriate carrying charge for the Accounts, absent a stipulation or agreement justifying a different rate, be the cost of debt authorized by the Commission in the most recently concluded general rate case, to be updated at the conclusion of each subsequent rate case.

**Carrying Charge Rate**

As acknowledged by the DPU, there is no one-size fits all rate for carrying charges on the Accounts. The Company believes there are several carrying charge options to consider for the Accounts. Three options are highlighted in the box below based on the settled capital structure in Docket No. 13-035-184.

| | Capital Structure | Capital Cost | Weighted Cost | Pre-Tax Cost |
|---|---|---|---|---|
| Debt | 48.55% | **5.200%** | 2.53% | 2.53% |
| Preferred | 0.02% | 6.753% | 0.00% | 0.00% |
| Common | 51.43% | 9.800% | 5.04% | 8.12% |
| **TOTAL** | | | **7.57%** | **10.65%** |

Pre-tax cost of capital – The current pre-tax cost of capital as authorized by the Commission is 10.65 percent. This carrying charge would treat the Accounts similar to rate base items. The Company believes this would be the most appropriate rate since this matches how all rate base items are financed.

After-tax cost of capital – The current after-tax cost of capital as authorized by the Commission is 7.57 percent. The after-tax cost of capital reflects the cost of capital impact of the Accounts as components of rate base net of the related income tax impact. This rate is similar to the AFUDC rate currently used for DSM.

Long term cost of debt – The current long term cost of debt as authorized by the Commission is 5.2 percent. The current level of the carrying charges ranges from a high of 7.76 percent to a low of 5.2 percent.

Considering the options, the authorized cost of debt from the most recently concluded general rate case is a reliable and predicable measure of the Company's cost of debt as it relates to carrying charges applicable to the Accounts. Therefore, the Company is willing to agree to a carrying charge rate based on the Company's authorized cost of debt, currently set at 5.2 percent, for Accounts in which the rate was not set by stipulation or agreement. As outlined below, the long-term cost of debt, currently at 5.2 percent, provides several advantages over the DPU proposed annual average of corporate interest rate.

First, during a general rate case the Company's financing activities are fully reviewed and vetted by parties to the proceeding including the DPU, the Office of Consumer Services, interveners, and the Commission. This process results in establishing a cost of debt based on the Company's actual financing activities.

Second, the Commission authorized cost of debt provides a carrying charge that is consistent with the rate of return and related capital structure upon which rates are set in a general rate case.

Third, the recommendation of the DPU assumes that a distinct slice of the Company's overall debt cost is assignable to carrying charges applied to the Accounts. This is an improper assumption because the Company's overall cost of capital, including the cost of debt, is not fragmented and assigned to any specific element of Company operations, but is used to finance Company operations in its totality.

Fourth, the average Aaa and Baa corporate interest rates, while perhaps less volatile than short-term interest rates, provide customers no protection from the potentially negative impacts of unpredictable volatility in financial markets and/or Federal monetary policy actions. Customers are far more insulated from such potentially harmful impacts if the Commission exercises control over the carrying charges by basing them on its own authorized cost of debt, rather than relying on unpredictable and uncontrollable market based rates.

**Account Balance Manipulation**

In support of its proposal the DPU created several hypothetical scenarios to illustrate "the possible incentives for the Company to 'game' the carrying charge rate[.]"[1] The DPU did footnote the fact that there is no evidence of the Company "gaming" the carrying charge rate and these hypothetical scenarios exist only as a "theoretical possibility".[2] These hypothetical scenarios, based only in theory, are an inappropriate basis upon which to evaluate the DPU recommendation and should not be considered in this decision. The reality is that the Company is more concerned with administering the Accounts in compliance with Commission approved tariffs and rules than with "gaming" carrying charge rates and account balances to achieve an uncertain and risky benefit.

Additionally, the Company has little control over the balances in most of the Accounts. For instance, the DSM, HELP, USIP, and Blue Sky Programs are largely driven by changes in customer participation levels from month to month. In the case of the EBA, the balance in the account is due to differences between forecast and actual net power costs that are influenced by conditions such as weather and market prices that are outside of the Company's control. For

[1] Docket No. 15-035-69, DPU Memorandum dated October 27, 2015 – RMP Carrying Charges, p3.
[2] Id., p2.

Customer Security Deposits and Customer Overpayments, the Company applies and refunds deposits consistent with the rules in the tariff.

Beyond the Company's commitment to comply strictly with Commission orders, as described below the Accounts are subject to reporting requirements and regulatory scrutiny which would render manipulation or "gaming" of balances virtually impossible. Regulatory reporting on the Accounts is outlined as follows:

> **DSM –** Pursuant to Commission order the Company files, for DPU review, a semi-annual Utah DSM tariff rider balancing account analysis. The analysis includes historical and projected monthly DSM expenditures, rate recovery and account balances; as well as, historical and projected monthly DSM expenditures by program. This analysis along with proposed changes to the DSM rate recovery is scrutinized by the DSM Steering Committee and regulators.
>
> **RBA –** Pursuant to Commission order the Renewable Energy Credit Balance Account is examined annually by the DPU in a review of every element of the account including balances, charges, credits and proposed rate changes.
>
> **EBA –** Pursuant to Commission order the Energy Balancing Account is examined annually by the DPU in an extensive review of every element of the account including balances, charges, credits and proposed rate changes.
>
> **Customer Security Deposits –** Pursuant to Commission order the Company files for regulatory review monthly account balances for Customer Security Deposits as part of the semi-annual results of operations reporting.
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> **HELP –** Pursuant to Commission order, the Company files for regulatory review a quarterly report of the Home Energy Lifeline Program detailing account activity.
>
> **USIP –** Pursuant to Commission order, the Company files for regulatory review an annual report of the Utah Solar Incentive Program detailing account activity.
>
> **Blue Sky Program –** Pursuant to Commission order, the Company files for regulatory review an annual report of the Blue Sky Program detailing account activity.
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> **Customer Overpayments –** No account balance is maintained related to Customer Overpayments. The consideration, therefore, of possible account balance manipulation is not applicable to Customer Overpayments. Carrying charges on Customer Overpayments are not paid based upon an account balance, but are paid based upon the return of an overpayment to a customer in connection with billing adjustments as identified in Electric Service Regulation No. 8.

Considering the in-depth regulatory review of the Accounts, the risk of account balance manipulation is negligible, and tying the carrying charge rate to the average annual corporate interest rate does nothing to eliminate this risk. To the extent the DPU bases it recommendation on the "possibility, or the perception of the possibility"[3] of account balance manipulation, its proposal appears to take the form of a solution in search of a problem, rather than a well-reasoned response to a viable customer risk.

Based on its review of the Accounts the DPU concludes that it finds no evidence suggesting the Company has engaged in account balance manipulation and therefore the hypothetical scenarios presented by the DPU should not weigh on the Commission's decision. Additionally, the DPU provides no evidence that the corporate interest rates it proposes are reflective of the Company's actual financing activities for the Accounts.

**Stipulations and Agreements**

The carrying charge rate was set by stipulation or agreement for several of the Accounts including: DSM, RBA, and Blue Sky. In the context of settlement discussions each party values the various provisions of an agreement differently. Subsequent modification of any individual provision of a settled agreement is unacceptable because it upsets the balance of the overall agreement that a party relied upon and considered acceptable. In addition, it would require amending the stipulations and parties may request that additional provisions be revisited. Generally, stipulations address this concept with language similar to the following:

> *"Not all Stipulating Parties agree that each aspect of this Stipulation is supportable in isolation. Utah Code Annotated Section 54-7-1 authorizes the Commission to approve a settlement so long as the settlement is just and reasonable in result. While the Stipulating Parties are not able to agree that each specific component of this Stipulation is just and reasonable in isolation, all of the Stipulating Parties agree that this Stipulation as a whole is just and reasonable in result and in the public interest."*

Subsequent modification of a stipulation or agreement without involvement and concurrence of all parties to the agreement sets a harmful and chilling precedent for future negotiations of agreements, wherein parities negotiate in good faith with the full expectation that once approved by the Commission, agreements will stand as accepted by the parities. Notably, the DPU was party to the stipulated agreements which set the carry charge rates for the DSM account, the RBA, and Blue Sky.

The Company urges the Commission refrain from modifying any provision in settled cases, including the carrying charges that were set as part of a stipulation or agreement.

## RECOMMENDATION

**DSM –**

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[3] Id., p1.

As the DSM carrying charge was set by stipulation, the Company recommends that it continue without modification. The carrying charge for the DSM account is currently 7.76%. It is updated annually based on the current allowance for funds used during construction ("AFUDC") rate. The rate was set in a stipulation in Docket 02-035-T12, on October 3, 2003. The stipulation reads in part as follows:

> *"Each year, the then-current AFUDC rate shall apply as a carrying charge on the balance in the Schedule 191 balancing account, whether the balance reflects an amount owing to customers or to the Company." (Stipulation, section 11)*

**RBA -**

As the RBA carrying charge was set by stipulation the Company recommends that it continue without modification. The carrying charge for the REC Balancing Account is currently 5.2%. It is updated to the authorized cost of debt in the most recently concluded general rate case. The rate was set by stipulation in Docket 10-035-14 on September 13, 2011. The stipulation reads in part as follows:

> *"The balance in the RBA shall accrue interest at the Company's cost of debt approved in the Company's most recent general rate case (i.e., 5.71 percent currently) compounded monthly." (Stipulation, paragraph 61)*

**EBA –**

The current EBA is operating through December 31, 2016, under terms of a stipulation approved by the Commission in Docket No. 15-035-03. Pursuant to the currently approved stipulation, the EBA includes a 6% carrying charge. Consistent with the Company proposal on stipulated carrying charges, it is recommended that no change be made to the EBA carrying charge during the term of the current stipulation. The current rate of 6% was set by Commission order in Docket No. 09-035-15 on March 2, 2011. The Commission order reads in part as follows:

> *"We also approve an annual carrying charge of 6 percent. As noted by the Office, this rate is consistent with the carrying charge approved by Questar Gas Company's gas balancing account. This rate is also similar to the Company's long-term cost of debt, the rate recommended by most parties." (Order, page 78)*

**Customer Security Deposits –**

Consistent with the comments provided herein, the Company recommends that the carrying charge rate for Customer Security Deposits be modified to the Company's cost of debt approved in the Company's most recently concluded general rate case. The current rate is 5.2 percent. This rate will be updated to the authorized cost of debt in future rate case proceedings. The carrying charge for Customer Security Deposits is currently 6.0 percent. It is a fixed rate set by Commission order in Docket No. 97-035-01 on March 4, 1999. The Commission order reads in part as follows:

> *"In setting an interest rate to be paid on deposits, we desire to set a rate that is fair to both customers and the Company. Interest rates should be high enough that the utility has an incentive to not collect unnecessary deposits, and to return deposits*

> *as quickly as possible when they are no longer needed. We set the rate at six percent." (Order, Section III.G. Deposit Interest)*

**HELP –**
As the HELP account carrying charge as currently set by the Commission is consistent with the Company's recommendation, no modification of the carrying charge rate is recommended. The carrying charge for the HELP account is currently 5.2 percent. It is updated with the authorized cost of debt in the most recently concluded general rate case. The rate was set by the Commission in Docket 13-035-190 on October 9, 2014. The Commission acknowledgement letter reads in part as follows:

> *"… the Commission-approved cost of debt as ordered in the most recent general rate case should be used to determine interest accruals on the HELP balance." (Commission acknowledgement letter)*

**USIP –**
Consistent with the comments provided herein, the Company recommends that the carrying charge rate for Utah Solar Incentive Program be modified to the Company's cost of debt approved in the Company's most recently concluded general rate case. The current rate is 5.2 percent. This rate will be updated to the authorized cost of debt in future rate case proceedings. The carrying charge for Utah Solar Incentive Program is currently 6.0 percent. It is a fixed rate set by Commission order in Docket No. 11-035-104 on October 1, 2012 as part of the Company's August 10, 2012, application

**Blue Sky Program –**
The carrying charge rate was set by agreement of the parties at a technical conference on August 7, 2007. The Company recommends that the carrying charge rate continue without modification, pursuant to the agreement of the parties, which was acknowledged and approved by the Commission. The carrying charge for the Blue Sky Program is currently 7.57 percent. It is updated with the authorized rate of return in the most recently concluded general rate case. The rate for the Blue Sky Program was set on September 6, 2007 by the Commission's approval of tariff sheets filed by the Company in Docket No. 07-035-T13. The Commission's order reads in part as follows:

> *"At the technical conference held August 7, 2007, the Company and the other parties discussed drafts of proposed schedules adding a Purpose statement, clarifying the definition of renewable energy, revising a Special Condition to include interest on the balances in the regulatory liability account…"*
> *(Order, page 7)*

**Customer Overpayments –**
Consistent with the comments provided herein, the Company recommends that the carrying charge rate for Customer Overpayments be modified to the Company's cost of debt approved in the Company's most recently concluded general rate case. The current rate is 5.2%. This rate will be updated to the authorized cost of debt in future rate case proceedings. The carrying charge for

Customer Overpayments is currently 6.0 percent. It is a fixed rate set in the Commission Order in Docket No. 97-035-01 dated March 4, 1999. The Commission order reads in part as follows:

> *"In setting an interest rate to be paid on deposits, we desire to set a rate that is fair to both customers and the Company. Interest rates should be high enough that the utility has an incentive to not collect unnecessary deposits, and to return deposits as quickly as possible when they are no longer needed. We set the rate at six percent." (Order, Section III.G. Deposit Interest)*

**SUMMARY**

While the Company believes that the overall cost of capital is the appropriate rate since it better matches the Company's actual financing of rate base, the Company proposes that, absent a stipulation or agreement justifying a different rate, the carrying charge applied to the Accounts should be the Commission authorized cost of debt from the most recently concluded general rate case, to be updated following the conclusion of each subsequent general rate case. The Company's authorized cost of debt is a reliable and predicable measure of the Company's debt costs as it relates to carrying charges applicable to the Accounts.

The Company further recommends that carrying charges that have been previously set by stipulation or agreement should remain unmodified unless or until future regulatory activities opens up the issues for new settlement discussions or actions by the Commission. These carrying charges reflect the good faith negotiations of parties to the particular proceeding and modification of agreements, once achieved and approved by the Commission, would set a harmful precedent for negotiation of future stipulations and agreements, wherein parties expect to negotiate with confidence that, once approved by the Commission, agreements will stand as accepted by the parties.

The Company respectfully requests that the Commission approve the Company's recommendation for the carrying charge for each of the Accounts as presented herein as just and reasonable and prudent.

Very Truly Yours,

Jeffrey K. Larsen
Vice President, Regulation
Rocky Mountain Power

CC: DPU and OCS