



State of Utah
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Division of Public Utilities

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REPLY COMMENTS

To: Utah Public Service Commission

From: Utah Division of Public Utilities

Chris Parker, Director
Artie Powell, Energy Section Manager
Brenda Salter, Technical Consultant
Charles E. Peterson, Technical Consultant

Date: December 2, 2015

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

Issue

In its memorandum dated October 27, 2015, the Division of Public Utilities (Division) recommended that the Commission order that the carrying charges of eight Rocky Mountain Power (Company) programs and accounts be updated annually based upon the average of the annual Baa and Aaa bond rates. A major purpose of this change is to keep the carrying charges relatively current with actual interest rates so that no party will be particularly helped or hurt by outdated carrying charges, relative to what could be obtained in the current financial marketplace. The Office of Consumer Services (Office) in its comments dated November 19, 2015 generally supported the Division's recommendation. Likewise, Utah Clean Energy and

SWEEP in joint comments also generally support the Division's recommendation with respect to the proper carrying charge rate.¹

Rocky Mountain Power in its comments dated November 19, 2015 strongly disagrees with the Division's recommendations. The Company makes several claims in support of its position. The Division's comments below respond to Rocky Mountain Power.

Reply to Rocky Mountain Power

The Company takes exception to the Division's discussion of the possibility that the Company could "game the system" by carrying various combinations credit or debit balances so as to arbitrage the differences between the Commission-mandated carrying charges and market interest rates to its advantage. The Company concludes that "[t]hese 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."² The Division believes that these are precisely the types of considerations that regulators need to take into account, among other considerations, in order to assure the public that the Company's tariffs and rates are "just and reasonable." The Division believes that part of regulation is to set incentives that minimize the temptation for the Company to behave badly. To tell regulators that they must not consider anything that might go wrong with a decision or action comes close to suggesting to regulators that they not perform their public duty. The Division has not suggested the Company is engaged in such behavior but finds it prudent to guard against the possibility.

The Company complains that it has "little control over the balances in most of the Accounts."³ It asserts that "DSM, HELP, USIP, and Blue Sky Programs are largely driven by changes in

¹ The UCE/SWEEP memorandum also recommends using the Division's recommended carrying charge rate to evaluate the cost effectiveness of DSM programs. The Division does not comment here on this suggestion as it is outside the scope of this docket, which the Division believes is restricted to the determination of the proper carrying charges on balances that accrue in the various accounts and programs under consideration.

² Rocky Mountain Power memorandum, page 3.

³ Ibid.

customer participation levels from month to month.”⁴ The Division believes that the cause of changes in the balances in the various programs “from month to month” is not a significant determinant in the proper carrying charge. But in the case of the Blue Sky Program, at least, the Division believes the Company’s posturing is misleading. The Division understands that the Company, on its own initiative has been accumulating several million dollars in this account in order to pursue a utility scale solar project of its own using the Blue Sky funds. This is certainly within the Company’s control. Furthermore, the Company has the wherewithal to file applications with the Commission to increase or decrease amortization rates on accounts such as DSM to manage balances. The Division believes the Company’s objections in this area are hyperbole meant to distract the Commission.

Another major complaint of the Company is that some of these carrying charges were part of stipulations, some entered into decades ago, such as the 1992 DSM docket. The Company even appears to stretch to include the EBA as a stipulation because the stipulation in the latest EBA docket, Docket No. 15-035-03 “includes a 6% carrying charge.”⁵ There is no question that the Commission itself established the 6 percent carrying charge in its Order establishing the EBA in Docket No. 15-035-15. The Company claims that

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 parties negotiate in good faith with the full expectation that once approved by the Commission, agreements will stand as accepted by the parties [sic].⁶

The Division points out that the changes the Division is proposing are in a fully and properly noticed docket before the Commission. Several parties have availed themselves of the opportunity to intervene. Furthermore, the Division has the obligation to act in the public interest. When conditions change, it is entirely proper for the Division, and indeed consistent

⁴ Ibid.

⁵ Ibid., page 6.

⁶ Ibid.

with the Division's purpose, to seek changes before the Commission that are in the public interest, whether or not a factor or policy was originally part of a stipulation. The Division believes that it is appropriate to have the Commission review and modify carrying charges in the identified programs and accounts. The Office and at least some of the intervening parties appear to agree with the Division. If indeed it is the Company's position that the Division is eternally bound by the terms and conditions of a stipulation, especially decades old agreements, the Division will have little enthusiasm for settling issues in the future.

Rocky Mountain Power makes what amounts to a counter-offer to keep at or set to Company's current cost of debt rate set in the most recent general rate case the carrying charges for the RBA, Customer Security Deposits, HELP, USIP, and Customer Overpayments.⁷ The rationale for this offer seems to be that the Division's proposal "does not take into account the actual financing that occurs and that the Commission considers in setting rates."⁸ It is unclear to the Division why the Company's weighted average debt rate is appropriate as the carrying charge for the current balances in certain accounts, many of which are funded by ratepayers currently. The debt rate that is determined in a general rate case is the rate needed in order for the Company to make interest payments on its debt, some of which was incurred decades ago. The Division does agree that an appropriate rate would take into account the "actual financing that occurs." The most appropriate interest rate would be the most efficient current borrowing rate of the Company in the case where the Company had to fund an under-collection of an account. The Company's latest financing report filed with the Commission dated September 4, 2015, indicates that the Company issued first mortgage bonds in June 2015 at an interest rate of 3.35 percent.

There is no compelling reason to use the Company's cost of debt rate as the carrying charge for any of these account balances. At best, the cost of debt represents the weighted average interest rate the Company is paying on long-term debt acquired over decades for many different corporate purposes. At worst, it guarantees that the carrying charges will only coincidentally

⁷ The current cost of debt rate is 5.20 percent.

⁸ *Ibid.*, page 2.

approximate current market rates. The departure from market rates will become more pronounced if the Company ceases to regularly issue new debt and it does not come in for a rate case for several years.

In two places the Company quotes from the Commission's Order in Docket No. 97-035-01:

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)⁹

Similarly, the Office makes two points in its memorandum to the Commission:

First, the Office asserts that the carrying charge should be consistent with the underlying risk the Company or ratepayers incur resulting from over-collection or under-collection in the accounts outlined in the Division's Recommendation. Second, the Office would like to ensure that carrying charges are set appropriately to provide incentive for the Company to maintain zero or near zero balances when feasible.¹⁰

The Division is entirely in agreement with the statement from the Commission's Order in Docket No. 97-035-01, and the two points made by the Office quoted above. But six percent does not reflect today's conditions. Additionally, the Division believes that the carrying charges should be kept up-to-date with market conditions, which will minimize any disadvantage to either the Company or ratepayers.

Finally, the Company states that "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

⁹ Ibid. pages 6-7 and 8.

¹⁰ Memorandum of the Office of Consumer Services, Docket No. 15-035-69, November 19, 2015, pages 1-2.

actions.”¹¹ The Division appreciates the Company’s concern for customers. However, the Division believes that taking an annual average, as the Division is proposing, will smooth out all but the most extreme interest rate fluctuations. In any case, if a party believes that the year-over-year change in interest rates is too extreme, it can always petition the Commission to modify the interest rate charge.

Conclusion and Recommendation

Rocky Mountain Power’s reasons to keep the carrying charges intact just because they were once part of a stipulation are not compelling. Furthermore, the Company’s “counteroffer” to use the latest cost of debt for the carrying charges remaining programs is similarly not compelling and will assure that the carrying charges for those programs will differ, perhaps significantly, from current market interest rates. The fact that no gaming may have occurred is not definitive. The Division’s statutory mandates require it to act in the public interest.

The Division continues to recommend that the Commission order the adoption of the corporate Baa/Aaa annual average interest rates as outlined in the Division’s memorandum of October 27, 2015.

CC Bob Lively, Rocky Mountain Power
Michele Beck, Office of Consumer Services
Service List

¹¹ Ibid., page 3.