

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of)	Docket No. 09-035-15
Rocky Mountain Power for)	Rebuttal Testimony of
Approval of its Proposed Energy)	Michele Beck
Cost Adjustment Mechanism)	For the Office of
)	Consumer Services

December 10, 2009

1 **Introduction**

2 **Q. WHAT IS YOUR NAME, OCCUPATION AND BUSINESS ADDRESS?**

3 A. My name is Michele Beck. I am the director of the Office of Consumer
4 Services. My business address is 160 East 300 South, Salt Lake City.

5

6 **Q. HAVE YOU PREVIOUSLY FILED DIRECT TESTIMONY IN THIS CASE?**

7 A. Yes.

8

9 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

10 A. I will reply to the direct testimony presented by Charles Peterson on behalf
11 of the Division of Public Utilities (Division) and clarify the Office's position
12 in response to the testimony presented by Kevin Higgins on behalf of the
13 Utah Association of Energy Users (UAE).

14

15 **Office Response to Division of Public Utilities**

16 **Q. WHAT IS THE DIVISION'S POSITION IN THIS CASE?**

17 A. The Division raises many important questions and concerns throughout its
18 testimony about the ECAM, concluding that the Company has not
19 established a need for any ECAM and the ECAM as proposed is, at the
20 least, potentially harmful to customers. Because the Division is not
21 opposed in principle to power cost adjustment mechanisms, it contends
22 that the Commission may move forward to Phase II of the case.

23 **Q. HAS THE DIVISION SUPPORTED ITS POSITION TO MOVE TO PHASE**
24 **II?**

25 A. No. As I will show in this testimony, Mr. Peterson raises many issues that
26 demonstrate why the ECAM is not in the public interest. In addition to the
27 issues that Mr. Peterson raised, his testimony lacks any explanation of
28 how a power cost adjustment mechanism could be “in the interest of both
29 the Company and ratepayers,” as he asserts in support of his
30 recommendation to move to Phase II. (Peterson Direct lines 151 - 152)

31

32 **Q. WHAT IS THE OFFICE'S OVERALL RESPONSE TO THE DIVISION'S**
33 **POSITION?**

34 A. Mr. Peterson describes in detail the shortcomings in the Company's
35 testimony and related evidence in support of its claim that an energy cost
36 adjustment mechanism would be in the public interest. He concludes that
37 the Company has not met its burden of proof in Phase I of this proceeding.
38 That determination should lead to the conclusion that this proceeding
39 should end with the current phase. Given the concerns raised in Mr.
40 Peterson's testimony, the Office is surprised at the Division's
41 recommendation to move forward to the design phase of the case based
42 on the speculation that some evidence could be produced to support the
43 conclusion that a properly designed energy balancing account mechanism
44 would satisfactorily address the Division's concerns and meet the public-
45 interest standard.

46

47 **Q. WHAT ISSUES RAISED BY THE DIVISION DO YOU BELIEVE**
48 **DEMONSTRATE THAT THE ECAM IS NOT IN THE PUBLIC**
49 **INTEREST?**

50 A. First and foremost, Mr. Peterson describes how the Company has not met
51 its burden of proof through the evidence and testimony presented in this
52 case. A number of Mr. Peterson's observations also raise questions about
53 whether an ECAM is necessary and whether risks would be appropriately
54 distributed under an ECAM. Finally, Mr. Peterson also raises issues about
55 the adverse effect of an ECAM on management incentives and the
56 feasibility of sufficient regulatory oversight of an ECAM.

57

58 **Q. WHAT IS THE DIVISION'S TESTIMONY ABOUT THE COMPANY NOT**
59 **MEETING ITS BURDEN OF PROOF IN THIS CASE?**

60 A. Mr. Peterson states that "the Division does not believe the Company's
61 evidence has been entirely persuasive in supporting the need for an
62 ECAM." (Peterson Direct lines 100 -101) Mr. Peterson continues in his
63 testimony to describe several specific issues that the Division did not find
64 to be adequately addressed such as demonstration of how price volatility
65 has affected the Company's earnings, how the Company's hedging policy
66 affects the need for an ECAM, how the proposal shifts the risk of volatile
67 energy prices to ratepayers, how certain incremental revenues would
68 impact the need for an ECAM, and how the presence of an ECAM would

69 impact management incentives involving planning and operational
70 decisions. Mr. Peterson even goes so far as to call into question the
71 accuracy and quality of the net power cost data presented by the
72 Company. (See Peterson Direct lines 253 – 254 and 677 – 679.)

73

74 **Q. ON WHAT BASIS DO YOU ASSERT THAT THE DIVISION RAISES**
75 **ISSUES REGARDING WHETHER THE ECAM IS NECESSARY?**

76 A. In his testimony, Mr. Peterson discusses a number of issues that call into
77 question the need for an ECAM. For example, regarding the Company's
78 claim that it is subject to significant market volatility Mr. Peterson indicated
79 that the Division "believes that the Company has substantially shielded
80 itself from this volatility through its current hedging practices." (Peterson
81 Direct lines 105-107) In fact, Mr. Peterson observes that testimony from
82 two of the Company's ECAM witnesses is "substantially at odds with the
83 Company's current hedging policy." (Peterson Direct lines 304 – 306) and
84 "the Company's current hedging practices on natural gas strongly suggest
85 less need for an ECAM than their witnesses suggest." (Peterson Direct
86 lines 317-319)

87 Mr. Peterson also discusses that the Company has overstated its
88 risk associated with higher than expected demand in the absence of an
89 ECAM. According to Mr. Peterson, the Company does not include
90 offsetting incremental revenues from higher demand in its analysis of this
91 scenario. (Peterson Direct lines 378 – 380)

92 Finally, Mr. Peterson indicates that the Division “is not convinced”
93 that the Company could not manage and mitigate net power cost risks
94 through other mechanisms such as “more natural gas storage, a more
95 balanced and multifaceted hedging strategy, and more owned generation
96 capability.” (Peterson Direct lines 554 – 538) Taken together, these
97 issues addressed by the Division certainly suggest that the Company has
98 not demonstrated that an ECAM is necessary at this time.

99

100 **Q. IN WHAT MANNER DOES THE DIVISION RAISE QUESTIONS ABOUT**
101 **WHETHER AN ECAM WOULD INAPPROPRIATELY SHIFT RISK TO**
102 **RATEPAYERS?**

103 A. Mr. Peterson explicitly states that the “Division also believes that the
104 proposed ECAM shifts too much risk from the Company to ratepayers.”
105 (Peterson Direct lines 107 – 108, see also lines 560 – 562) Further, Mr.
106 Peterson’s analysis of the Company’s data shows that implementation of
107 the ECAM could result in earned returns in excess of what is currently
108 authorized by the Commission. (Peterson Direct lines 670 – 677) Such a
109 dramatic result would clearly represent an inappropriate shift in both costs
110 and risk to the customers and cannot be found to be in the public interest.

111

112 **Q. WHAT IS THE DIVISION'S CONCERN ABOUT THE POTENTIAL**
113 **CHANGE IN MANAGEMENT INCENTIVES THAT COULD RESULT**
114 **FROM AN ECAM?**

115 A. Mr. Peterson states that the Division is concerned that the Company has
116 not adequately addressed issues of management incentives in its filing
117 and testimony, in particular with respect to long-term planning and
118 balancing the interests of shareholders and ratepayers. The Division is
119 concerned that an ECAM could result in incentives to “maintain the status
120 quo with the result being that over time the Company may pursue with
121 less vigor efforts to keep costs and risks as low as prudently possible.”
122 (Peterson Direct lines 584 - 591)

123

124 **Q. WHAT ISSUES DID THE DIVISION RAISE REGARDING THE ABILITY**
125 **OF THE REGULATORY SYSTEM TO EXERT PROPER OVERSIGHT**
126 **AND REVIEW OF A POTENTIAL ECAM?**

127 A. In Mr. Peterson's description of potential costs to be included in an ECAM,
128 he includes a section about concerns of adequate staffing to audit such a
129 mechanism. The Division first expressed these concerns in its May 26,
130 2009 memo in this docket. Mr. Peterson indicated that the Division's
131 concerns have not been mitigated as this docket has progressed. In fact,
132 he states quite directly that “the Division may not have the resources to
133 adequately audit the NPC.” (Peterson Direct lines 677 – 678, see also
134 lines 494 – 502). The Division will certainly be the entity that the
135 regulatory system most relies upon to effectively review and audit any
136 adjustment mechanism. The Office finds it alarming for the Division to
137 question whether they have adequate resources to do the required work

138 while at the same time recommending that the Commission move forward
139 to Phase II of this proceeding.

140

141 **Q. THE DIVISION ALSO INDICATED THAT THE ISSUES PERTAINING TO**
142 **THE ENERGY BALANCING ACCOUNT (EBA) PREVIOUSLY**
143 **INCLUDED IN THE COMPANY'S RATE STRUCTURE ARE NOT**
144 **PARTICULARLY RELEVANT TODAY. ARE YOU PERSUADED BY ITS**
145 **ARGUMENT?**

146 A. No. In making his conclusion that the issues surrounding the EBA are not
147 particularly relevant, Mr. Peterson focuses on the differences in the
148 "environment" of the early 1990s and today. I agree that the facts and
149 circumstances of the earlier EBA case are much different than those in
150 play today. However, what remains relevant are the Company's views
151 and assertions about how management incentives differ under the
152 different regulatory regimes for recovering power costs. As I
153 demonstrated in lines 115 to 174 of my Direct Testimony, the Company's
154 testimony provided in that earlier case gives an interesting insight into its
155 view of those incentives and cannot be ignored by the Commission in
156 making a determination in the instant docket.

157

158 **Q. THE DIVISION PRESENTED FIVE CONDITIONS THAT IT WOULD**
159 **EXPECT OF A POWER COST ADJUSTMENT AND ADDRESSED**
160 **SEVERAL CATEGORIES OF COSTS THAT COULD BE INCLUDED IN**

161 **SUCH A MECHANISM. WHAT IS THE OFFICE'S VIEW OF THESE**
162 **ISSUES?**

163 A. The Office is not addressing any of the Division's specific
164 recommendations regarding the design of a potential, future ECAM. The
165 absence of rebuttal should not be understood to be agreement with the
166 Division's positions. Rather, the Office is advocating that the ECAM is not
167 in the public interest. If this docket proceeds to Phase II, the Office will
168 address design elements at that time as ordered by the Commission in its
169 Notice of Scheduling Conference and Procedural Order dated June 18,
170 2009.

171

172 **Clarification of Office Position in Response to UAE**

173 **Q. THE UAE INDICATED THAT ITS POSITION WITH RESPECT TO AN**
174 **ECAM WOULD NOT NECESSARILY CHANGE IF THE COMPANY'S**
175 **HEDGING POLICIES CHANGE. WHAT IS THE OFFICE'S RESPONSE?**

176 A. The Office raised two threshold issues that must be addressed and
177 resolved before any ECAM could possibly be found to be in the public
178 interest. First, is the issue of appropriate resource planning. The second
179 of these issues is the Company's hedging policies. On the issue of
180 hedging, the Office fundamentally agrees with the UAE on this issue.
181 (See Higgins Direct lines 428 – 434.) Any changes to the Company's
182 hedging policies that might result from this or other dockets should not
183 automatically trigger an ECAM mechanism. Rather, such changes could,

184 at most, indicate that one pre-condition has been met. In such a
185 circumstance it might then be appropriate to once again examine whether
186 an ECAM might be in the public interest.

187

188 **Summary and Recommendations**

189 **Q. PLEASE SUMMARIZE THE OFFICE'S VIEWS AT THIS POINT IN THE**
190 **ECAM PROCEEDING.**

191 A. The Office continues to believe that an ECAM is not currently needed and
192 is not in the public interest. Further, the Office notes that four other
193 intervenors came to the same conclusion. Finally, despite the Division's
194 recommendation to move forward to Phase II, the Division similarly
195 provides compelling testimony and evidence supporting the conclusion
196 that an ECAM would not be in the public interest.

197 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

198 A. Yes it does.