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Division of Public Utilities

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DPU COMMENTS

TO: Public Service Commission

FROM: Division of Public Utilities:
Chris Parker, Director
Artie Powell, Energy Manager
Lane Mecham, Utility Analyst
Jeffrey S. Einfeldt, Utility Analyst

DATE: April 9, 2018

RE: Docket No. 17-035-69, Investigation of Revenue Requirement Impacts of the New Federal Tax Legislation Titled: “An act to provide for reconciliation pursuant to titles II and V of the concurrent resolution of the budget for fiscal year 2018

INTRODUCTION & RECOMMENDATION

On March 16, 2018, Rocky Mountain Power (“the Company”) filed its application for approval to pass through $20 million of tax savings created by passage of the Tax Cuts and Jobs Act (“Tax Reform Act”) through a new Tariff Schedule 197. It also requested that the Public Service Commission of Utah (“Commission”) approve the continued deferral of tax savings, net of the $20 million that it proposes to refund through Tariff Schedule 197, so that it can use the deferral to offset future costs. The Company also requested that Deer Creek mine costs currently being amortized through the Energy Balancing Account (“EBA”) be removed from the EBA and be immediately offset by savings from the Tax Reform Act.

The Division does not agree with the proposed treatment and recommends refunding the accrued balance of tax savings as of April 30, 2018, and creating a rate that will credit customers' bills for the remaining portion of the annual $76.2 million savings through the end of 2018. The effects of the tax savings on other items to be addressed in the Company's June filing and for subsequent calendar years can be addressed at the appropriate times. Accordingly, the Division also recommends the Commission deny the request to offset Deer Creek costs using the Tax Reform savings. These recommendations will help ensure current rates reflect current costs of service to a reasonable extent, rather than ensuring today's customers pay increased rates to smooth potential future customer impacts.

BACKGROUND AND DISCUSSION

On December 22, 2017, the Tax Cuts and Jobs Act was enacted, which made significant changes to the tax structure and rates faced by the Company. One of the key changes was a reduction in the corporate income tax rate from 35% to 21%, which created significant tax savings for the Company and a reduction in the accumulated deferred income tax liability.

In its February 7, 2018 comments ("Initial Comments"), the Company was not yet able to determine the impacts the Tax Reform Act would have on its accumulated deferred income taxes and said it would file additional analysis in June of 2018 to determine the full effects. It also proposed in its Initial Comments to pass through $20 million of the estimated $76.2 million annual tax savings and defer the remainder to offset future costs.

On February 23, 2018, the Division, the Utah Association of Energy Users ("UAE"), and the Utah Industrial Energy Users ("UIEC") responded to the Initial Comments and agreed that the majority of the tax savings should be passed on to ratepayers as soon as possible. The Division and the UIEC agreed that the full $76.2 million estimated tax savings should be passed through and UAE recommended that 80% of the savings be passed through.

On March 16, 2018, the Company filed its request for approval of Tariff Schedule 197, which passes through $20 million of the estimated $76.2 million annual tax savings by allocating to each customer class based on the Company's most recent annual cost of service study. The proposed tariff also excludes Special Contracts from receiving any portion of the refund because "…special contract rates are negotiated independent from the revenue requirement used to set other retail rates.[1]" The Company believes refunding an amount lower than the full amount is reasonable because:1) the estimated amount is uncertain, 2) deferring the tax savings to offset future costs will provide greater rate stability, and 3) the Company's credit rating could be negatively impacted by the effects of the Tax Reform Act[2].

DPU COMMENTS

The Division disagrees with the Company's proposed treatment of the tax savings and continues to recommend the full $76.2 million of estimated tax savings be refunded to ratepayers. Many of the costs the Company cites as creating upward pressure on rates are not yet fully known and have not been adjudicated as being prudent, nor is it clear when that will happen. Put another way, if the Company had proposed a new tariff to implement a rate to offset unknown future costs, the Division would oppose that idea. The Company's proposal effectively does the same thing. Furthermore, the Company's concerns about the uncertainty of the estimate and its credit rating are unpersuasive.

The indications from the Company are that it will patch together costs here and there to be offset by tax savings across multiple dockets as they become known. This is evidenced by the Company's proposals to offset the tax benefits with the Deer Creek mine costs in the EBA docket (18-035-01), cost overruns in the cap proposed in the Wind Repowering docket (17-035-

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[1] Rocky Mountain Power's Tariff Application, Docket No. 17-035-69, March 16, 2018, p. 12.
[2] Rocky Mountain Power's Tariff Application, Docket No. 17-035-69, March 16, 2018, p. 5. "The Company recognizes the importance of delivering… the benefits of the Tax Reform Act… At the same time, the Company must balance this against the level of uncertainty, given the revenue requirement impacts are currently only estimates. Further, the Company is interested in providing customers long-term rate stability, while mitigating potential near-term adverse impacts resulting from the Tax Reform Act on the Company's credit metrics. The Company's proposals achieve these objectives."

39), and now in this docket (17-035-69) to offset depreciation costs, EIM implementation costs, and others.

A simpler and more transparent method for handling the tax savings would be to refund the accrued balance as of April 30, 2018, and create a rate that will credit customers' bills through 2018. Future years' annual savings and potential one-time savings for deferred income tax adjustments can be addressed as they arise.

The Division also recommends the credit be shown on customers' bills as a separate line item so it is clear to ratepayers what is being refunded and why. This treatment 1) refunds the full amount of tax savings to customers, 2) gives the Company a reasonable amount of time to analyze its cash flows and make adjustments, and 3) does not materially impact the stability of rates because the monthly credit is relatively small. However, this treatment will better align customer rates with the cost of providing service throughout the period until the Company exits its next general rate case.

The Company's stated concerns with a fuller customer refund are unpersuasive. The Company did not produce evidence for why actual savings would be materially different from the estimate. When the Division inquired as to what the range of difference might be the Company stated only that it did not know and that its proposal to refund the lesser $20 million was not only related to uncertainty but also to its proposal that the savings offset future costs. Additionally, creditworthiness concerns are premature. The accumulated deferred income tax adjustments that will be necessary are likely to add to, not subtract from, customer benefits. Thus, refunding the known $76.2 million is not premature. It's a reasonable adjustment to reflect current, ongoing utility costs. If the revenue change resulting from following the Division's recommendation does not reflect current, ongoing costs, the Company should file a general rate case. Likewise, if a decrease in cash flows, similar to that experienced by many utilities nationwide, jeopardizes the Company's creditworthiness, it can propose treatment in its June filing to decrease this possibility. Or, it could file a general rate case to better align its revenues. Neither of these concerns is reason to deny today's customers of rates better reflecting the costs to serve them than the rates set in the last general rate case.

Finally, the Division recommends that Deer Creek mine closure costs continue to be amortized through the EBA and not be intermingled with savings from the Tax Reform Act. The Division recommended this in its comments in the EBA docket concerning interim rates. When customers look at their bill they should be able to understand that the EBA line item is related to net power costs and that a line item for tax savings is clearly a refund of tax savings. If the funds are intermingled, then clear signals are not sent to ratepayers about which costs and savings affect them. Were the Commission to move forward with the Division's recommendations, Deer Creek mine costs would still be offset by savings from tax reform on the customers' bills *and* still show in their respective line items.

CONCLUSION

The Division recommends the Commission order the Company to refund the accrued balance as of April 30, 2018 as a one-time refund and establish a new rate for the remainder of 2018. Future year's savings and accumulated deferred income tax adjustments can be made at the appropriate time based on information then available. We also recommend the Commission deny the Company's request to pull Deer Creek mine costs from the EBA and offset it with tax savings. By implementing these recommendations the Company will still have adequate time to plan for and adjust to the effects of the Tax Reform Act and ratepayers will start receiving the benefits of the Tax Reform Act sooner.

cc: Michele Beck, Office of Consumer Services
Jana Saba, Rocky Mountain Power