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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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 Regulations	UAE'S POST-HEARING BRIEF Docket No. 09-035-23
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The UAE Intervention Group ("UAE") hereby submits its post-hearing brief in this matter.

REVENUE REQUIREMENT

UAE proposed four specific adjustments to the revenue requirement proposed in the direct testimony of Rocky Mountain Power ("RMP"). Three of those adjustments -- 401(k) contribution expense; High Plains capital cost; updated forward price curve -- were accepted by RMP. The fourth adjustment, wind integration costs, was not.

Wind Integration Costs

RMP has the burden to prove the reasonableness of any category or element of claimed cost that it proposes to collect from captive ratepayers. Conceptually, UAE accepts that some level of wind integration cost is incurred by RMP and not captured in the GRID modeling. Thus,

an intra-hour wind integration cost of \$1.16/MWH was included in the prior rate case without challenge from UAE. In this case, however, RMP has proposed a significant increase in intra-hour wind integration cost to be recovered from ratepayers, to \$4.83/MWH, along with an entirely new category of claimed wind integration cost for inter-hour activities, with a claimed additional cost of \$1.79/MWH. In total, RMP's projection of wind integration costs has increased by over 400%, from about \$6.1 million in the prior rate case to about \$27 million in this case. RMP has not satisfied its burden of proof for this dramatic increase in projected costs.

As a general matter, it is troubling that RMP has proposed such a large increase in wind integration cost to ratepayers without adequate support and despite numerous problems that were pointed out by several witnesses. For example, UAE witness Higgins and DPU witness Evans, among others, demonstrated that RMP failed to: consider other available reserves; consider opportunities to offset market transactions; demonstrate the existence and reasonableness of assumed transaction costs; produce historical evidence of its claimed wind integration costs; produce historical evidence of carrying additional regulating reserves due to wind resources; consider offsetting variations in load; or provide adequate supporting data. A much more robust showing must accompany such a request for increased rates.

Intra-hour integration. RMP's projected intra-hour wind integration cost is based on the cost of incremental reserves allegedly needed to support "regulating up" and "regulating down" as wind output fluctuates within each scheduling hour. When wind generation decreases in real time, RMP must "regulate up" by increasing generation from other units. This forces RMP to hold incremental reserves. The capacity cost of these incremental reserves is already recovered in the Company's return on rate base, but the opportunity cost of foregone wholesale sales associated with holding back these incremental reserves from the market is not captured in GRID. UAE thus concurs that it is appropriate to include the incremental cost of reserves

needed to support regulating up. For purposes of this docket, UAE has not challenged RMP's manner of projecting these incremental regulating up costs, and has thus accepted a significant increase in such costs to \$3.02/MWH (260% of the wind integration costs included in current rates).

“Regulating down” is necessary when RMP backs down its other generation units in response to increased wind output. In contrast to regulating up, however, there is no comparable uncaptured “opportunity cost” for regulating down. Increasing wind production intra-hour, and the resulting regulating down of other resources, does not require withholding of resources from the market and does not require holding additional reserves. The proposed additional charge for regulating down of \$1.81/MWH should thus be rejected. RMP has made no credible showing of a need for incremental reserves to support regulating down activities.

Inter-hour integration. RMP has never before claimed or recovered from Utah ratepayers the projected cost of inter-hour wind integration. RMP claims that day-ahead and hour-ahead system balancing activities in response to variations in forecasts of wind output create costs that are not otherwise captured in the ratemaking process. While it is true that day-ahead and hour-ahead balancing must occur, RMP has wholly failed to substantiate any incremental cost that ratepayers should bear as a result of these activities.

The expected normal output of wind generation is already incorporated in GRID's calculation of net power cost. For purposes of ratemaking, wind output below the forecast in one hour *must* be offset by wind output above the forecast in another hour. RMP's claimed inter-hour wind integration cost is fatally dependent upon three unreasonable assumptions.

The first assumption -- that variances in hour- and day-ahead wind forecasts must always be handled through market purchases and sales -- is unreasonable because RMP is selling and buying in these same markets in virtually every hour of the year. Thus, if the hour-ahead

forecast for a wind unit has decreased from prior projections by 25 MW, for example, RMP can respond *either* by purchasing 25 MW in the market (as RMP assumes it will *always* do) *or* by reducing by 25 MW the hour-ahead sales that it would otherwise make into that market. This latter option, when available, *saves* money, given RMP's assumption that every inter-hour market transaction incurs a cost of \$.50/MWH. If RMP can avoid this assumed transaction cost for hour-ahead sales and purchases with respect to just 50% of the affected volumes, for example, the savings from these avoided transaction costs will completely offset the assumed transaction costs for the other 50% of the volumes when a market purchase or sale can presumably not be avoided.

RMP made no effort on this record to introduce evidence in support of the unlikely notion that a transaction cost will be incurred more often than it will be avoided over the course of a year in support of inter-hour wind integration. Indeed, because RMP is selling into and buying from the hourly market in nearly every hour of the year, it appears much more reasonable to assume that inter-hour integration activities will save RMP assumed transaction costs.

The second assumption -- that each market transaction will cause RMP to incur a transaction cost of \$.50/MWH -- is equally unreasonable. In the first place, there is no evidence on this record that supports the assumed \$.50 transaction cost other than rank hearsay that RMP's traders allegedly offered such an estimate. The Commission cannot properly base a finding on such hearsay. In any event, the assumption that *every* market transaction will incur a transaction cost is unreasonable. If one rather assumes that all market transactions will occur at market prices, there would be no incremental cost.

The third assumption -- that RMP must always respond to inter-hour wind forecast deviations with market transactions rather than with the use of its reserves -- has not been

supported on this record and is unreasonable, particularly in light of the dramatic increase in the reserve requirement claimed by RMP in support of its intra-hour “ramping up” activities.

In summary, RMP’s projected inter-hour wind integration cost is fatally premised on three critical assumptions, each of which is unreasonable and, more importantly, unsupported on this record: (1) that RMP must always buy energy when the wind forecast decreases and sell energy when the wind forecast increases, rather than reducing market sales or purchases that it otherwise would have made; (2) that RMP will incur a \$.50 transaction cost for every market transaction, rather than assuming that benefits of some market transactions will offset costs of others; and (3) that RMP must always respond to inter-hour wind forecast deviations with market transactions rather than with owned reserves, the cost of which is included in net power cost. RMP has not satisfied its burden of proof that any inter-hour wind integration costs should be charged to its ratepayers.

Other issues

ROE. UAE did not submit testimony on the allowed rate of return on equity for RMP. However, UAE notes, as it has in several other cases over the past several years, that each incremental action taken by the Commission or the Legislature to reduce RMP’s risk should be countered with a commensurate reduction in the allowed return on equity. Utilities strive constantly to reduce their risk, typically with a commensurate increase in ratepayer risk, but tend to resist any effort to reflect such reduced risk in the ROE determination. UAE submits that several changes made over the past several years to reduce RMP’s risk -- the use of projected test periods, the availability of single-item rate cases and the opportunity for resource pre-approval -- should be given due consideration in the determination of the allowed ROE. Moreover, if an energy balancing account is to be considered for RMP, the risk-reducing and risk-shifting aspects of such a mechanism should also be considered.

Updates. A great deal of attention has been paid in this case to the issue of updating information during the process of a general rate case. Various parties urge varying policies to deal with this issue. UAE respectfully submits that (1) the Commission has already established proper general guidelines for updating revenue requirement testimony; (2) specific application of these guidelines in other contexts requires a case-by-case determination based on all relevant circumstances; and (3) updates and corrections to cost of service testimony raise completely different issues.

Revenue Requirement Updates. In Docket 07-035-93, the Commission rejected a substantive net power cost increase proposed in RMP's rebuttal testimony, in part because other parties had inadequate time to evaluate and respond to the same. That ruling properly recognized the critical distinction between the company attempting to update (not correct) its own filing in rebuttal testimony and an intervenor's use of up-to-date information at the time it makes its own direct case. Intervenors must be free to file their direct cases based upon the most current data available; any other approach would deny them due process. It was thus appropriate for RMP to accept the NPC update proposed in UAE's direct testimony in this case to reflect more current forward price curves. In contrast, a party should not be free to substantively update its own revenue requirement testimony to its benefit in rebuttal or surrebuttal testimony if other parties will not have a fair and adequate opportunity to evaluate and respond to the same.

Any inflexible rule on testimony updates designed to apply in all events will necessarily fail to account for the myriad of circumstances and issues that will arise in different contexts. UAE submits that the Commission's 2007 order provides adequate guidance on company updates to its revenue requirement testimony and intervenor direct revenue requirement testimony, and that revenue requirement updates proposed in other circumstances should be analyzed on a case-by-case basis as they arise.

Other updates. There are fundamental differences between updates to revenue requirement testimony and updates to cost of service, rate spread and rate design testimony. RMP is directly affected by the revenue requirement determination and bears the burden of supporting its request. Requiring it to live with the data and projections it presents in its direct testimony (other than correction of errors) is reasonable and properly recognizes the limited opportunity of other parties to respond to updated rebuttal testimony. In contrast, RMP has only a limited direct interest in cost of service and related issues -- they primarily affect intervening ratepayers. However, all intervenors must initially rely, of practical necessity, on RMP's input data and cost of service analyses. The first practical opportunity for any intervenor to present cost-of-service issues and concerns is in the intervenor direct testimony. Thus, the first practical opportunity for the utility to respond to such testimony, or to correct conceptual or data errors, is in its rebuttal filing. Precluding a utility from updating or correcting its cost of service approach on rebuttal would be fundamentally unfair to intervenors. So long as the utility is charged -- as it must be for practical purposes -- with preparing and presenting cost of service analyses that primarily impact intervenors, the utility must be free to respond to intervenor testimony, correct errors and conceptual inconsistencies, and provide an updated cost of service analysis on rebuttal.

Another fundamental difference between revenue requirement issues and cost of service related issues is that the statutory 240-day deadline to resolve the former does not apply to the latter. Rather than deny intervenors fundamental due process by artificially restricting updates and corrections to cost of service testimony, as suggested by the DPU and OCS in this case, the fair and appropriate response to a claim that a party has had insufficient time to evaluate a company update or correction to its cost of service related testimony is to request more time. A

party that fails to request such additional time should not be heard to complain about inadequate time to evaluate the testimony.

COST OF SERVICE

Classification of Production Plant

Several parties in this case, including the OCS, DPU and UIEC, have challenged the Commission's longstanding use of a 75% demand/25% energy classification for production plant. UAE finds itself in the somewhat unlikely posture of defending the status quo – given that it challenged the 75/25 classification in the past as causing an unreasonable cost shift to industrial customers in comparison to the approach historically used by Utah Power & Light Company. Without question, UAE would prefer to use a different cost of service methodology. Nevertheless, UAE has accepted the Commission's long-standing determination, beginning in Docket 97-035-0197 and consistently affirmed since that time, that 75/25 produces just and reasonable results for Utah ratepayers.

The Commission's 75/25 methodology represents a reasonable middle ground. There is clearly no "right" cost of service methodology. Rather, there are dozens of alternative approaches and theories, each with its own strengths and weaknesses. Indeed, several such alternatives have been suggested in this docket, none of which has been shown to be superior in concept or result. In reality, one's desired result -- to increase or decrease rates to a specific class – typically dictates the methodology supported. Any change from the long-standing 75/25 compromise will simply create winners and losers, and will lead to more interjurisdictional inconsistencies. UAE submits that the Commission's long-standing approach to classifying production plant should continue to be used, with the Commission exercising reasoned discretion in ultimately spreading rates among customers.

UAE Cost of Service Issues

In this docket, UAE has proposed three modifications to RMP's cost of service methodology. Each of these proposals is made *within* the framework of the Commission's approved 75/25 methodology, and addresses an issue that has not been resolved, or at least not recently resolved, by the Commission.

Rate mitigation cap. For several years, UAE has disagreed with the method by which RMP elects to depict class cost of service results for the revenue requirement resulting from application of the MSP rate mitigation cap. The Company reflects the MSP cap as a reduction to its return on all plant, leading to an unreasonable depiction of class cost-of-service responsibility. Under RMP's approach, for example, the cost of service responsibility for *distribution plant* may be lower under Revised Protocol than under Rolled-in, even though the only difference between Rolled-in revenue requirement and Revised Protocol revenue requirement is the allocation of *generation*-related costs to Utah. The Company's depiction of Utah generation cost of service is thus overstated, resulting in a distorted depiction of class cost responsibility under the MSP cap. The testimony of UAE witness Kevin Higgins in this docket explains how this conceptual error should be corrected. This correction is also supported by DPU witness Mancinelli.

Allocation of Income Taxes. RMP elects to allocate income taxes to classes at current revenues rather than calculating them. This non-standard approach distorts relative rates of return at current revenues: the relative return is overstated for classes earning above average and understated for classes earning below average. RMP contends that its approach is based upon prior Commission Orders, the most recent of which involved a 1997 case. This distortion was recently corrected for Questar Gas Company in Docket No. 07-057-13. UAE submits that the Commission should require the same correction in RMP cost-of-service studies, so that the

interpretation of class relative rates of return at current revenues will be more accurate and more consistent across dockets.

Peak Load Data. The testimony in this case demonstrates that RMP's initial cost of service methodology produced inaccurate results in projecting peak responsibility for classes whose loads are estimated based on samples. The data problem was pronounced in RMP's initial filing – resulting in a difference of approximately 9.6% between the jurisdictional demand allocated to Utah and the sum of the class demands used to allocate costs to customer groups.

To its credit, RMP responded to intervenor direct testimony on this issue by investigating the data and results. It discovered a serious error in its approach that produced a material mismatch between actual peak-day class responsibility and peak-day responsibility assumed in its initial methodology. By correcting this error in its rebuttal testimony, RMP was able to reduce the gap between Utah's peak-day responsibility and the sum of peak-day class responsibility to about 2%. Although the remaining 2% is still cause for concern, RMP's rebuttal testimony is a significant improvement. UAE requests that the Commission accept RMP's corrected approach, and then direct the parties to re-investigate load measurement issues after the conclusion of this case. Such investigation should include, among other things, reconsideration of the Company's 2002 decision to cease calibrating class loads to jurisdictional loads. That decision was supported by customer groups who benefitted from the decision but was not approved by the Commission or understood or evaluated by customer groups who were harmed by it.

Testimony from several witnesses, including witnesses for the Company, DPU, UAE and UIEC, demonstrates that the corrected approach is conceptually and mathematically superior to the approach used in RMP's direct cost of service testimony. Nevertheless, some parties urge rejection of this correction, arguing that they had insufficient time to verify it. This excuse rings

hollow, particularly given that these same parties failed to ever verify the initial, incorrect methodology that produced serious errors in assigning peak load responsibility in this case, as it has done for several cases. It also rings hollow in that these parties did not request more time to validate the correction. It is unreasonable for a party to argue that the Commission should utilize an admittedly flawed approach because some parties elected not to spend or request the time and effort necessary to confirm what the company and others have clearly demonstrated – that RMP’s initial approach seriously understated the contribution to peak day demand by classes whose loads are not measured.

RATE SPREAD

Given acknowledged and demonstrated errors in the cost of service results in the Company’s direct testimony, those results cannot reasonably be considered in the determination of rate spread. Moreover, looking back at cost of service results over the past several years provides no comfort because those results are based on similarly flawed data and methodology. If the information produced by RMP’s corrected cost of service methodology were to be disregarded as urged by some, the only defensible rate spread would be an equal percentage increase to all rate classes. Ignoring the corrected information provided by the corrected study cannot reasonably lead to reliance on the admittedly flawed original results instead.

Even the results of the company’s corrected cost of service study must be viewed with caution. The peak-load disparity has not been fully reconciled and further work is needed to produce cost of service input data and results that can be utilized with confidence. Also, at a time when Utah industries are struggling to climb out from the deepest recession in over 60 years -- and especially given that the industrial class is the major customer group least responsible for the load growth that is driving relentless rate increases in this State -- UAE respectfully submits that the most fair and reasonable approach to rate spread is either an across-the-board rate

increase to all major classes or a rate spread that recognizes differential rate increases within a bandwidth of +/- 0.5 percentage points. Under this later approach, Schedule 6 and Lighting classes would receive an increase that is 0.5 percentage points below the system average, Schedules 9 and 10 would receive an increase that is 0.5 percentage points above the system average and all other rate schedules would receive a uniform percentage increase that is approximately in the middle. The mechanics of implementing this revenue apportionment approach is contained in Mr. Higgins' testimony (Direct, pages 42-44; Surrebuttal, pages 17-18).

CONCLUSION

UAE respectfully submits that:

- RMP's projected wind integration cost should be reduced by \$1.81/MWH for intra-hour "regulating down" activities and by \$1.79/MWH for inter-hour activities, resulting in a total cost of \$3.02/MWH;
- RMP's authorized return on equity should be determined with due consideration given to Legislative and Commission actions designed to lower risk;
- A 75% demand/25% energy classification should continue to be used for production plant;
- The cost of service analysis should be adjusted to properly reflect the impact of the MSP rate mitigation cap as a reduction in generation plant allocated to Utah;
- Income taxes should be calculated rather than allocated at current revenues;
- RMP's corrected peak load data should be utilized in the cost-of-service analysis;
- The parties should be directed to re-investigate load measurement issues, including a reconsideration of the Company's decision to cease calibrating class loads to jurisdictional loads;

- The Commission's existing guidance on revenue requirement updates should be deemed sufficient for general purposes, subject to case-by-case determinations; and
- The revenue requirement increase in this case should be spread either on an even percentage basis or within a +/- 0.5 percentage point bandwidth.

DATED this 11th day of January, 2010.

/s/ _____
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by email this 11th day of January, 2010, on the following:

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