

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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In the Matter of the Application of Rocky Mountain Power for Approval of its Proposed Energy Cost Adjustment Mechanism )  
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DOCKET NO. 09-035-15  
NOTICE OF SCHEDULING  
CONFERENCE AND  
PROCEDURAL ORDER

ISSUED: June 18, 2009

By The Commission:

Notice is hereby given that a **Scheduling Conference** will be held in the above-entitled matter on **Thursday, June 25, 2009, at 1:30 p.m. in Room 401** on the Fourth Floor of the Heber M. Wells State Office Building, 160 East 300 South, Salt Lake City, Utah. The purpose of this scheduling conference is to set a schedule for Phase I of this proceeding, as discussed below.

Individuals wishing to participate by telephone should contact the Public Service Commission two days in advance at (801) 530-6716 or 1-866-PSC-UTAH (1-866-772-8824). Individuals participating by telephone should call the Public Service Commission five minutes prior to the beginning of the hearing to ensure participation.

In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during the Conference should notify the Commission, at 160 East 300 South, Salt Lake City, Utah, 84111, (801) 530-6716, at least three working days prior to the Conference.

BACKGROUND

On March 16, 2009, Rocky Mountain Power, a division of PacifiCorp (“Company”) filed an application for approval of its proposed energy cost adjustment mechanism (“ECAM”). Pursuant to our April 22, 2009, scheduling order in this proceeding, we held a technical conference on May 5, 2009, and received comments on May 26, 2009, from interested parties regarding the scope of issues to be addressed in this docket and providing recommendations. In this order, we provide procedural guidance based on the comments received and give notice of a scheduling conference to be held June 25, 2009, noted above.

PARTIES’ SCOPE OF ISSUES LISTS AND RECOMMENDATIONS

The Company, the Utah Division of Public Utilities (“Division”), the Office of Consumer Services (“OCS”), the Utah Industrial Energy Consumers (“UIEC”), the Utah Association of Energy Users (“UAE”), Salt Lake Community Action Program (“SLCAP”), and collectively Western Resource Advocates and Utah Clean Energy (“WRA/UCE”), filed scope of issues lists and recommendations. In the following review of these comments, we use the term ECAM to refer to both an energy balancing account in general and the Company’s proposed mechanism in particular.

The Company identifies the following factors as important for approving an ECAM in Utah: 1) Whether it is needed; 2) whether, in recent history, customers have paid, and the Company has had a reasonable opportunity to recover, the Company’s actual and prudently incurred net power costs through base rates; and, 3) whether, and the extent to which, net power costs are subject to a high degree of volatility outside the Company’s control. The Company

identifies the following factors as important for the approval of the Company's proposed ECAM:

1) Whether it is thorough and complete; 2) whether there are any problems with it that must be addressed by the Commission; 3) whether it uses the same basic formula as discussed in the May 5, 2009, technical conference in this proceeding; 4) whether it is easy to audit and will provide customers with price stability for a one-year period; 5) whether it clearly defines the same net power cost used for many years in the Company's rate cases; 6) whether it maintains the Company's incentive to keep its net power costs as low as possible; 7) whether it aligns private interests with public interests; 8) whether it will send more accurate price signals to customers; 9) whether it will be applied to all customers more nearly contemporaneously than occurs now; and, 10) whether it is in both the Company and customers' interests as well as the public interest.

The Company argues its application and testimony filed in this case fully addresses these issues satisfactorily and recommends the Commission approve the Company's ECAM as proposed.

The Division identifies the following issues as critical for approval of an ECAM:

1) necessity; 2) mechanism design; 3) cost elements included; 4) implementation and auditing; 5) unintended consequences. The Division suggests the Commission consider determining if the Company has met its burden to prove a mechanism is necessary prior to considering the design of an ECAM. The Division provides a detailed description of its critical issues, including the criteria and policy considerations required to determine whether an ECAM is necessary. In determining what should be included in an ECAM, the Division recommends the following criteria be considered: 1) Whether a cost or revenue is within the control of the Company; 2) if outside the control of the Company, whether the cost or revenue is predictable; 3) whether the

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magnitude of the likely change is worth implementation of a cumbersome adjustment mechanism; and, 4) whether unpredictable changes in costs or revenues outside the control of the Company are likely to occur quickly. The policy considerations noted by the Division are: 1) identification of available options to address the issues, i.e., hedges, forecast test years, frequent rate cases; 2) evaluation of available options in comparison to an ECAM; 3) identification of the relevant public and private interests served by an ECAM and the steps necessary to ensure these interests are balanced; 4) identification of customer and Company risks and any shifting of risks inherent in adoption of an ECAM with consideration given to the ability of the Company and customers to hedge or take other steps to control power costs. The Division also recommends an approval based on ensuring the ECAM achieves a balance between the Company (price [revenue] stability, financial stability, and creditworthiness) and ratepayers (price stability, affordable energy, accurate price signals) and least cost/least risk. Further, the Division requests guidance from the Commission regarding the implications for an ECAM on risk and cost hedging.

The Division states Utah Code section 54-7-13.5 requires any balancing account mechanism to be implemented at the conclusion of a rate case. Further, Utah Commitment 23 in Docket No. 05-035-54 requires the Company to file its request for an ECAM at least 90 days in advance of a general rate case filing and that intervenor testimony on the ECAM would be due at the same time as testimony in the general rate case. The Division identifies three options for proceeding with this docket and the general rate case expected to be filed in Docket No. 09-035-23: 1) consolidate these dockets for the purposes of hearing; 2) maintain separate dockets except

for implementation; 3) address the necessity issue more rapidly than other issues. The Division recommends these two dockets remain separate at this point. When the rate case is filed, a subsequent scheduling or technical conference can be held to consider consolidation of the docket and the general rate case docket.

OCS identifies threshold, design and implementation issues for this proceeding. The threshold issues are 1) Necessity; 2) appropriate ratepayer risk and Company incentives; 3) adequacy of regulatory resources to ensure just and reasonable rates. Design issues are: 1) Burden of proof; 2) interaction with other models; 3) determination of the problem to be solved (which cost elements to include); 4) alternative mechanisms to solve problem identified; 5) carrying charge and interest rate; 6) rate spread and allocation to customers (including special contracts); 7) triggers; and, 8) baseline achievement requirements. Implementation issues are: 1) timing and requirements for adjustment and review; 2) return on equity adjustments; 3) interface with rate design; and, 4) consideration of a pilot program.

OCS contends the Company has not adequately addressed these issues in its application and testimony in this case and because of these legal deficiencies, recommends the Commission dismiss the case at this time. OCS requests the Commission establish a schedule for making and hearing motions to dismiss prior to any further actions. If the case is not dismissed, OCS recommends the Commission require the Company to refile its case providing substantial supporting evidence upon each of the threshold issues demonstrating an ECAM is necessary, workable and in the public interest. OCS strongly recommends against employing a collaborative process. Rather, the process should move forward in a formal manner with

testimony and hearing, preferably addressing the issues in phases. OCS recommends the following phases: 1) evaluate existing mechanisms like hedging practices to determine whether they provide adequate remedy for variations in load, costs and the market upon which the application is based; 2) if existing practices are found to be insufficient, examine limited design elements of an ECAM or other mechanism to remedy the insufficiencies; 3) address specific implementation elements to ensure just and reasonable rates are the final outcome.

The Utah Industrial Energy Consumers (“UIEC”) provides a list of issues and its recommendation for each issue. First, only if the Company meets its burden of proof establishing an ECAM is necessary, should any additional issues be addressed at this time. If an ECAM is found to be necessary, then UIEC recommends the Commission establish the minimum requirements a filing requesting an ECAM should contain so that the critical questions (remaining scope of issues) will be answered up front with adequate transparency. The filing requirements should also address what information must be included at a minimum each time the Company thereafter files for recovery of energy costs. Simultaneous with determining filing requirements, UIEC recommends the Commission open a rulemaking to determine the process to be followed for energy cost recovery filings so the Company is held, pursuant to statutory requirements, to a stringent burden of proof. Other issues identified by UIEC are: Burden of proof, cost to state regulators, items included in the mechanism, productivity mechanism, rate design, capital costs (return on equity), carrying cost, and review period.

UAE recommends the Commission dismiss the Company’s application for failure to make a prima facie showing that the requested ECAM is in the public interest. UAE argues

the Company's application and supporting testimony fail to adequately demonstrate a need or basis for the ECAM, fail to establish the ECAM is in the public interest, and fail to address critical issues and implications of the proposed ECAM necessary for a public interest determination to be made. UAE provides a partial list of issues it believes must be adequately addressed and resolved before the proposed ECAM can be found to be in the public interest. These issues, at minimum, include: 1) Need (must show market volatility cannot adequately be managed through other means, i.e., an effective hedging strategy); 2) single-item ratemaking (must show a compelling reason for use of "single issue ratemaking"); 3) utility incentives (ECAM largely removes incentives, must show alternatives are available to replace these incentives); 4) regulatory oversight (replaces internal management incentives); 5) risk and return on equity; 6) demand-side management impacts (introduces disincentives for undertaking DSM leading to decoupling and incentive payments); 7) rate stability; 8) details (not adequate for meaningful analysis); 9) other considerations (likely benefits outweigh likely negatives from public policy perspective).

SLCAP identifies the need for an ECAM and whether an ECAM is in the public interest as the first order of business. If the Commission determines an ECAM is needed and in the public interest, then a full examination should be undertaken to determine how best to structure an ECAM so the benefits to the Company and to customers are balanced. This examination should include: 1) What adjustments should be made; 2) how prices are measured; 3) how costs are allocated; 4) how frequently rates are adjusted; 5) how surcharges are posted to customers' bills; and, 6) how an ECAM would be monitored by the Commission. SLCAP

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recommends undertaking the investigation of whether an ECAM is needed in a separate docket outside of a general rate case. SLCAP recognizes implementation of an ECAM needs to be undertaken within a general rate case in order to set a baseline for net power costs, etc., however, the importance and scope of issues merit the separate and full attention of the interested parties and the Commission.

WRA/UCE recommends the following issues be addressed in this docket: 1) Whether an ECAM will remove the Company's incentive to lower fuel risk and costs by switching to power resources that do not depend on fuel, such as DSM and renewables; 2) examination of alternatives that protect the Company's financial integrity but maintain important incentives for it to manage its fuel and purchased power cost risk; 3) whether ECAM costs should be allocated to Blue Sky customers; 4) whether the ECAM aligns utility incentives with the public interest, i.e., whether it rewards the Company for reducing its fuel expenses and avoiding fuel price escalation risk; 5) whether the Company's anticipated energy costs are highly volatile and outside of the Company's control and whether the Company is adequately hedging its fuel and purchased power costs; 6) whether account 555 (wholesale purchased power costs) should be included; 7) whether account 565 (transmission wheeling costs) should be included; 8) how the ECAM squares with piecemeal ratemaking concerns, i.e., compensating the Company for higher fossil-fuel costs that might be offset by other, non-adjusting, declining costs in the Company's cost of service; and, 9) the specific cost components to be included in the ECAM.



DISCUSSION AND CONCLUSIONS

The issue before the Commission is the determination of an appropriate ratemaking treatment of the Company's net power costs. We find the issues raised by the parties are numerous, relatively complex, and must be carefully considered to ensure the public interest is served. Indeed, we are required by Utah Code § 54-7-13.5 to find an energy balancing account is in the public interest and is for prudently-incurred costs for it to become effective. We conclude this objective will require an evidentiary record upon which to base any decision to adopt an ECAM in general and a mechanism design, in particular.

In order to address these issues in a comprehensive yet timely manner, we will proceed to address the issues in a phased approach. As suggested by most parties, we will begin with an evidentiary development of the need for an ECAM at this time and call this Phase I. We will issue an order on whether an ECAM is in the public interest in Phase I. If we find the adoption of an ECAM is in the public interest, we would then consider the design of an ECAM.

The issues to be addressed in Phase I should include the issues identified by the parties' filing comments surrounding the threshold and policy issues regarding the need for an ECAM and the identification of an appropriate regulatory treatment for recovery of net power costs that appropriately balances standard regulatory objectives. At a minimum, we note the following issues should be examined: an explicit and quantitative analysis of the risks of fluctuating power costs i.e., the magnitude and nature of the risks; whether these risks are manageable and by whom; who should bear the risks; what alternatives are available to manage these risks; evaluation of rate-making issues associated with power costs and the valid regulatory

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processes which will effectively handle such costs; evaluation of regulatory objectives and the ability of a ratemaking treatment of power costs to balance the objectives; an analysis of the impacts of alternative ratemaking treatments of power costs to management incentives for least cost risk adjusted planning, expansion and operation; alignment of Company and customer objectives.

We decline to dismiss the Company's application at this time. We concur with parties it is the Company's burden to prove a change in rate-making treatment for net power costs is appropriate and in the public interest. We ruled in Docket No. 09-035-06, on December 7, 1990, and October 19, 1993, normalization of net power costs, rather than balancing account treatment, was appropriate and in the public interest.<sup>1</sup> We will re-examine this ruling in this proceeding. To the degree the Company feels it necessary in order to meet the objectives outlined in this Order, the schedule should permit the opportunity for the Company to augment its filed testimony.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that:

The Commission will proceed in Phase I, as discussed herein, by holding the scheduling conference noticed on page 1 of this Order.

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<sup>1</sup> Docket No. 90-035-06, "In the Matter of the Investigation into the Reasonableness of Allocation and the Rates and Charges for Utah Power & Light Company."

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DATED at Salt Lake City, Utah, this 18<sup>th</sup> day of June, 2009.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard  
Commission Secretary  
G#62561