
In the Matter of the Application of Rocky Mountain Power to Implement Programs Authorized by the Sustainable Transportation and Energy Plan Act

DOCKET NO. 16-035-36

ORDER

ISSUED: May 5, 2021

The Public Service Commission (PSC) approves Rocky Mountain Power's (RMP) Application to Implement Programs Authorized by the Sustainable Transportation and Energy Plan Act ("Application"), filed March 3, 2021.

1. Background and Procedural History

In March 2016, Utah enacted the Sustainable Transportation and Energy Plan Act ("STEP Act"), now codified at Utah Code Ann. §§ 54-7-12.8, 54-20-101, *et seq.*¹ The PSC has adjudicated RMP's previous applications to implement programs under the STEP Act in earlier phases of this docket. Here, RMP's Application proposes to use STEP funding to support a Utah State University (USU) study on Projecting the Impact of the Electrification of the Uinta Basin Oil and Gas Fields on Air Quality ("Study").

The Division of Public Utilities (DPU) and the Office of Consumer Services (OCS) filed comments on April 16, 2021. RMP and OCS filed reply comments on April 23, 2021.

On April 28, 2021, the PSC held a hearing to consider RMP's Application, during which RMP, DPU, and OCS testified.

Through the Study, RMP seeks to obtain quantitative estimates of the air quality and economic impact that electrification of the oil and gas fields in the Uinta Basin might achieve.

¹ The PSC's Phase One Report and Order in this docket, dated December 29, 2016, contains a relatively broad overview of the STEP Act. This order discusses only those aspects of the law pertinent to this phase of the docket.

The work would be performed by personnel at USU in conjunction with an independent consulting firm. RMP anticipates the Study will identify ways electricity can facilitate reduction in the emissions contributing to high ozone events in the Uinta Basin and will produce data on the role and potential benefits of increasing the supply of electricity to this rural area, which has high oil and gas production and associated high ozone levels. RMP requests approval to use \$200,715 from the budget for “innovative utility programs”² to fund the Study.

2. Positions of the Parties

The DPU opposes the Application, and the OCS supports it but with modifications.

a. The DPU’s Opposition

The DPU contends that insufficient evidence exists to show ratepayers will benefit from funding the Study. The DPU suggests RMP failed to address certain preliminary issues such as (i) the feasibility of electrifying the area and (ii) whether other stakeholders, including another electric utility and its customers, might benefit from or contribute to the project. Absent evidence to address these questions, the DPU recommends denying RMP’s Application. The DPU concludes RMP has failed to show the Study meets the “customer interest requirement” of the STEP Act because, at best, the Study would result in “general [societal] benefits unrelated to mitigating current RMP emission or improving RMP operations.”

In reply, RMP argues the DPU would have RMP “put the cart before the horse,” explaining the Study “will likely provide [RMP] with solid evidence to justify further pursuit of some of the information the [DPU] wants now as justification for the Study.” RMP contends that

² See Utah Code Ann. § 54-20-105(1).

the Study's results could influence the feasibility of electrification because "[i]f electrification meant the difference between being able to meet regulatory emission requirements to establish a new well or abandoning the well plan[], the economics supporting electrification would improve." RMP also notes that existing customer electrification supports the notion that it is economically feasible. Finally, RMP emphasizes the Study will benefit RMP's customers in the Uinta Basin and suggests that potential benefits to non-customers in the area are not disqualifying.

b. The OCS's Proposed Modifications

The OCS supports the Study as it recognizes the potential air quality improvements but only if the Study is funded in two stages and if the overall budget is reduced from \$200,715 to \$141,197. With respect to the former, OCS proposes RMP allocate one-half of the requested funding at the outset of the Study and distribute the remaining half only after USU has "demonstrated that Uinta Basin ozone pollution can be significantly reduced by controlling NO_x emissions." On the latter point, OCS suggests reducing the approved budget to \$141,197 to "eliminate excessive indirect costs, consistent with requirements imposed by other [Utah] state agencies in granting public funding."

RMP objects to OCS's recommendations. RMP represents splitting the Study into two phases would increase costs and make completing it on time difficult or impossible. For example, RMP explains that "research into whether the [Uinta] Basin is NO_x-controlled cannot be easily separated from how electrification will affect NO_x levels" because "[b]oth questions require interdependent modeling," which is "time and resource intensive." Therefore, "[t]o avoid

multiple model runs, data verification and validation for both questions must occur up front, and these considerations must be modeled simultaneously.”

As for OCS’s concern about “excessive indirect costs,” RMP represents the “[S]tudy and budget have been designed and reviewed by professionals at [USU], a state-owned non-profit research university” and USU’s “Sponsored Programs Administration department has verified that the proposal meets all necessary professional research criteria and addresses all required legal and ethical compliance issues.” RMP further represents that “[a]ll overhead and indirect costs are set by the Sponsored Programs [A]dministration and align with standard rates accepted by government and private funding sources.”

3. Discussion, Findings, and Conclusions

RMP seeks approval for the Study’s funding pursuant to Utah Code Ann. 54-20-105,³ which allows the PSC to authorize programs provided they fall within one of the statutorily enumerated categories and are “in the interest of [the utility’s] customers.” Here, RMP contends the Study qualifies under the category of “any other technology program,”⁴ a contention with which no party has substantively disagreed.

As to whether the Study is in the interest of RMP’s customers, the evidence is uncontested that the area of northeastern Utah within the Uinta Basin often experiences poor air quality during the winter and that it has, in some years, exceeded federal ambient air quality standards. Clearly, if the Study shows electrification could mitigate these issues, it will serve the

³ In its Application, RMP also sought approval under Utah Code Ann. § 54-20-107, but RMP withdrew its request under that provision at hearing.

⁴ Utah Code Ann. § 54-20-105(1)(i).

interests of RMP's customers in the area.⁵ Especially in light of the relatively modest amount of funds RMP seeks and their continued availability in the PSC-approved budget for innovative utility programs, we conclude that any benefits the Study could bring to the public more generally are not disqualifying.

Based on the Application, the parties' comments, and testimony at hearing, we find and conclude the Study is in ratepayers' interest and consistent with the STEP Act. We therefore approve the Application.

We further decline to adopt the OCS's recommended modifications. RMP testified that splitting the Study into phases would be inefficient, costly, and might preclude it from being completed before the expiration of the STEP Act's pilot program. No compelling evidence exists to rebut RMP's testimony.

As for reducing the Study's budget, the evidence shows appropriate authorities at USU vetted and approved the budget and that its indirect costs are consistent with those to be expected in similar public-private research partnerships. We find the OCS's reference to requirements one other state agency might impose in awarding funds for research projects to state universities to be somewhat inapposite and an insufficient basis to reduce the requested budget, which is relatively modest.

⁵ This question arises in a unique context, specifically the Legislature's decision to facilitate RMP's investment in qualifying programs through the STEP Act. The analysis would be considerably different in a typical ratemaking context.

4. Order

The Application is approved along with RMP's requested budget of \$200,715 to fund the Study. All STEP Act program reporting requirements previously approved in earlier orders in this docket are applicable to the Study.

DATED at Salt Lake City, Utah, May 5, 2021.

/s/ Michael J. Hammer
Presiding Officer

Approved and Confirmed May 5, 2021, as the Order of the Public Service Commission of Utah.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Gary L. Widerburg
PSC Secretary
DW#318617

Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this written order by filing a request for review or rehearing with the PSC within 30 days after the issuance of the order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the PSC fails to grant a request for review or rehearing within 30 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the PSC's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply with the requirements of Utah Code Ann. §§ 63G4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on May 5, 2021, a true and correct copy of the foregoing was delivered upon the following as indicated below:

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DOCKET NO. 16-035-36

- 9 -

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