

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

)	
)	DOCKET NO. 10-035-124
In the Matter of the Application of Rocky)	Exhibit No. DPU 15.0 D-RR
Mountain Power for Authority to)	
Increase Its Retail Electric Utility Service)	
Rates in Utah and for Approval of Its)	Direct Testimony and Exhibits
Proposed Electric Service Schedules and)	
Electric Service Regulations.)	Richard S. Hahn
)	
)	

**FOR THE DIVISION OF PUBLIC UTILITIES
DEPARTMENT OF COMMERCE
STATE OF UTAH**

**Direct Testimony of
Richard S. Hahn**

May 26, 2011

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I. INTRODUCTION

Q: Please state your name, business address and title.

A: My name is Richard S. Hahn. I am employed by La Capra Associates, Inc. (“La Capra Associates”) as a Principal Consultant. My business address is One Washington Mall, Boston, Massachusetts, 02108.

Q: On whose behalf are you testifying?

A: The Division of Public Utilities of the State of Utah (the “Division”).

Q: Please summarize your educational and professional experience.

A: I received my Bachelor’s in Science, Electrical Engineering, in 1973, and my Masters in Science, Electrical Engineering, in 1974, both from Northeastern University. I received my Masters in Business Administration from Boston College in 1982. Since joining La Capra in 2004, I have worked on many projects related to energy markets, utility resource planning projects, forecasts of wholesale market prices, and asset valuations. Prior to joining La Capra, I was employed by NSTAR Electric & Gas (formerly Boston Edison Company) from 1973 to 2003, where I was responsible for, among other activities, integrated resource planning and procurement of power supplies via Requests For Proposals (“RFPs”) and bilateral contract negotiations. Throughout my career, I have

23 gained and demonstrated considerable experience and expertise in utility planning
24 activities. I am a registered professional electrical engineer in the Commonwealth of
25 Massachusetts. My resume is provided in DPU Exhibit 15.1.

26

27 **Q: Have you previously testified before the Public Service Commission of Utah?**

28 A: Yes. In Docket No. 10-035-126, which pertained to the Company's decision to pursue
29 the Lake Side 2 plant, I filed direct, supplemental, and surrebuttal testimony.

30

31 **Q: What is the purpose of your testimony?**

32 A: In Docket No. 10-035-126, La Capra Associates was retained by the Division to assist in
33 reviewing the Application of Rocky Mountain Power ("RMP" or the "Company")
34 seeking approval from the Public Service Commission of Utah ("Commission") of a
35 Significant Energy Resource Decision to acquire a new natural gas combined cycle
36 power plant to be built at the Company's existing Lake Side generating station. At issue
37 in that proceeding was whether the Company acted appropriately in rejecting the
38 acquisition of the Apex plant. It is my understanding that the Division will raise that
39 issue in this current proceeding. Therefore, the purpose of my testimony in this docket is
40 to summarize my testimony from Docket No. 10-035-126, describe outstanding discovery
41 responses in this docket, and address a question from the Commission during the March
42 29, 2011 hearing in Docket No. 10-035-126.

43

44

45 **II. TESTIMONY FROM DOCKET NO. 10-035-126**

46

47 **Q: Can you summarize the results and conclusions of your testimony in Docket No. 10-**
48 **035-126?**

49 A: The results and conclusions of my testimony from that docket can be summarized as
50 follows.

- 51 • I recommended that the Commission approve the requested acquisition of the Lake
52 Side 2 project and grant the Certificate of Public Convenience and Necessity
53 (“CPCN”). (The Commission has issued an order to this effect).
- 54 • I found that the Company’s decision on December 12, 2010 to terminate negotiations
55 with LS Power to acquire the Apex plant was premature and inappropriate.
- 56 • Based upon information in the record, it appears that the Apex acquisition combined
57 with the purchase of the CH2M Lake Side project was the least cost solution for Utah
58 ratepayers.
- 59 • The Company has capacity needs in the 2014 to 2016 time period, even after the
60 addition of the CH2M project, especially in 2013 – the year before the CH2M project
61 can be built. The Apex plant can contribute to mitigating these capacity needs and
62 avoid excessive reliance on Front Office Transactions (“FOTs”).
- 63 • The premature rejection of the Apex acquisition will result in increased costs to Utah
64 ratepayers.

65

66 **Q: Have you changed or altered any of these conclusions or recommendation?**

67 A: No. I stand by them.

68

69 **III. OUTSTANDING DISCOVERY**

70

71 **Q: Do you still believe that the Company's rejection of the Apex acquisition will result**
72 **in higher costs to Utah ratepayers?**

73 A: Yes. In the analysis provided by the Company which was discussed in my supplemental
74 testimony in Docket No. 10-035-126, the rejection of the Apex acquisition increased
75 costs to the Company by \$133 million on a net present value basis. Utah's share of the
76 number would need to be determined.

77

78 **Q: Did the Division submit discovery in this proceeding relative to the economic**
79 **benefits of the Apex plant?**

80 A: Yes. The 38th set of discovery from the Division to the Company contained six questions
81 that are pertinent to this issue. These questions are intended to address some of the
82 Company concerns expressed in its rebuttal testimony in Docket No. 10-035-126
83 regarding the \$133 million figure. A copy of these questions is provided in Exhibit 15.2
84 D-RR.

85

86 **Q: What do you intend to do with the Company's responses to the 38th set?**

87 A: If the Company responds to these questions as posed, the results should present a clearer
88 undisputed estimate of the value associated with the acquisition of the Apex plant that

89 could serve as an adjustment to rates in this proceeding. Once these questions are
90 answered, I will file supplemental testimony as appropriate.

91

92 **IV. COMMISSION QUESTION**

93

94 **Q: At the March 29, 2011 hearing in Docket No. 10-035-126, were you asked any**
95 **questions by the Commission?**

96 A: Yes. I was asked if I was aware of any precedent in any other jurisdiction where a
97 decision was made not to do something and then a rate adjustment was made.¹

98 **Q: What was your answer?**

99 A: I indicated that I could not think of such a specific situation.²

100 **Q: What answer would you provide if you were asked that same question again?**

101 A: After a brief opportunity to give this question some thought, I would give a different
102 answer. The question implies that there is a different prudence standard for acts of
103 “commission” versus acts of “omission”. As discussed below, I do not see such a
104 distinction in this case.

105

106 First, I note that my testimony did not criticize the Company’s decision not to act to
107 acquire the Apex plant. My testimony stated that the Company erred by rejecting the
108 acquisition of Apex, a clear act of commission.

109

¹ See page 88, lines 21 to 25 of the March 29, 2011 transcript in Docket No. 10-035-126.

² See page 90, lines 13 to 15 of the March 29, 2011 transcript in Docket No. 10-035-126.

110 Secondly, in my experience in utility situations the distinction between acts of
111 commission and omission does not exist. Consider a utility that purchases fuel for its
112 power plants, and decides to rely on spot market prices rather than to hedge its fuel
113 supply costs by purchasing financial swaps. Someone might call this an act of omission,
114 because the utility did not hedge its fuel costs. Someone else would say that relying on
115 spot market purchases was an act of commission. The prudence of the decision is the
116 same either way you look at it.

117
118 In Docket No. 10-035-126, PacifiCorp was considering the Apex plant under its
119 obligation to arrange a portfolio of power supplies to serve load through least cost
120 planning. So, it had a duty to act here and its decision to purchase or not purchase the
121 plant should be governed by the same prudence standard.

122
123 The case might be different if someone challenged a utility's management decision not to
124 donate to a local charity. While the utility might not be acting like a responsible
125 corporate citizen, it likely has no general duty for benevolent giving. So, in this case, a
126 failure to respond to a request for a donation should not be examined through a prudence
127 inquiry, because the act was outside the scope of the utility's duties and obligations. Such
128 reasoning does not apply here. To buy or not buy a power plant to serve load falls
129 squarely within PacifiCorp's duty to provide the lowest cost power supply portfolio, and
130 its related decisions should be evaluated under normal utility prudence standards.

131

132 **Q: Are you able to now offer any examples of situations in other jurisdictions where a**
133 **utility was found to be imprudent for specific acts of omission?**

134 A: Upon further reflection, I can think of two specific instances. I have no doubt that
135 additional research would yield other relevant examples, but such additional research was
136 beyond the scope of my assignment in this proceeding.

137

138 In Docket DPU 07-79, the Massachusetts Department of Public Utilities (“MDPU”)
139 opened an investigation into the fuel supply arrangements of Berkshire Gas Company
140 (“BGC”). Specifically, the MDPU found that BGC was imprudent by failing to pursue
141 claims against a fuel supplier where such claims could have reduced fuel costs paid by
142 ratepayers. This case was ultimately settled, with BGC agreeing to pay \$1.3 million to
143 ratepayers in the form of a one-time credit in rates.

144

145 In Docket 1992-102, the Maine Public Utilities Commission (“MePUC”) reviewed the
146 prudence of Central Maine Power (“CMP”) in managing certain power purchase
147 contracts with Qualifying Facilities under PURPA. Specifically, the MePUC found that
148 CMP was imprudent because it did not use negotiating options or leverage contained in
149 the contracts that could have reduced costs to ratepayers. In deciding this case, the
150 MePUC reduced CMP’s allowed rate of return in its next rate proceeding by 0.50%. I
151 should also note that CMP argued in this case that the MePUC should adopt the tort
152 negligence standard by considering whether a duty obligation existed. The MePUC
153 declined to adopt this position.

154

155 **Q: What is the relevance of these examples to Utah?**

156 A: In both of the above examples, utility companies were found to be imprudent by failing to
157 act, where the actions available to those companies could have reduced costs to
158 ratepayers. Thus, even if the Commission were to find that that PacifiCorp's decision to
159 terminate negotiations for the Apex plant in Docket No. 01-035-126 was an act of
160 omission, the two examples described above illustrate that utility companies can be held
161 accountable for such acts. The remedies or compensation to ratepayers imposed by the
162 respective regulatory commissions for imprudence in these cases, namely a 50 basis point
163 reduction in the rate of return for CMP and a \$1.3 million refund for BGC, were
164 substantial rate adjustments.

165

166 **V. CONCLUSION**

167

168 **Q: Does this conclude your testimony?**

169 A: At this time, yes, it does. Should additional or new information become available, I will
170 supplement this testimony as appropriate.