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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.

Docket No. 10-035-124

UIEC’S MOTION TO COMPEL DATA RESPONSES; REQUEST FOR EXTENSION OF FILING DEADLINE; AND REQUEST FOR EXPEDITED TREATMENT

UIEC, hereby moves the Utah Public Service Commission (“Commission”) for an order compelling Rocky Mountain Power (“RMP” or the “Company”) to respond fully and accurately to UIEC Data Requests 10.3, 12.9, 19.2, 19.9, 19.11, 20.5, 20.9 through and including 20.27, 20.30, 20.31. In addition, because direct testimony on these issues is due May 26, UIEC requests that the Commission extend UIEC’s deadline for filing direct testimony on the subject of these data requests on a day-for-day basis until RMP has provided full responses to the UIEC data requests listed above. UIEC also requests expedited treatment of this motion. In support of this motion, UIEC states as follows:

1. On January 24, 2010, RMP filed the above-captioned general rate case seeking to collect from its Utah ratepayers, including the Utah Industrial Energy Consumers (known as

“UIEC” for the purposes of this case), an additional \$232.4 million per year. Among the net power costs (“NPC”) RMP seeks to add into rate base in this docket are approximately \$160 million in natural gas hedging losses.

2. On March 3, 2011, the Commission issued its Corrected Report and Order in Docket No. 09-035-15 (“EBA Order”). In that order, the Commission noted that several parties had encouraged it to establish pre-approved standards for physical and financial hedges. EBA Order at 68. The Commission declined to do so and noted that the issue of including these costs in rates is more appropriately raised in a general rate case. *Id.* The Commission also noted that “ratemaking is not simply cost reimbursement.” *Id.* at 70.

3. The Commission reiterated this directive in its recent Order on Reconsideration or Rehearing and Scheduling Conference issued May 9, 2011: “The broader issue of the Company’s hedging strategies and policies will not be considered in [Docket No. 09-035-15] but remains a proper subject of examination in any docket in which the Company seeks recovery of specific hedging transaction costs.” Order on Reconsideration or Rehearing and Scheduling Conference at 1, Docket No. 09-035015 (May 9, 2011).

4. On March 30, 2011, the Commission issued its Order on Test Period in this matter (“Test Period Order”), denying the request of UIEC and UAE to use the calendar year 2011 as the test period. UIEC and UAE had argued that the calendar year 2011 provided more certainty that the Company’s forecasts would be more accurate. Test Period Order at 5. In approving the Company’s proposed test period, the Commission noted that it would “afford all parties the opportunity to test, through evidence examined in the revenue requirement phase, the validity of the projected NPC.” *Id.* The Commission further admonished parties to engage in “rigorous

examination of all forecast components, inputs and assumptions,” *id.* at 8, noting in particular RMP’s disproportionately higher cost forecast of NPC for the first half of 2012, *id.*

Natural Gas Hedging Issues

5. On March 10, 2011, UIEC issued its Data Request Set 10. A true and correct copy of UIEC’s Data Request Set 10 is attached hereto as Exhibit A. UIEC’s questions asked how other MidAmerican Energy Holdings Company (“MEHC”) affiliates conducted their natural gas hedging strategies and for a comparison between these and PacifiCorp’s strategies.

6. Based on information and belief, the Company shares officers and directors with some, if not all, of its affiliates. However, we cannot tell from filings at the Securities Exchange Commission (“SEC”), to which the Company has directed us, whether any of the Company’s affiliates have similar or different hedging strategies. This goes directly to what the Company knew or should have known with respect to its natural gas hedging practices, and is directly relevant in this case.

7. RMP waited the full twenty-one days allowed by Commission order to respond to UIEC’s Data Request Set 10. RMP objected to every request and based its objections on relevancy. RMP claims that UIEC’s requests are “irrelevant to the current proceeding and not calculated to lead to the discovery of admissible evidence.” *See, generally*, RMP’s Responses to UIEC Data Request Set 10, a true and correct copy of which is attached hereto as Exhibit B.

8. On April 12, RMP supplemented its response to UIEC’s set 10 but continued to refuse to respond to the information regarding affiliates. *See, e.g.*, RMP’s 1st Supplemental Response to UIEC Request No. 10.3, a true and correct copy of which is attached hereto as Exhibit C.

9. In a further attempt to acquire the relevant information, UIEC prepared similar data requests that it hoped were more narrowly defined and served them as request sets 19 and 20 on April 6 and April 8, respectively. RMP's responses were primarily the same as before and, in fact, merely cited the objection in its supplemental response to UIEC Request No. 10.3. A true and correct copy of the relevant responses to UIEC's sets 19 and 20 are attached hereto as Exhibits D and E.

10. RMP responded four days late to UIEC's Request Set 20, and still refused to provide responsive answers. *See* Ex. E.

11. UIEC attempted to "meet and confer" with RMP to resolve this issue on April 1, April 4, April 5, April 6, April 7, April 12, April 28, and May 3. A true and correct copy of the correspondence between UIEC and RMP on this issue is attached hereto as Exhibit F.

12. PacifiCorp's natural gas hedging strategy is imprudent. These data requests are directly relevant because PacifiCorp shares several officers and board members amongst its affiliates. The common officers and board members knew or should have known about the success or failure of a particular affiliate's natural gas hedging strategy. Therefore, understanding how PacifiCorp's affiliates approach natural gas hedging is relevant.

Transmission Related Costs Not Used and Useful

13. On March 23, 2011, UIEC served its data request set 12 on RMP. One of those data requests concerned the interplay between PacifiCorp's Gateway South and the TransWest Express transmission project. A true and correct copy of UIEC's set 12 is attached hereto as Exhibit G.

14. Based on information and belief, the capacity of the Populus-Terminal line as built far exceeds the requirements for ratepayers and was built to the capacity it was in order to meet PacifiCorp's merchant goals.

15. On April 13, RMP objected to UIEC's data request 12.9 on the basis of relevance. A true and correct copy of the data response is attached hereto as Exhibit H.

16. UIEC attempted to "meet and confer" with RMP to resolve this issue on April 20, April 26, April 27, April 28, and April 29. After explaining to RMP on April 29 that the information is directly related to the costs for the Populus-Terminal line, RMP failed to respond any further. A true and correct copy of the correspondence between UIEC and RMP on this issue is attached hereto as Exhibit I.

17. UIEC Request No. 12.9 is aimed at discovering the Company's true design criteria for the Populus-Terminal portion and whether Gateway South portion and the TransWest Express Transmission Project were at all instrumental in how the design criteria for Populus-Terminal were developed. The requested information is meant to determine why the Populus-Terminal portion has the design capacity it does; what that design capacity is dependant on; what alternatives were available. Accordingly, this requested information is directly relevant to this case.

Relevant Utah Law

18. Under Utah law, "[p]arties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action." Utah R. Civ. P. 26(b)(1). Furthermore, whatever helps to attain a determination of the dispute between parties is relevant. *Ellis v. Gilbert*, 429 P.2d 39, 40 (Utah 1967).

19. UIEC's requests regarding the hedging practices of RMP's affiliates are relevant because they go to what RMP knew or reasonably should have known with respect to hedging strategies. They go directly to the issue of the prudence of RMP's natural gas hedging practices.

20. UIEC's requests regarding Gateway South and the TransWest Express Project are relevant because they go to whether the total capacity of the Populus-Terminal line is used and useful to the Utah ratepayers or whether some of the risk of loss for the development of this line should be borne by the investors.

21. RMP's objections to UIEC's Data Requests 10.3, 12.9, 19.2, 19.9, 19.11, 20.5, 20.9 through and including 20.27, 20.30, 20.31, are unfounded and UIEC is entitled to this necessary information to make its case against RMP.

CONCLUSION

22. The issues raised in this Motion to Compel are significant, substantive, and critical to a proper determination of just and reasonable rates in this case. RMP's refusal to produce the requested information has already prejudiced the parties' ability to evaluate and prepare testimony on these issues, which is due May 26. Therefore, UIEC respectfully requests that this Motion to Compel be granted. Also, in light of the fast-approaching deadline for direct testimony, UIEC respectfully requests (a) expedited treatment of this Motion to Compel; and (b) an extension to file its direct revenue requirement testimony on a day-for-day basis for the number of days after March 10 for the natural gas hedging issues and March 23 for the transmission related cost issues.

DATED this __ day of May, 2011.

/s/ Vicki M. Baldwin

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CERTIFICATE OF SERVICE

(Docket No. 10-035-124)

I hereby certify that on this 11th day of May 2011, I caused to be emailed, a true and correct copy of the foregoing **UIEC'S MOTION TO COMPEL DATA RESPONSES; REQUEST FOR EXTENSION OF FILING DEADLINE; AND REQUEST FOR EXPEDITED TREATMENT** to:

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