

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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In the Matter of the Application of Rocky Mountain Power for Alternative Cost Recovery for Major Plant Additions of the Ben Lomond to Terminal Transmission Line and the Dave Johnston Generation Unit 3 Emissions Control Measure )  
)  
) DOCKET NO. 10-035-13  
)  
) REPORT AND ORDER  
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ISSUED: June 15, 2010

SHORT TITLE

**Rocky Mountain Power June 2010 Major Plant Additions Case**

SYNOPSIS

The Commission approves the Settlement Stipulation providing for the recovery of costs associated with two major plant additions, the Ben Lomond to Terminal transmission line and the Dave Johnston Unit 3 emissions control measure. The Settlement Stipulation projects a \$30.8 million annual increase in Utah's revenue requirement.

The Commission directs the Company to record approximately \$2.6 million per month as a Utah-specific regulatory asset beginning July 1, 2010, including a carrying charge of 0.695 percent. The Settlement Stipulation does not resolve the ratemaking treatment of this regulatory asset.

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## **I. INTRODUCTION**

In 2009 the Utah Legislature passed into law, and the Governor signed, Senate Bill 75 which enacted Utah Code § 54-7-13.4 effective March 25, 2009. This section identifies the procedure for alternative cost recovery of major plant additions for a gas or an electrical corporation. This is the first such case the Public Service Commission of Utah (“Commission”) has heard since the law was enacted. Subsection 54-7-13.4 (1)(c) defines a “major plant addition” as “any single capital investment project of a gas or electrical corporation that, in total, exceeds 1 % of the corporation’s rate base, based on the corporation’s most recent general rate case determination ...” that is allocated to Utah customers. Utah Code allows a corporation to file for cost recovery of a major plant addition if the Commission has entered a final order in a general rate case within 18 months of the projected in-service date of the major plant addition. In the Company’s last general rate case, Docket No. 09-035-13, the Commission approved a revenue requirement on February 18, 2010.<sup>1</sup>

Utah Code requires the Commission to enter its order on cost recovery within 90 days of the Company’s complete filing with respect to significant energy resources (Utah Code §54-17-301 et.seq.) or 150 days for all other major plant additions. It also restricts the corporation from filing for cost recovery more than 150 days before the projected in-service date of the major plant addition.

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<sup>1</sup> Docket No. 09-035-13, “ 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. ”

## **II. PROCEDURAL HISTORY**

On February 1, 2010, pursuant to Utah Code § 54-7-13.4, the Company requested alternative cost recovery of the major plant additions in the Ben Lomond to Terminal transmission line and the Dave Johnston Generation Unit 3 (“DJ3”) emissions control measure (“Application”). The Application sought an increase in rates of \$33.7 million and requested the rate increase be deferred until approximately January 1, 2011.

On February 16, 2010, pursuant to Utah Administrative Code R746-700-30, the Division of Public Utilities (“Division”) recommended the Commission accept the Company’s Application as a complete filing. On February 17, 2010, the Commission held a duly noticed scheduling conference and issued a scheduling order pursuant to the discussion and agreement of the parties on March 2, 2010. Petitions to intervene were filed by Utah Association of Energy Users, ATK Space Systems, American Pacific Corporation, Anadarko Midstream, Chevron U.S.A., Inc., ConocoPhillips Gas and Power, Hexcel Corporation, IHC Health Services, Inc., IM Flash Technologies, LLC, May Foundry & Machine Company and Simplot Phosphates, collectively referred to as UAE Intervention Group (“UAE”) on February 11, 2010; Holcim, Inc., Kennecott Utah Copper, LLC, Kimberly-Clark Corp., Malt-O-Meal, Praxair, Inc., Proctor & Gamble, Inc., Tesoro Refining and Marketing Co., and Western Zirconium, collectively referred to as Utah Industrial Energy Consumers (“UIEC”) on March 22, 2010; and Nucor Steel-Plymouth on March 25, 2010, all of which were granted by the Commission.

On March 25, 2010, the Company filed supplemental direct testimony reducing its revenue requirement request to \$33.0 million. This reduction is based on the final revenue requirement decisions in Docket No. 09-035-23. On April 26, 2010, the Division, Office of

Consumer Services (“Office”), UAE and UIEC filed direct testimony on the Application. These parties proposed adjustments to, and raised issues regarding, the rate relief sought in the Application. On April 28, 2010, the Office filed corrected testimony.

On May 5, 2010, the parties met to discuss settlement and, based on those discussions, agreed that PacifiCorp’s Application be granted on the terms and conditions as set forth in the Settlement Stipulation (“Stipulation”). On May 17, 2010, the Stipulation was signed by the Company, Division, Office, UAE, and UIEC (“Parties”) and filed with the Commission. On June 2, 2010, the Commission heard testimony from the Parties on the Stipulation and allowed for public comment. No public comment was received in support of, or in opposition to, the Stipulation. At the conclusion of the hearing, the Commission issued a bench ruling approving the Settlement Stipulation as filed. This order memorializes that ruling.

### **III. SETTLEMENT STIPULATION**

#### **A. Overview**

Without modifying the terms and conditions in any way, the following is a brief summary of the Stipulation. The Stipulation is attached as Appendix A to this order.

The Parties agree the Company’s Application should be granted, for purposes of settlement and for this case only, based on the following terms and conditions:

a. The Commission should enter an order approving the Stipulation for cost recovery of the Ben Lomond to Terminal transmission line and the Dave Johnston Unit 3 emissions control measure.

b. The Commission’s Order should determine Utah’s annual share of the projected net revenue requirement of the major plant additions is \$30.8 million. Utah’s share of the

projected net revenue requirement was derived by the parties using the adjustments outlined in the Stipulation.

c. The Commission's order should direct the Company to record, in a deferred account, the monthly amount of \$2,566,667, or one-twelfth of the \$30.8 revenue requirement, as a Utah-specific regulatory asset beginning on the later of July 1, 2010, or the date both major plant additions projects are in service.

d. The Commission's order should authorize the Company to record a carrying charge of 0.695 percent per month, calculated as one-twelfth of the Company's weighted cost of capital of 8.34 percent, as determined in Docket No. 09-035-23. This carrying charge is to be applied to the unrecovered regulatory asset balance each month.

e. The Stipulation identifies how the incremental DJ3 scrubber sulphur dioxide emissions allowance sales will be used in setting Utah rates.

The Parties agree this Stipulation resolves, and the Parties agree not to contest in any other proceeding, the monthly amount of the regulatory asset to be booked by the Company for its ultimate recovery from customers in rates. The Parties also agree no part of this Stipulation, or a Commission Order approving the same, shall in any manner be argued, or considered, as precedential in any future major plant addition case. The Stipulation does not resolve the means of collecting the regulatory asset from the customers and the Parties are free to take any position in this regard.

The Stipulation does not resolve several issues including, the date collection will begin; the period of time over which recovery will take place; the allocation of the deferred balance recovery among Utah customers and customer classes; the structure of the collection

mechanism, whether in base rates or in a surcharge; the rate design of the collection mechanism; and the billing determinants.

**B. Positions of the Parties**

The Parties to the Stipulation include the Company, Division, Office, UAE, and UIEC. No party presented testimony opposing the Stipulation and no member of the public appeared in the public witness portion of the hearing to support, or to contest approval of, the Stipulation.

The Company testifies not all parties involved in this case have signed the Stipulation, however, no party has opposed it. Further, both of the major plant addition projects are in service. The Ben Lomond to Terminal transmission line was placed in service in March, 2010 and the DJ3 Scrubber was placed in service the week of May 24, 2010. The Company supports the Stipulation and believes it is in the public interest. At the hearing, the Company testifies the revenue requirement requested in the Stipulation is based on the Rolled-In inter-jurisdictional allocation method rather than the Utah MSP Stipulation; i.e., the one percent increase in Utah's Roll-In revenue requirement, the "Rate Mitigation Cap," is eliminated.

The Division testifies it supports the Stipulation as just and reasonable and in the public interest. It concludes the projects are needed and, with the adjustments made in the Stipulation, the costs are prudent. The Office testifies the Stipulation overall represents a fair and reasonable settlement of the issues and should be approved.

**C. Discussion, Findings and Conclusions**

Five Parties to this proceeding, representing diverse interests, signed the Stipulation and no party, or public witness, opposes the Stipulation. The Parties agree the

individual adjustments made to the Company's Application may not be warranted, or supportable, in isolation, but the adjustments are necessary to arrive at an agreement on the Stipulation. Utah Code § 54-7-1 authorizes the Commission to approve a settlement so long as the settlement is just and reasonable in result. While the Parties are not able to agree on each specific component of the adjustments that resulted in this Stipulation, all of the Parties agree the revenue requirement change proposed by this Stipulation is just and reasonable in result and in the public interest.

Our consideration of the Stipulation is directed by Utah statutory provisions in Utah Code § 54-7-1 encouraging informal resolution of matters brought before the Commission. Based upon the evidence contained in the record, we find the Stipulation is just and reasonable in result and is in the public interest. We therefore approve the Stipulation. Our approval of the Stipulation is not binding precedent in future cases involving similar issues, and is further subject to the conditions and limitations on the Parties as contained in the Stipulation.

#### **IV. ORDER**

Wherefore, pursuant to our discussion, findings and conclusions made herein, we order:

1. The Settlement Stipulation is approved as filed.
2. Utah jurisdiction's share of the major plant additions is \$30.8 million.
3. The Company is to record monthly, in a deferred account, the amount of \$2,566,667 as a Utah-specific regulatory asset beginning July 1, 2010.
4. The Company is to include a carrying charge at 0.695 percent per month.

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5. The general ratemaking treatment of DJ3 scrubber emission allowances sales will be treated as described in the Stipulation.

This Report and Order constitutes final agency action on PacifiCorp's Application dated February 1, 2010. Pursuant to Utah Code §§ 63G-4-301 and 302, an aggrieved party may file, within 30 days after the date of this Report and Order, a written request for rehearing or reconsideration by the Commission. Pursuant to Utah Code § 54-7-15, failure to file such a request precludes judicial review of this Report and Order. If the Commission fails to issue an order within 20 days after the filing of such request, the request shall be deemed denied. Judicial review of this Report and Order may be sought pursuant to the Utah Administrative Procedures Act (Utah Code § 63G-4-101, *et seq.*).

DATED at Salt Lake City, Utah, this 15<sup>th</sup> day of June, 2010.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard  
Commission Secretary

G#67163

**APPENDIX: Settlement Stipulation**

**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

In the Matter of the Application of Rocky Mountain Power for Alternative Cost Recovery for Major Plant Additions of the Ben Lomond to Terminal Transmission Line and the Dave Johnston Generation Unit 3 Emissions Control Measure	Docket No. 10-035-13  <b>SETTLEMENT STIPULATION</b>
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Rocky Mountain Power (“Rocky Mountain Power” or the “Company”), the Division of Public Utilities (“Division”), the Office of Consumer Services (“Office”), the parties known as the UAE Intervention Group (“UAE”), and the parties known as the Utah Industrial Energy Consumers (“UIEC”) (collectively, “Parties”), pursuant to Utah Code Ann. § 54-7-1 and Utah Admin. Code R746-100-10.F.5, hereby request that the Commission enter an order granting the Company’s Application for Alternative Cost Recovery (“Application”) in this docket based upon the terms and conditions of this Settlement Stipulation (“Stipulation”). The Parties are authorized to represent that no party to this docket opposes this Stipulation.

**BACKGROUND**

1. On February 1, 2010, the Company filed its Application seeking, pursuant to Utah Code Ann. § 54-7-13.4, alternative cost recovery of the major plant addition investments the Company is making in the Ben Lomond to Terminal Transmission Line and the Dave Johnston Generation Unit 3 (“DJ3”) environmental improvement measures. The Application sought an

increase in rates of \$33.7 million and requested that the rate increase be deferred until approximately January 1, 2011. The Application was supported by direct testimony of seven witnesses and extensive appendices filed pursuant to Utah Admin. Code R746-700-30.

2. The Commission held a duly noticed scheduling conference on February 17, 2010 and issued a Scheduling Order pursuant to the discussion and agreement of the parties on March 2, 2010.

3. Petitions to intervene were filed by UAE, UIEC, and Nucor, all of which were granted by the Commission.

4. On March 25, 2010, the Company updated the rate increase requested in the Application to \$33.0 million based on the return on equity ("ROE") allowed in Docket No. 09-035-23.

5. The Parties other than the Company conducted extensive discovery of the Company regarding the issues in this proceeding.

6. On April 26, 2010, in accordance with the schedule established by the Commission, the Division, Office, UAE and UIEC filed direct testimony of eight witnesses on the Application. These Parties proposed adjustments to and raised issues regarding the rate relief sought in the Application.

7. The Parties met on May 5, 2010, to discuss settlement. Based upon those discussions, the Parties have agreed that the Application may be granted on the terms and conditions set forth in this Stipulation.  
stipulation

**STIPULATION**

**Specific Terms and Conditions**

8. The Parties agree that the Company's Application should be granted on the following terms and conditions:

9. The Parties agree, for purposes of settlement and for this case only, that:

a. The Commission should enter an order pursuant to Utah Code Ann. § 54-7-13.4(4)(a)(ii), approving cost recovery of the Ben Lomond to Terminal transmission line and the DJ3 environmental improvement projects involved in this docket (the "MPA Projects");

b. The Commission's Order should determine pursuant to Utah Code Ann. § 54-7-13.4(4)(b)(i) that Utah's share of the projected net revenue requirement impact of the MPA Projects, including prudently-incurred capital costs and other reasonably projected costs, savings, and benefits, is \$30.8 million annually;

c. Utah's share of the projected net revenue requirement impact of the MPA Projects was derived by the parties as follows:

	<b>Amount</b> (\$ millions)
Rocky Mountain Power revised request	\$ 33.0
Allocation Adjustment	(0.3)
Update plant in-service costs associated with the Ben Lomond to Terminal transmission project	(1.0)
Update plant in-service costs associated with the DJ3 scrubber	(0.2)
Correct DJ3 heat rate	(0.3)
Remove remaining heat rate adjustment	(0.1)

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Modeling changes (general business revenues and IBT factor)	(0.1)
Include an agreed upon value of incremental SO2 allowances associated with the DJ3 scrubber, in lieu of a four year amortization	(0.2)
<b>SETTLEMENT AMOUNT</b>	<b><u><u>\$ 30.8</u></u></b>

d. The Commission's order should direct the Company to record monthly the amount of \$2,566,667 on the books of the Company as a Utah-specific regulatory asset beginning on the later of July 1, 2010 or the date that the MPA Projects are both in service, and ending on the last day of the month (or prorated for a portion of such month) when rates are adjusted to begin collecting the deferred balance from customers; and

e. The Commission's order should authorize the Company to record a carrying charge of 0.695 percent per month, calculated as one-twelfth of the Company's weighted cost of capital of 8.34 percent as determined in Docket No. 09-035-23, to be added to and become part of the unrecovered regulatory asset balance each month.

10. The Parties further agree that this Stipulation resolves, and the Parties agree not to contest in any other proceeding, the monthly amount of the regulatory asset to be booked by the Company or its ultimate recovery from customers in rates. The parties also agree that, no part of this Stipulation or a Commission Order approving the same, shall in any manner be argued or considered as precedential in any future Major Plant Addition case. The agreements specified in paragraphs 9 and 11 of this Stipulation remain in full force and effect notwithstanding this paragraph 10. This Stipulation does not resolve, and the Parties are free to take any position with

respect to, the means of collecting the regulatory asset from customers solely with respect to the following issues:

- a. the date collection will begin,
- b. the period of time over which recovery will take place,
- c. the allocation of the deferred balance recovery among Utah customers and customer classes,
- d. the structure of the collection mechanism, whether in base rates or as a surcharge,
- e. the rate design of the collection mechanism, and
- f. the billing determinants to be used.

11. The Parties also agree that the stipulated annual \$200,000 credit for incremental DJ3 scrubber SO<sub>2</sub> emissions allowance sales is being used for purposes of settlement, rather than a four-year amortization, as is currently used in setting Utah rates. The Parties agree that this value (\$16,667 per month, Utah situs, to the extent and for so long as it is included as an offset to the regulatory asset accrual to be approved hereby), will be excluded from the amount that would otherwise be used to establish the four-year amortization of SO<sub>2</sub> emissions allowance sales revenue for general rate case purposes.

### **General Terms and Conditions**

12. Not all Parties agree that each aspect of the adjustments to the Company's Application necessary to arrive at this Stipulation is warranted or supportable in isolation. Utah Code Ann. § 54-7-1 authorizes the Commission to approve a settlement so long as the settlement is just and reasonable in result. While the Parties are not able to agree on each specific

component of the adjustments that resulted in this Stipulation, all of the Parties agree that the rate change proposed by this Stipulation is just and reasonable in result and in the public interest.

13. All negotiations related to this Stipulation are confidential, and no Party shall be bound by any position asserted in negotiations. Except as expressly provided in this Stipulation for purposes of this docket only, in accordance with Utah Admin. Code R746-100-10.F.5, neither the execution of this Stipulation nor the order adopting it shall be deemed to constitute an admission or acknowledgment by any Party of the validity or invalidity of any principle or practice of regulatory accounting or ratemaking; nor shall they be construed to constitute the basis of an estoppel or waiver by any Party; nor shall they be introduced or used as evidence for any other purpose in a future proceeding by any Party except in a proceeding to enforce this Stipulation.

14. The parties request that the Commission hold a hearing on this Stipulation. Rocky Mountain Power, the Division, and the Office each will, and other Parties may, make one or more witnesses available to explain and offer further support for this Stipulation. The Parties shall support the Commission's approval of this Stipulation. As applied to the Division and the Office, the explanation and support shall be consistent with their statutory authority and responsibility.

15. The Parties agree that if any person challenges the approval of this Stipulation or requests rehearing or reconsideration of any order of the Commission approving this Stipulation, each Party will use its best efforts to support the terms and conditions of this Stipulation. As applied to the Division and the Office, the phrase "use its best efforts" means that they shall do so in a manner consistent with their statutory authority and responsibility. In the event any

person seeks judicial review of a Commission order approving this Stipulation, no Party shall take a position in that judicial review opposed to the Stipulation.

16. Except with regard to the obligations of the Parties under the three immediately preceding paragraphs of this Stipulation, this Stipulation shall not be final and binding on the Parties until it has been approved without material change or condition by the Commission. This Stipulation is an integrated whole, and any Party may withdraw from it if it is not approved without material change or condition by the Commission or if the Commission's approval is rejected or materially conditioned by a reviewing court. If the Commission rejects any part of this Stipulation or imposes any material change or condition on approval of this Stipulation or if the Commission's approval of this Stipulation is rejected or materially conditioned by a reviewing court, the Parties agree to meet and discuss the applicable Commission or court order within five business days of its issuance and to attempt in good faith to determine if they are willing to modify the Stipulation consistent with the order. No Party shall withdraw from the Stipulation prior to complying with the foregoing sentence. If any Party withdraws from the Stipulation, any Party retains the right to seek additional procedures before the Commission, including presentation of testimony and cross-examination of witnesses, with respect to issues resolved by the Stipulation, and no party shall be bound or prejudiced by the terms and conditions of the Stipulation.

17. This Stipulation may be executed by individual Parties through two or more separate, conformed copies, the aggregate of which will be considered as an integrated instrument.

**RELIEF REQUESTED**

18. Based on the foregoing, the Parties request that the Commission schedule a hearing on this Stipulation and, thereafter, enter an order approving the Company's Application on the terms and conditions set forth in this Stipulation.

RESPECTFULLY SUBMITTED: May 17, 2010.

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