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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

<p>In the Matter of:</p> <p>IN THE MATTER OF THE APPLICATION OF ROCKY MOUNTAIN POWER TO INCREASE THE DEFERRED EBA RATE THROUGH THE ENERGY BALANCING ACCOUNT MECHANISM</p>	<p>Docket No. 13-035-32</p> <p>UTAH DIVISION OF PUBLIC UTILITIES MOTION FOR EXTENSION OF TIME TO FILE AUDIT REPORT AND DIRECT TESTIMONY</p>
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Pursuant to Utah Admin. Code R. 746-100-4 the Utah Division of Public Utilities (“Division”) hereby files its Motion for Extension of Time to File Audit Report and Direct Testimony in the above referenced docket. The April 12, 2013 Amended Scheduling Order and Notice of Hearing set the filing date as July 12, 2013. The Division requests that the Commission extend the filing date 14 days for both the audit report and Division’s direct testimony such that they are due July 26, 2013.

Because of the pending deadline the Division respectfully requests that the Commission shorten the response time and expeditiously consider this Motion.

Introduction

In the Commission's August 30, 2012 Order on EBA Interim Rate Process in Docket No. 12-035-67 et al. the Commission set forth procedural milestones for future EBA applications.¹ Relevant to this Motion the Commission set March 15 as the application date and July 15 for the Division to file its audit report and supporting testimony. The timeline was anticipated to allow hearings to be completed by September 15 and rate changes to be effective November 1.

In its Order on Request for Rehearing in Docket No. 12-035-67 et al. the Commission recognized that the "milestones place on the Division the added burden of a fixed schedule for producing its annual audit report and direct testimony regarding EBA costs."² The Commission explained that it did so "believing the Division's audit process could begin far in advance of RMP's formal EBA application because RMP is required to file its EBA data monthly."³ The Commission ultimately recognized that there may be some need for variance from the milestones and considers them to be "parameters [the Commission] intend to follow generally" in order to "balance[] the interests in a prompt resolution based on a high-quality audit report."⁴

In this Docket the Company filed its Application to Increase the Deferred EBA Rate through the Energy Balancing Account Mechanism on March 15, 2013. The Amended Scheduling Order and Notice of Hearing set the Division audit report filing deadline as July 12, 2013 and set a hearing date on October 2, 2013. The Company has not timely provided information necessary to complete the audit. The Company has imposed such strict restrictions

¹ *In the Matter of the Application of Rocky Mountain Power to Increase Rates by \$29.3 Million or 1.7 Percent through the Energy Balancing Account et al.* Docket No. 12-035-67, et al., Order on EBA Interim Rate Process, August 30, 2012, p. 14.

² *In the Matter of the Application of Rocky Mountain Power to Increase Rates by \$29.3 Million or 1.7 Percent through the Energy Balancing Account et al.* Docket No. 12-035-67, et al., Order Request for Rehearing, October 16, 2012, p. 2.

³ *Id.*

⁴ *Id.* at 5.

on access to much of the information that is has been exceedingly difficult and time consuming to review. As such the Division has lacked meaningful access to pertinent data and cannot complete its audit by the July 12, 2013 filing date and requests that the Commission extend the filing deadline.

Discussion

The Division respectfully requests that the audit report deadline be suspended for 14 days. The Company's delays in providing data and placing restrictions on access to the data leave insufficient time for the Division to complete a high-quality audit report on time. In order to conduct an audit of sufficient depth and detail to provide the Commission with reliable recommendations the Division and its outside experts must have reasonable access to certain Company records and data. The evaluation is time consuming and complex. As a result, it is necessary for the Division to have the data in useable form with enough time to review and evaluate it.

As part of the Division's audit of the Company's EBA, the Division and its consultant (La Capra Associates) have requested certain supporting documentation for the Company's power swap, power physical, gas swap, and gas physical transactions. The supporting documentation requested includes daily price curves, daily management position reports, credit exposure reports, and "memos, emails, forms or other methods of communication requesting, analyzing or approving" certain transactions. This supporting documentation is critical to the Division's and La Capra's evaluation of the prudence of actual NPC.

The Division requested this supporting documentation early and often. Data requests were issued on March 5 (price curves), April 23 (price curves, daily management reports) and

April 30 (price curves, credit exposure reports, memos, emails, forms or other methods of communication requesting, analyzing, or approving certain transactions). The Company's responses to these data requests were either incomplete or required the Company and La Capra (located in Boston) to review such documents on-site at Company offices due to the Company designating them "highly confidential" and imposing restrictions on access. The Company also indicated that some of the requested information was "overly broad and unduly burdensome."

Despite several good faith efforts by the Division and La Capra to compromise on some of the information sought in the original data requests, the Company has not provided the information in a timely, efficient meaningful manner. These compromises made by the Division and La Capra included:

- 1) reducing the scope of days/transactions from some of the original requests;
- 2) limiting some of the original requests to "confidential" data rather than "confidential" and "highly confidential" information despite the Division's belief that much if not all of the information requested was not "highly confidential."
- 3) accepting the Company's claim that some of the information requested was "overly broad and unduly burdensome" despite the Division's belief to the contrary. The Division's belief was later validated by an on-site visit to PacifiCorp in which it was very apparent that providing such information would not be "overly broad and unduly burdensome."
- 4) sending a PacifiCorp employee to Boston to work with La Capra.
- 5) accepting delivery of certain documents long after the due dates of data requests.

The Division notes that the compromises were not proposed all at once at a more recent date, but at various occasions between April 23 and the week of June 10. During the same time period the Division made several follow-up inquiries regarding the Company's position on those proposals. A meeting was also held with the Company during this time period.

The delays and restrictions placed on access to the information are causing substantial difficulties for the Division in completing its audit. From a practical standpoint, the review of much of this information cannot be done in a single or multiple visits to the Company, or in La Capra's case, a visit to a Boston law office where the information can be viewed. More than simply spot checking or cursory review is necessary. The information is voluminous. As discussions take place among La Capra or Division staff, constant reference back to the supporting documentation is needed. Similarly as the investigation proceeds and reports are written additional questions arise that will require reference to the supporting documentation.

After all the compromises made by the Division, the Company agreed to provide a select set of information to the Division. The Division requested this documentation by Wednesday, June 19 and it was the Divisions understanding that the Company would be able to provide the information by that date. The Division did receive certain documentation the afternoon of June 19, but it was incomplete. Specifically, the Company had previously agreed to provide credit exposure reports but these reports were explicitly excluded from the information provided to the Division and La Capra. La Capra did not receive the information until Thursday June 20. Since the Division has only had time to conduct an initial review of the information provided on June 19, the Division cannot confirm yet whether the remaining information is complete.

While the incomplete information may have been provided one day late to La Capra, the requested subject matter of the information dates back to the data requests issued on March 5, April 23, and April 30. As mentioned previously, the Division proposed compromises on several occasions between April 23 and the week of June 10. The Division has not sat idle only to complain as time ran short. Rather, the Division has been actively engaged in trying to resolves these issues.

The Division anticipated that the requested data necessary to perform the audit would be provided by the Company in a reasonable form and in a timely and meaningful manner. This has not happened. The Company's treatment of this supporting data has not allowed the Division or La Capra the opportunity to effectively review the information in a timely manner. With the information finally provided this week by the Company and assuming it will be supplemented shortly with the missing portions, the Division believes that with an additional 14 days it can complete the audit report. While an extension will go beyond the milestone date, the balance weighs in favor of audit report quality.

The Division therefore requests that the Commission extend the deadline for filing the Division's audit report and direct testimony by 14 days. The Division further requests that response times be shortened and the Commission expedite consideration of this Motion.

Respectfully submitted this 21st day of June, 2013

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