

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

* * *

IN THE MATTER OF THE)
APPLICATION OF ROCKY)
MOUNTAIN POWER FOR) DOCKET NO. 09-035-23
AUTHORITY TO INCREASE ITS)
RETAIL ELECTRIC UTILITY)
SERVICE RATES IN UTAH AND)
FOR APPROVAL OF ITS)
PROPOSED ELECTRIC SERVICE)
SCHEDULES AND ELECTRIC)
SERVICE REGULATIONS.)
)
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)

TRANSCRIPT OF HEARING PROCEEDINGS

HELD AT: Public Service Commission
160 East 300 South, Room 403
Salt Lake City, Utah

DATE: May 21, 2009

TIME: 2:30 p.m.

REPORTED BY: RENEE L. STACY, CSR, RPR

A P P E A R A N C E S

COMMISSIONERS:

TED BOYER (Chairman)
RIC CAMPBELL
RON ALLEN

FOR ROCKY MOUNTAIN POWER:

YVONNE RODRIGUEZ HOGLE
Attorney at Law
ROCKY MOUNTAIN POWER
201 S. Main Street
Suite 2300
Salt Lake City, UT 84111

FOR THE OFFICE OF CONSUMER SERVICES:

PAUL H. PROCTOR
Assistant Attorney General
OFFICE OF THE UTAH ATTORNEY GENERAL
160 East 300 South
Fifth Floor
Post Office Box 140857
Salt Lake City, UT 84114-0857

FOR THE DIVISION OF PUBLIC UTILITIES:

MICHAEL GINSBERG
Assistant Attorneys General
OFFICES OF THE UTAH ATTORNEY GENERAL
160 East 300 South
Fifth Floor
Post Office Box 140857
Salt Lake City, UT 84114-0857

FOR THE UAE INTERVENTION GROUP:

GARY A. DODGE
Attorney at Law
HATCH JAMES & DODGE, PC
10 West Broadway
Suite 400
Salt Lake City, UT 84101

FOR THE UIEC:

VICKI M. BALDWIN
Attorney at Law
PARSONS BEHLE & LATIMER
One Utah Center
201 South Main Street
Suite 1800
Salt Lake City, UT 84111

I N D E X

WITNESS: DAVID L. TAYLOR
Direct Examination by Ms. Hogle. 7

WITNESS: JONI S. ZENGER, PhD
Direct Examination by Mr. Ginsberg 16

WITNESS: MICHELE BECK
Statement. 23

E X H I B I T S

(None)

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May 21, 2009
2:30 p.m.

P R O C E E D I N G S

CHAIRMAN BOYER: This is the time and place
duly noticed for consideration of the motion for
approval of test period stipulation in Docket
09-035-23, captioned "In the Matter of the
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 Regulation."

And so our plan today will be much the same
as we did last week. We'll hear first from the
proponents of the stipulation. We'll provide an
opportunity for cross examination of whoever is
speaking for the stipulation, a brief opportunity for
redirect, if any, and then we'll hear from the
opponents, and then if there's any redirect, we'll
hear from the proponents. They'll get the last word
on it.

So, with that, let's begin by entering
appearances for the record, please. Would you please
state your name and who you represent?

MS. HOGLE: Yvonne Hogle on behalf of Rocky

1 Mountain Power, and with me is Dave Taylor, who will
2 be the witness for the Company today.

3 CHAIRMAN BOYER: Thank you, Ms. Hogle.

4 MR. GINSBERG: Mike Ginsberg for the
5 Division of Public Utilities, and the Division's
6 witness is Joni Zenger.

7 CHAIRMAN BOYER: Thank you, Mr. Ginsberg.

8 MR. PROCTOR: Paul Proctor, on behalf of
9 the Office of Consumer Services. Its director,
10 Michele Beck, is our witness.

11 CHAIRMAN BOYER: Officially "The Office"
12 now.

13 Mr. Dodge?

14 MR. DODGE: Thank you, Mr. Chairman. Gary
15 Dodge on behalf of UAE. Kevin Higgins, who is UAE's
16 witness, is here in the commission room. We don't
17 intend to have him testify until the commissioners
18 have questions, but he's more than willing to answer
19 any questions.

20 CHAIRMAN BOYER: Thank you, Mr. Dodge.

21 MS. BALDWIN: Vicki Baldwin on behalf of
22 UIEC, and we do not have a witness today.

23 CHAIRMAN BOYER: Welcome, Ms. Baldwin.

24 Before we hear from the -- I guess the
25 Company -- let's make note in the record that the

1 stipulation has now been signed by counsel for the
2 Utah Industrial Energy Consumers, sometimes known as
3 the UIEC. And with that, we'll turn the time now to
4 Ms. Hogle.

5 MS. HOGLE: Thank you, your Honor. I
6 believe that Mr. Taylor has to be sworn.

7 CHAIRMAN BOYER: I believe he does in this
8 case.

9 DAVID L. TAYLOR
10 called as a witness and sworn, was examined and
11 testified as follows:

12 CHAIRMAN BOYER: Thank you, Mr. Taylor.
13 You may be seated.

14 DIRECT EXAMINATION

15 BY MS. HOGLE:

16 Q Can you please state your name and your
17 position with Rocky Mountain Power?

18 A My name is David L. Taylor. I'm employed
19 by Rocky Mountain Power as the manager of regulatory
20 affairs for the state of Utah.

21 Q And what is the purpose of your testimony
22 here today?

23 A I'll briefly review the history of events
24 and key elements of the test period stipulation that
25 was entered into the other day by Rocky Mountain

1 Power, the Utah Division of Public Utilities, the
2 Utah Office of Consumer Services, the UAE
3 Intervention Group, and Utah Industrial Energy
4 Consumers.

5 I'll also reconfirm Rocky Mountain Power's
6 support for the stipulation and the Company's belief
7 that the stipulation is in the public interest.

8 Q Can you now state the relevant key events
9 that led to the test period stipulation?

10 A Yes. On April 16th of this year, Rocky
11 Mountain Power filed with the Commission its intent
12 to file a general rate case and a request for
13 approval of the Company's proposed test period.

14 Specifically, the Company requested in that
15 notice that the Commission approve a test period
16 that -- a forecast test period that would end at the
17 12 months ending December 31, 2010.

18 On April 23rd, 2009, a technical conference
19 and scheduling conference was held, and at that
20 conference, certain parties indicated that their
21 intent was to propose a test year that ended June
22 30th, 2010.

23 On April 30th of 2009, the Company filed
24 with the Commission its direct testimony in this case
25 on test period issues.

1 On May 7th, 2009, the Company contacted all
2 of the intervenors in this case or parties that had
3 either petitioned to intervene or had expressed their
4 intent to intervene in this docket and invited them
5 to a settlement conference to discuss the test
6 period.

7 On May 12th the Company met with the
8 Division and engaged in settlement discussions, and
9 then on May 13th, the parties that are parties to
10 this stipulation engaged in further settlement
11 discussions, and at that time an agreement in
12 principle was reached.

13 On that date, a copy of the draft
14 stipulation was prepared and circulated to the
15 intervenors and the parties that had either
16 petitioned to intervene or indicated they would
17 intervene, and, as a result of the settlement
18 negotiations, the parties to this stipulation have
19 agreed to the terms that are included in the
20 stipulation.

21 Those terms include an agreement upon the
22 test period that will be used in the 2009 general
23 rate case and the timing of other certain filings
24 that I will discuss later in my testimony. The test
25 period stipulation was signed by the parties and

1 filed with the Commission on May 14th, 2009.

2 Rocky Mountain Power is not aware of any
3 party who has either intervened or expressed an
4 interest to intervene in the case who has not signed
5 the stipulation or who was opposed to the
6 stipulation.

7 Q Can you please describe the specific terms
8 of the stipulation?

9 A Yeah. Let me walk through some of the key
10 elements of the stipulation.

11 Paragraph 9 is on the test period, and in
12 that paragraph it states that the parties have agreed
13 that we will use a test period -- a forecast test
14 period for the 12 months ending June 30, 2010 and
15 that that test period will use a 13-month average
16 rate base.

17 Paragraph 10 then describes an agreement
18 for filing of certain single-item rate cases. The
19 newly-enacted section, Title 54, that was approved in
20 Senate Bill 75 earlier this year, provides for an
21 alternative cost recovery mechanism for major plant
22 additions. It allows a utility, under certain
23 conditions, to begin to recover the cost of major
24 plant additions at the time that that plant addition
25 is placed into service.

1 The stipulation identifies three known
2 major plant additions and one potential major plant
3 addition that qualify for this treatment.

4 In Subparagraph A of Paragraph 10, it
5 identifies two of those major plant additions that
6 are scheduled to go into service in the last two
7 months of this test period we've just agreed to.
8 Those are the scrubbers to the Dave Johnson Power
9 Station in Wyoming that are projected to be completed
10 in May of 2010 and the Ben Lomond to Terminal
11 Transmission Line Segment of the larger transmission
12 to Populus Transmission Line, and that segment is
13 scheduled to be completed in June of 2010.

14 Per the stipulation, none of the costs of
15 those projects or any revenues that might be
16 generated from those projects will be included in the
17 Company's 2009 general rate case. They'll be
18 completely excluded. Rather, the Company intends to
19 file an application on or after February 1st of 2010
20 for a single-item rate recovery for those two items.

21 Now, there may be a small overlap between
22 the February 1st filing date of those single-item
23 rate cases and the effective date of new rates that
24 would come into place from this rate case that we're
25 talking about today.

1 Subparagraph B talks about two other major
2 plant additions that are scheduled to go into service
3 later in 2010. The remainder of the Ben Lomond to
4 Populus transmission line is projected to be
5 completed in December of 2010, and then the resource
6 selection from the 2009R RFP is scheduled to go in
7 service around November of 2010.

8 If that resource turns out to be an owned
9 resource that Rocky Mountain Power/PacifiCorp owns,
10 then that will be treated with a single-item rate
11 case treatment as well.

12 The Company intends to file, on or after
13 August 3rd of 2010, for single-item rate recovery for
14 those two plant additions.

15 The parties in the stipulation have agreed
16 not to oppose the Company's right to file for those
17 single-item rate cases or the timing of those
18 filings. Obviously, the Company has to file within
19 the parameters of the timeline that's provided in
20 Senate Bill 75, and also, clearly, by -- the parties
21 have agreed to not oppose the filing or the timing of
22 those filings. They still retain any rights that
23 they would have to make claims due to the prudence or
24 the merits or the cost of those projects. What
25 they've agreed to is not to oppose that we could file

1 for single-item recovery and the timing of those
2 filings.

3 Subparagraph C lays out that should the
4 Company have a time-limited commercial opportunity to
5 acquire a major resource, that nothing in this
6 stipulation would preclude the Company from taking
7 advantage of the opportunities that are available
8 under the Energy Resource Procurement Act to acquire
9 those resources or to, under Senate Bill 75, to
10 request single-item ratemaking treatment of such a
11 resource were it acquired. And, again, the parties
12 agree they would not oppose such filings.

13 Paragraph 11 talks about the rulemaking
14 that's currently before the Commission that was
15 directed under Senate Bill 75. That rulemaking is
16 underway, not yet completed, and there may be rules
17 that result from that that in some cases may be in
18 conflict, in some degree, with what we've agreed to
19 here in this stipulation. The parties agreed that
20 they will not oppose the timing that we've agreed to
21 in this stipulation, even if the rules that come out
22 of that would be somewhat in conflict with those
23 timings.

24 Paragraph 12 discusses the timing of the
25 next general rate case filings that the Company would

1 make, and the Company has agreed, as part of this
2 stipulation, should the stipulation be approved, that
3 we'll not file another general rate case prior to
4 January 1 of 2011. Now, again, depending upon the
5 in-service dates of the Ben Lomond to Populus
6 transmission line or the in-service date of a major
7 resource acquired under the 2009R RFP, there may be
8 some overlap between the January finding of a new
9 rate case and the actual in-service dates of those
10 plants and when any cost recovery or surcharges from
11 those major plant additions may actually go into
12 effect.

13 The remaining paragraphs of the stipulation
14 contain the general terms and conditions which are
15 associated with most stipulations before the
16 Commission. They represent the obligations of the
17 parties, both to the stipulation and to each other.

18 Q Mr. Taylor, do you have any final comments
19 on the test period stipulation?

20 A Yes. First of all, I want to thank the
21 parties for working together to reach an agreement on
22 the test period that we believe is workable for all
23 parties in this case. I believe that the agreement
24 lays out a reasonably-known schedule for rate case
25 filings over the next two years, and I believe most

1 parties believe that's a good thing, that the
2 schedule is very well known for the next couple
3 years.

4 Finally, I restate the Company's support
5 for the stipulation. It was negotiated in good faith
6 by the parties, and I believe that the stipulation is
7 in the public interest, and I recommend that the
8 Commission approve the stipulation as it's filed.

9 Thank you. That concludes my comments.

10 CHAIRMAN BOYER: Thank you, Mr. Taylor. I
11 think the Commission will reserve questions until we
12 have heard from all of the witnesses supporting the
13 motion.

14 Is there any cross examination of
15 Mr. Taylor? Mr. Proctor? Okay. Very well.

16 Thank you, then, Mr. Taylor.

17 Let's turn now to the Division.

18 Mr. Ginsberg?

19 MR. GINSBERG: Would you like to swear in
20 Dr. Zenger?

21 CHAIRMAN BOYER: I should disclose for the
22 record that I saw Ms. Zenger walking her dog last
23 night. Please raise your right hand.

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JONI S. ZENGER, PhD

called as a witness and sworn, was examined and testified as follows:

CHAIRMAN BOYER: Thank you. Please be seated.

DIRECT EXAMINATION

BY MR. GINSBERG:

Q Would you state your name for the record?

A Dr. Joni S. Zenger.

Q And you're employed by the Division of Public Utilities?

A Yes.

Q And were you the Division person assigned to prepare testimony and review the test year testimony and application of the Company in this case?

A Yes, I'm the person.

Q You also testified previously on test years both in Rocky Mountain Power and Questar proceedings?

A Yes, I did.

Q And you have prepared testimony to make in support of the stipulation?

A Yes, I do. I have a brief summary.

Q Can you go ahead and present your testimony?

1 A Yes.

2 Thank you, Commissioners.

3 The Division appears before the Commission
4 in this docket as one of the signing parties to the
5 negotiated test period stipulation. We participated
6 in settlement discussions on May 12th and 13th, 2009,
7 resulting in the stipulation signed by the parties
8 whose signatures appear on the test period
9 stipulation.

10 The Division conducted its own independent
11 test period review in this case and believes that the
12 terms and conditions in the stipulation are just,
13 reasonable, and in the public interest. We recommend
14 that the Commission approve the test period
15 stipulation and all of its terms and conditions.

16 First, the test period selection reached by
17 the parties is consistent with the Division's
18 analysis, which concluded that the appropriate test
19 period would be a forecasted 12-month period ending
20 June 30th, 2010, utilizing average rate base.

21 In our investigation and analysis in this
22 case, the Division reviewed the Justification for
23 Rocky Mountain Power Test Period Request filed by the
24 Company on April 16th, 2009, and the direct test
25 period testimony of David L. Taylor filed on May 4th,

1 2009.

2 We considered each of the factors from the
3 Commission's 2004 test year order as well as other
4 economic factors that we deemed were most
5 determinative in this case, with the need to consider
6 both the Company's and ratepayers' interests.

7 The Division believes that the selected
8 test period should best reflect the conditions that
9 the Company will face during the time the rates will
10 be in effect. Based on the Company's Notice of
11 Intent to file a general rate case on or around June
12 15th, which was filed contemporaneously with the
13 Justification for Test Period Selection on April
14 16th, the rates in this case would go into effect
15 approximately sometime in February of 2010.

16 A forecasted test period requires
17 projections of prices, loads, and costs that are
18 based on economic variables such as inflation, GDP,
19 employment growth, labor, et cetera. After reviewing
20 these variables, the Division found the current
21 economic variables themselves to be unpredictable
22 and, therefore, it seemed difficult to expect the
23 Company to be able to accurately forecast many of the
24 inputs that go into determining both the appropriate
25 return on capital and the Company's overall revenue

1 requirement through December 2010.

2 We were also concerned about the budgeting
3 and timing of its large capital projects up to 18
4 months in the future.

5 As identified in Mr. Taylor's testimony,
6 the Company states that large capital investments are
7 the primary driver for this general rate case.
8 According to the Company, \$2.65 billion of capital
9 investments is projected through June 2010 and
10 another \$600 million from July to December 2010.

11 However, the newly-enacted Section
12 54-7-13.4, established in Senate Bill 75, provides an
13 alternative cost recovery mechanism for major plant
14 capital additions. This new legislation allows the
15 Company to start recovering the cost of a major plant
16 addition at the time it is placed into service. The
17 project must, in total, exceed 1 percent of the
18 electrical corporation's rate base.

19 Mr. Taylor, in his testimony, states that,
20 quote, unquote, "For Rocky Mountain Power, the
21 threshold investment level is over \$100 million."

22 This legislation enables the compromised
23 proposal that is embodied in the stipulation. The
24 Company will agree to a June 2010 test year, leaving
25 several large anticipated capital additions out of

1 the case, but will use the new single-item rate case
2 mechanism to seek recovery for those capital projects
3 when they become used and useful and their actual
4 costs are known.

5 The terms of this stipulation state that
6 the parties agree not to oppose the Company's right
7 to file or timing of filing for the following
8 single-item rate case projects: The Ben Lomond to
9 Terminal Transmission Line Segment, the Dave Johnson
10 scrubber projects, the Ben Lomond to Populus
11 transmission line segment, and the 2009R RFP resource
12 selection process.

13 Under the terms of the stipulation, all
14 parties reserve the right to make any and all
15 substantive positions, claims, or objections going to
16 the merits, prudence, or amount of recovery in
17 connection with such filings.

18 The Division will not oppose the Company's
19 right to file or time of filing for these projects,
20 provided they are consistent with the 90 and/or 150
21 days stated in UCA 54-7-13.4. The Division also
22 acknowledges that rules pertaining to the use of
23 single-item rate case filings have not yet been
24 issued by the Commission.

25 Another benefit of the single-item rate

1 case contained in SB 75 is the reduction in
2 regulatory lag between cases that the Company has
3 argued has been a problem in the past. As a result,
4 the Company is able to forgo the filing of full-blown
5 rate cases for a longer period of time than might
6 otherwise be the case. Thus, as one of the terms and
7 conditions of the stipulation, the Company agrees
8 that it will not file another general rate case prior
9 to January 1st, 2011.

10 The Division believes these terms and
11 conditions are just, reasonable, and in the public
12 interest. The ability to exclude uncertain resources
13 from a general rate case and to file many cases also
14 reduces the risk to ratepayers, that they may -- will
15 begin to pay for a forecasted resource that fails to
16 come into operation or that is significantly delayed.
17 Similar arguments could be made for significant
18 resources that are only partially included in the
19 given test period.

20 The Division believes that approval of this
21 stipulation by the Commission would be not only a
22 good policy decision, but also a beneficial
23 procedural step in this case, positively affecting
24 all parties.

25 Between now and around June 15th, the

1 Company can prepare its revenue requirement and other
2 information required for its general rate case filing
3 using a 12-month, ending June 30th, 2010, forecast
4 test period. Then when the Company does file,
5 parties and stakeholders will be able to review and
6 make adjustments from the 2008 historical base period
7 through the forecast June 2010 test period. This
8 will allow more time for a thorough review and the
9 240-day statutory time frame that is allowed to
10 complete a general rate case.

11 Based on the foregoing, the Division
12 requests that the Commission issue an order approving
13 the stipulation and adopting the terms and conditions
14 of the stipulation. Thank you.

15 CHAIRMAN BOYER: Thank you. Are there
16 questions for Dr. Zenger? Mr. Proctor? No one.
17 Okay.

18 Let's turn now to the Office of Consumer
19 Services.

20 MR. PROCTOR: Ms. Beck will be speaking on
21 behalf of the Office.

22 (Discussion off the record.)

23 MICHELE BECK
24 called as a witness and sworn, was examined and
25 testified as follows:

1 CHAIRMAN BOYER: Thank you. Please be
2 seated.

3 MS. BECK: My name is Michele Beck. I'm
4 the director of the Office of Consumer Services.

5 The Office of Consumer Services has the
6 statutory duty to assess the impact of the utility
7 rate changes on residential consumers and small
8 commercial consumers and to advocate a position most
9 advantageous to these consumers.

10 In this case, we are representing the
11 residential and small commercial and irrigation
12 classes.

13 The office carefully analyzed test period
14 evidence, issues that have been of concern to us in
15 test year determinations in earlier cases, and other
16 facts and circumstances that are likely to be
17 important in this upcoming rate case.

18 Overall, the Office evaluated these issues
19 in the context of taking a position that is
20 advantageous to the consumers we represent,
21 considering both short- and long-term rate impacts,
22 as well as reliability and quality of service.

23 Finally, we considered to what extent we
24 would be able to remedy any objections we may have to
25 a test period through adjustments supported in our

1 eventual testimony in the case.

2 The proposed test period before the
3 Commission today meets the criteria the Office was
4 seeking, in part because of the commitment that the
5 next rate case will be filed no sooner than January
6 2011. The Office finds the terms of this procedural
7 agreement to be beneficial in its work on behalf of
8 small consumers and also believes it to be in the
9 general public interest.

10 We, therefore, respectfully request
11 Commission approval.

12 CHAIRMAN BOYER: Thank you, Ms. Beck. Are
13 there questions of Ms. Beck? Let's turn to the
14 commissioners and see. Commissioner Allen, any
15 questions? Commissioner Campbell?

16 I have just one. It's merely a clarifying
17 question. Perhaps I'll address it to Mr. Taylor. In
18 Paragraph 9 you talk about the test period being a
19 12-month period ending June 30, 2010, utilizing the
20 average 13-month rate base in the 2009 general rate
21 case. Could you clarify for me? What is the
22 historic test period?

23 MR. TAYLOR: It will be based upon --
24 calendar year 2008 will be the historical period that
25 it will be built upon.

1 CHAIRMAN BOYER: Okay. Thank you.

2 Any redirect by any of the proponents of
3 the motion? Is there anyone here who opposes the
4 stipulation? Is there anything further we need to
5 discuss? Ms. Hogle?

6 MS. HOGLE: Yes, your Honor. I would just
7 respectfully request the Commission issue a bench
8 order, if it's possible.

9 CHAIRMAN BOYER: Okay. Thank you. We'll
10 take a short recess.

11 (Recess, 2:59 p.m.)

12 (Reconvened, 3:03 p.m.)

13 CHAIRMAN BOYER: We've had a moment or two
14 to deliberate, and the Commission will approve the
15 stipulation as filed. We'll be preparing and issuing
16 an order soon. Very soon. Thank you all for
17 participating, and have a nice Memorial Day weekend.

18 (Whereupon the taking of the hearing was
19 concluded at 3:03 p.m.)

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STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

I, RENEE L. STACY, Certified Shorthand Reporter, Registered Professional Reporter and Notary Public for the State of Utah, certify:

That the foregoing transcript, consisting of Pages 1 to 25, was stenographically reported by me at the time and place hereinbefore set forth; that the same was thereafter reduced to typewritten form, and that the foregoing is a true and correct transcript of those proceedings.

I further certify that I am neither counsel for nor related to any party to said action nor in anywise interested in the outcome thereof.

IN WITNESS WHEREOF, I have subscribed my name and affixed my seal this 26th day of May, 2009.

RENEE L. STACY, CSR, RPR
Notary Public in and for the
County of Salt Lake, State of Utah

My Commission Expires:
November 9, 2011