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Application of Rocky Mountain Power for Authority to Change its Depreciation Rates Effective January 1, 2021	<u>DOCKET NO. 18-035-36</u> <u>REPORT AND ORDER</u>
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ISSUED: April 20, 2020

**1. PROCEDURAL HISTORY**

On September 11, 2018, Rocky Mountain Power (RMP) filed an application with the Public Service Commission of Utah (PSC) seeking approval to change its depreciation rates effective January 1, 2021, consistent with its Depreciation Study (“Application”).<sup>1</sup> As proposed, these new rates would increase annual depreciation expense by approximately \$228.1 million on a total company basis, and \$100.1 million on a Utah basis, based on projected plant balances as of December 31, 2020. In addition, the proposed termination of excess reserve amortizations would increase depreciation expense by approximately \$28.0 million on a Utah basis. Combined, the proposed changes would increase depreciation expense by approximately \$128.1 million on a Utah basis.

On March 19, 2020, RMP filed a Stipulation on Depreciation Rate Changes and three associated attachments (“Stipulation”). The Stipulation was signed by RMP, the Division of Public Utilities (DPU), the Office of Consumer Services (OCS), the Utah Association of Energy Users (UAE), Utah Clean Energy (UCE), and Western Resource Advocates (WRA) (“Signing Parties”).

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<sup>1</sup> RMP’s Depreciation Study is included as Exhibit RMP (JJS-2) to the Application.

On March 20, 2020, DPU and WRA filed testimony in support of the Stipulation. On March 30, 2020, Sierra Club filed testimony in opposition to the Stipulation. On April 3, 2020, RMP, OCS, and UAE filed testimony responding to opposition to the Stipulation.

On April 8, 2020, the PSC held a hearing to consider the Application. At the hearing, RMP, DPU, OCS, UAE, and WRA provided testimony supporting PSC approval of the Application. UCE's and Sierra Club's legal counsel appeared at the hearing but neither presented a witness.

## **2. BACKGROUND**

RMP last filed a depreciation study in Docket No. 13-035-02. On November 7, 2013, the PSC issued an order in that docket approving a Stipulation on Depreciation Rate Changes ("2013 Stipulation"). Paragraph 29 of the 2013 Stipulation stated: "A new depreciation study will be filed with the [PSC] no later than five years from the date of the written order resolving the issues in this Docket, or as otherwise ordered by the [PSC]. The Stipulating Parties agree [RMP] will maintain the right to file a new depreciation study sooner than five years." RMP's Depreciation Study in this docket complies with the timelines of the 2013 Stipulation.

## **STIPULATION**

The parties to the Stipulation agree to new depreciation rates, effective January 1, 2021, that increase the annual depreciation expense by approximately \$141.5 million on a total-Company basis, and \$61.6 million on a Utah-allocated basis (Stipulation Paragraphs 7 and 9).<sup>2</sup> The agreed-upon adjustments reduce RMP's system-wide depreciation expense by \$86.6 million

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<sup>2</sup> Stipulation Table 1 provides a summary of the results for the various depreciation study categories. (p. 4)

from the \$228.1 million requested in the Application, and Utah's depreciation expense by \$38.5 million from the \$100.1 million requested in the Application (Stipulation Paragraphs 8 and 10). Attachment 2, page 2, of the Stipulation shows that the excess reserve amortization remains at \$28.0 million as presented in the Application. The Parties to the Stipulation request the PSC establish Phase II in this proceeding and set a scheduling conference concurrent with the scheduling conference in RMP's general rate case, Docket No. 20-035-04 (2020 GRC),<sup>3</sup> to facilitate further review of the regulatory treatment of projected incremental decommissioning costs and the regulatory and ratemaking treatment of retired plant associated with repowered wind facilities (Stipulation Paragraphs 18 and 19).

The Stipulation's other substantive terms include: 1) identification of adjustments to the various components of the Depreciation Study and the associated FERC account number (Stipulation Paragraphs 9, 11, and 12); 2) commitments related to solar, battery storage, and company-owned wind resources (Stipulation Paragraphs 13, 14, and 17); 3) identification of certain exceptions pertaining to Cholla Unit 4 and Naughton Units 1 through 3 (Stipulation Paragraph 15); 4) commitments for meetings to discuss coal resource-related issues (Stipulation Paragraphs 21 and 22); 5) commitments related to analytical requests and supplemental information (Stipulation Paragraphs 23 and 24); 6) a statement that RMP plans to file its next depreciation study in 2025 (Stipulation Paragraph 17); 7) agreement regarding proposals for ratemaking treatment of thermal plant balances in the 2020 GRC (Stipulation Paragraph 16); 8)

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<sup>3</sup> *Application of Rocky Mountain Power for Authority to Increase its Retail Electric Utility Service Rates in Utah and for Approval of its Proposed Electric Service Schedules and Electric Service Regulations*; Docket No. 20-035-04.

the statement that Attachment 2 and Table 2 of the Stipulation do not reflect the impacts of the stipulation approved in Docket No. 17-035-69<sup>4</sup> (Stipulation Paragraph 10); and 9) agreement on a procedure should orders from the Washington or Oregon jurisdictions contain one or more terms that vary from those presented in the Stipulation (Stipulation Paragraph 20).

### **3. POSITIONS OF THE PARTIES**

All signatories to the Stipulation support its approval. Sierra Club is the only party that opposes the Stipulation. Sierra Club's opposition to the Stipulation centers around the difference between the depreciable lives of certain coal-fired plants (i.e., Naughton Units 1 and 2 and Jim Bridger Units 1 and 2) agreed to in the Stipulation and those presented in RMP's 2019 Integrated Resource Plan (IRP). We briefly summarize the parties' positions on the Stipulation and their responses to Sierra Club's opposition.

#### **a. RMP Supports the Stipulation.**

RMP participated in the negotiations that led to the Stipulation, filed rebuttal testimony, and testified at the hearing in support of the Stipulation. At hearing RMP testified the Stipulation was the result of arm's-length negotiations and is just and reasonable in result and in the public interest. Therefore the PSC should approve the Stipulation.

RMP states the Depreciation Study was based on the best information available at the time of filing and that rapidly changing market conditions led to a different assessment of operating lives in the 2019 IRP and further shortened the operating lives of certain coal-fired

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<sup>4</sup> *Investigation of Revenue Requirement Impacts of the New Federal Tax Legislation Titled: "An act to provide for reconciliation pursuant to titles II and V of the concurrent resolution of the budget for fiscal year 2018"* (Order Approving Settlement Stipulation issued November 9, 2018); Docket No. 17-035-69. This stipulation identifies commitments and options to address early coal plant retirements.

resources. RMP further asserts that the operating lives for the four units identified by Sierra Club are only minimally different from those identified in the 2019 IRP preferred portfolio, with differences ranging between four and five years. RMP asserts that the difference in depreciable lives noted by Sierra Club does not create significant intergenerational inequity when considered on balance with the broader set of coal-fueled resources. Further, the Stipulation's terms lead to greater rate stability, which justifies any mismatch that could occur. (Rebuttal Test. of C. Teply filed Apr. 3, 2020 at 4:80-82.)

**b. DPU Supports the Stipulation.**

DPU participated in the negotiations that led to the Stipulation, is a signatory to it, and testifies the proposed settlement is just and reasonable in result, and in the public interest. (Direct Test. of J. Einfeldt filed Mar. 20, 2020 at 2:33-34.) DPU points out that the Stipulation identifies the following issues which will be addressed in Phase II of this docket: 1) continued analysis of the decommissioning costs study filed by RMP in January 2020; and 2) finalization of the amortization of the remaining book value of the wind equipment that was replaced as a result of repowering the eleven wind farms approved in Docket No. 17-035-39,<sup>5</sup> plus the Leaning Juniper wind project.

Regarding the former, DPU maintains further review is required to better understand the reasonableness of the decommissioning costs study's underlying assumptions, and the effects the proposed costs will have on customer rates. DPU believes these two matters can be addressed in

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<sup>5</sup> *Voluntary Request of Rocky Mountain Power for Approval of Resource Decision to Repower Wind Facilities* (Report and Order issued May 25, 2018); Docket No. 17-035-39.

Phase II of this docket and incorporated in the coming general rate case application anticipated to be filed in May of 2020, in Docket No. 20-035-04.

**c. OCS Supports the Stipulation.**

OCS also participated in the negotiations that led to the Stipulation, filed rebuttal testimony, and testified at the hearing in support of approval. (Rebuttal Test. of C. Murray filed Apr. 3, 2020 at 1:10-19.) OCS recommends that the PSC approve the Stipulation for the following reasons: 1) the stipulation represents an agreement among a diverse set of stakeholders and RMP; 2) the value of reaching agreement far outweighs any concerns raised by Sierra Club; 3) it would be inappropriate and establish bad precedent for the PSC to require alignment in this docket with the Action Plan in RMP's 2019 IRP; and 4) Utah stakeholders have a proven history of working with RMP on solutions to mitigate rate impacts of shortened coal plant lives.

OCS points out that, as is true for most stipulations, and as described in Stipulation Paragraph 28, not all parties agree with all aspects of the Stipulation but agree that as a whole it is just and reasonable in result and in the public interest. OCS asserts reaching such an agreement is not easy and should be given significant weight.

Regarding the inconsistency between the 2019 IRP and the Stipulation, OCS points out: 1) the 2019 IRP has not yet been acknowledged and it would be inappropriate for the PSC to order alignment with the 2019 IRP before it opines on the IRP; and 2) while the 2019 IRP may represent the most current studies and investment plans of RMP, it is not an exact blueprint of the future. Plans to acquire (or retire) resources have always gone through additional analysis and regulatory scrutiny prior to implementation.

**d. UAE Supports the Stipulation.**

UAE also participated in the negotiations that led to the Stipulation, filed surrebuttal testimony, and testified at the hearing in support of approval. (Revised Surrebuttal Test. of K. Higgins filed Apr. 3, 2020 at 3:44-64.) UAE testified that Sierra Club fails to properly consider both the proper context of the Stipulation and the importance of mitigating the rate impacts on current ratepayers of shortening the lives of coal plants. The benefits presented in the 2019 IRP of retiring the Naughton Units 1 and 2 and Jim Bridger Units 1 and 2 early consist of projected cost savings to future customers relative to a benchmark case. As future customers are the economic beneficiaries of early retirements based on the 2019 IRP analysis, it is unreasonable to insist, as Sierra Club does, that current customers pay an additional premium in the form of higher depreciation expense in order to achieve that future benefit.

**e. WRA Supports the Stipulation.**

WRA participated in the negotiations that led to the Stipulation, filed direct testimony, and testified at the hearing in support of approval. Of particular importance to WRA, the Stipulation provides a path for RMP and parties to work together proactively on rate mitigation options in the face of earlier retiring coal units. WRA states parties have committed to discuss strategies that may be implemented to address rate impacts associated with earlier retirements of coal plants stemming from the 2019 IRP (Stipulation Paragraph 21) as well as strategies that may be implemented over the longer term to address rate impacts associated with potential earlier retirements of coal resources whose current depreciable lives extend ten or more years into the future (Stipulation Paragraph 22). WRA believes it is prudent to address potential mismatches between cost-recovery and actual operations.

**f. Sierra Club Opposes the Stipulation.**

Sierra Club opposes the Stipulation. Sierra Club recommends the PSC: 1) not accept, or use for ratemaking and planning, a settlement based on a depreciation study, the assumptions for which are demonstrably false; 2) not accept two filings from RMP, i.e. RMP's 2019 IRP and its Depreciation Study, that are in direct conflict with one another; and 3) should inform parties that it will only accept a settlement that includes depreciable lives that reflect the current economic and policy realities facing those resources, and that are consistent with RMP's 2019 IRP. (Direct Test. of E. Hausman filed Mar. 30, 2020 at 14.)

Sierra Club asserts the Stipulation makes unrealistic and unreasonable assumptions about the future operating lives of four coal-fired units (i.e., Naughton Units 1 and 2, and Jim Bridger Units 1 and 2), and these assumptions are in direct conflict with RMP's 2019 IRP and Action Plan. Sierra Club refers to Stipulation Paragraphs 21, 22, and 26 and maintains these paragraphs acknowledge that the Parties recognize the discrepancy between the expected lives of RMP's coal plants and the end-of-life assumptions they are asking the PSC to accept for depreciation purposes. Sierra Club asserts the PSC should not accept a false premise today on the promise that the parties will reconvene at some unspecified time to discuss strategies to address rate impacts from the knowing and intentional use of false assumptions today.

Sierra Club asserts there are two potential outcomes if RMP fails to align the depreciation schedules with the expected and intended retirement of plants in the near term: 1) in failing to align depreciation and retirement now, RMP would backload costs and risks to future ratepayers; and 2) if RMP does not recover depreciation prior to retirement, it risks facing a "stranded asset," or undepreciated balance remaining after retirement. Sierra Club discusses the concept of an

asset's depreciable life and how it relates to the general principle of "intergenerational equity," i.e., that each generation of ratepayers should pay equitably for the resources that are used to provide it with energy and energy-related services.

**DISCUSSION, FINDINGS, AND CONCLUSION**

The legislature encourages settled resolutions to matters pending before the PSC. Utah Code Ann. § 54-7-1. The PSC may adopt settlement proposals provided 1) the PSC finds the settlement is just and reasonable in result; and 2) the evidence supports a finding the settlement is just and reasonable in result. *Id.* at § 54-7-1(3)(d)(i). This docket was initiated by RMP's filing of its Depreciation Study and Application seeking approval of the proposed depreciation costs resulting from the lives determined by the Depreciation Study. The Signing Parties, with diverging interests and objectives, have reached a settlement generally resolving the issues in this docket. The Stipulation, among other things, identifies the settled depreciation expense amount and assumptions, provides for further analysis of certain issues in Phase II contemporaneously with the 2020 GRC, and provides for discussion of strategies that may be implemented over both the short- and long-term relating to coal plant retirements. As stated by WRA, the Stipulation provides the necessary flexibility to address ongoing issues related to coal resources in light of uncertainty. Based on the filed testimony, we find the terms of the Stipulation reasonable as they identify the agreed-upon depreciation expense and provide for an ongoing assessment of certain other issues in an efficient, proactive manner. We find the provisions of the Stipulation provide reasonable flexibility for addressing an uncertain future.

For these reasons we find and conclude the Stipulation is just and reasonable in result and in the public interest.

**ORDER**

Having reviewed the Application, the Depreciation Study, the Stipulation, the written testimony submitted in this docket, and the evidence presented at hearing, we find the Stipulation is just and reasonable in result and is in the public interest. We therefore:

- 1) approve the Stipulation as filed on March 19, 2020; and
- 2) establish Phase II to this proceeding and will establish a scheduling conference to occur concurrent with the scheduling conference in the 2020 GRC.

DATED at Salt Lake City, Utah, April 20, 2020.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Attest:

/s/ Gary L. Widerburg

PSC Secretary

DW#313298

Notice of Opportunity for Agency Review or Rehearing

Pursuant to §§ 63G-4-301 and 54-7-15 of the Utah Code, an aggrieved party may request agency review or rehearing of this Order by filing a written request with the PSC within 30 days after the issuance of this Order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the PSC does not grant a request for review or rehearing within 20 days after the filing of the request, it is deemed denied. Judicial review of the PSC's final agency action may be obtained by filing a petition for review with the Utah Supreme Court within 30 days after final agency action. Any petition for review must comply with the requirements of §§ 63G-4-401 and 63G-4-403 of the Utah Code and Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on April 20, 2020, a true and correct copy of the foregoing was delivered upon the following as indicated below:

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