1407 W North Temple, Suite 330
Salt Lake City, Utah 84114

February 19, 2019

VIA ELECTRONIC FILING

Utah Public Service Commission
Heber M. Wells Building, 4th Floor
160 East 300 South
Salt Lake City, UT 84114

Attention: Gary Widerburg
Commission Secretary

RE: **Docket No. 18-035-48 –** In the Matter of the Application of Rocky Mountain Power's Request for an Accounting Order for Settlement Charges Related to its Pension Plans.

Pursuant to the Notice of Filing and Comment Period issued by the Public Service Commission of Utah (the "Commission") January 2, 2019, Rocky Mountain Power, a division of PacifiCorp ("Rocky Mountain Power" or "the Company"), hereby submits its reply comments in response to the comments filed by the intervening parties in this docket on February 1, 2019.

Rocky Mountain Power respectfully requests that all formal correspondence and requests for additional information regarding this filing be addressed to the following:

By E-mail (preferred): datarequest@pacificorp.com
utahdockets@pacificorp.com
Jana.saba@pacificorp.com
yvonne.hogle@pacificorp.com

By regular mail: Data Request Response Center
PacifiCorp
825 NE Multnomah, Suite 2000
Portland, OR 97232

Informal inquiries may be directed to Jana Saba at (801) 220-2823.

Sincerely,

Joelle Steward
Vice President, Regulation

cc: Service List Docket No. 18-035-48

R. Jeff Richards (#7294)
Yvonne R. Hogle (#7550)
1407 West North Temple, Suite 320
Salt Lake City, Utah 84116
Telephone: (801) 220-4050
Facsimile: (801) 220-3299
Email: robert.richards@pacificorp.com
yvonne.hogle@pacificorp.com

Attorneys for Rocky Mountain Power

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

Application of Rocky Mountain Power for an Accounting Order for Settlement Charges Related to its Pension Plans	Docket No. 18-035-48 **REPLY COMMENTS OF ROCKY MOUNTAIN POWER**

Pursuant to the Notice of Filing and Comment Period issued by the Public Service Commission of Utah (the "Commission") January 2, 2019 (the "Notice"), Rocky Mountain Power, a division of PacifiCorp ("Rocky Mountain Power" or "the Company"), hereby files its reply comments responding to comments of the Division of Public Utilities ("Division"), the Office of Consumer Services ("OCS") and the Utah Association of Energy Users ("UAE"), filed with the Commission February 1, 2019. The Division, the OCS and UAE may sometimes be referred to below collectively as the "Parties".

BACKGROUND

On December 31, 2018, the Company filed its Application for Approval of a Deferred Accounting Order ("Application") seeking authority from the Commission to defer and amortize the impact of a pension event. On January 2, 2019, the Commission issued its Notice

requesting comments from interested parties by February 1, 2019, and reply comments by February 19, 2019. In accordance with the Notice, the Parties filed comments related to the Application February 1, 2019.

The Parties oppose the Company's request and recommend that the Commission deny the Company's Application. In support of their recommendations, the Division and the OCS both argue that authorizing the Company's request would shield the Company from increases in expenses without providing the opportunity for parties to review offsets to expenses, and further that the cost stabilization the Company seeks is already occurring since the Company has not filed a rate case since 2014. The OCS also states that the Company has not demonstrated a "need" and that the pension event has seemingly not impacted the Company's earnings. Consequently, the OCS claims the Company should be held to a higher standard to show that the pension event qualifies for deferred accounting. The Division further notes that the cases cited by the Company in support of its Application are not precedential because they were settled cases. The UAE's single comment is that the Company has not made a persuasive or clear explanation about why deferred accounting is in the public interest in this case. The Company responds to Parties' comments, as follows.

REPLY COMMENTS

A. The pension event that occurred in 2018 qualifies for deferred accounting because it was beyond the Company's control, unusual, unique and unforeseen.

Deferred accounting gives utilities the opportunity to recover prudently incurred costs in providing utility service that are beyond the utility's control, unusual, unique and

unforeseen.[1] Utilities should be able to defer expenses or income and establish a regulatory asset or a liability for these types of items or events and amortize them over some period of time so that when rates are set, they are set on the basis of the Company's normalized cost and revenue streams. The pension event that occurred in 2018 was beyond the Company's control, unusual, unique and unforeseen and, therefore, qualifies for deferred accounting. The Company's business decision to maintain stable rates is not relevant in determining whether the 2018 pension event qualifies for deferred accounting.

B. The Division's and OCS's positions in Docket No. 08-035-93 are relevant and noteworthy.

i. Docket No. 08-035-93 (the "2008 case") is relevant and noteworthy because of the positions taken by the Division and OCS in their direct testimony before the case settled.

The Company cited cases in its Application as examples of requests for Commission authority to allow the Company to apply regulated Generally Accepted Accounting Principles ("GAAP") upon the occurrence of pension events. Although the cases were settled as noted by the Division, the parties' positions in the 2008 case *before* settlement discussions were held are relevant and noteworthy.

In the 2008 case, the Company requested permission from the Commission to allow the Company to record the impact of a pension curtailment gain as a reduction to its pension

---

[1] While the event in this case was "unforeseen" and beyond the Company's control, the Company believes that items need not always be unforeseen or beyond the Company's control to qualify for deferred accounting, consistent with past Commission decisions. See e.g. the deferral of early retirement costs associated with the Scottish Power acquisition of PacifiCorp, and the Y2K expenditures, costs associated with the Noell Kempf Climate Action Project, reengineering costs, and the Glenrock Mine Closure costs, all of which were not unforeseen, were ordered deferred with three to five year amortization periods by the Commission in Docket No. 99-035-10. The pension event related to the curtailment gain in 2008 which is described in more detail below occurred as a result of the Company's decision to change its pension options and therefore was, to some extent, within the Company's control. Yet all parties determined before settlement that it qualified for deferred accounting.

regulatory asset on its books. Absent approval, the curtailment gain would otherwise be charged to income for the Company in the then-current fiscal year ending December 31, 2008. The Company also requested permission to record the impact of a required change in pension and plan asset and liability measurement date as an addition to its regulatory asset. The Company proposed to amortize the net effect of the two items on the pension regulatory asset and indicated that its proposal was "designed to maintain normalized pension costs and avoid exposing customers to potential cost volatility from changes in certain financial accounting standards."[2]

The first component in the Company's request in the 2008 case included two curtailment events that occurred based on a change to a Company retirement choice program. The IBEW Local 659 agreed to change its retirement benefit approach to a 401(k) program only, triggering a curtailment gain. Also, non-union employees were given a choice to opt for either a 401(k) only approach or for the Company's cash balance retirement approach. The level of employee participation in the 401(k) retirement option required the Company to record a substantial curtailment gain.

In direct testimony, before settlement discussions were held, the Division's witness indicated, "[t]he Division believes the Application to defer the gain related to the pension curtailment component meets the Division's guidelines for deferred accounting treatment and recommends it should be granted."[3] The "Guidelines for Allowance of Deferred Accounting,"

---

[2] *See* Docket No. 08-035-93, Application, p. 3.
[3] Direct testimony of David T. Thompson, p. 2, ll.42-43, and p. 3, line 44.

attached to the witness's testimony ("Guidelines"), included events that are unforeseen to the extent they could not be anticipated in the ratemaking process, as well as those that are unusual, unique, infrequent, material, ongoing, and not part of normal operations.[4] Similarly, in response to a question in the OCS's witness pre-filed direct testimony, "[d]o you agree with the Company's proposal regarding the recording of the curtailment gains as an offset to the pension regulatory asset," the OCS's witness responded, "[y]es with a slight modification explained below."[5]

The Division's and the OCS's positions on whether the Company should be authorized to defer the impact of similarly unique pension events (a curtailment in 2008 and a settlement in 2018) changed since 2008 without much of an explanation. Specifically, the event here is unique, unusual, and was not anticipated. Under the Division's own Guidelines, the settlement event should qualify for deferred accounting. Instead, the Division states that the 2008 case was settled and, therefore, should not be precedential. The Division's and OCS's positions in the 2008 case were taken in direct testimony before settlement discussions were held. Thus, the fact that the 2008 case settled is not relevant.

The second component in the Company's request in 2008 pertained to the impact of the change in measurement date for pensions and other postretirement benefits that arose from a requirement under Federal Accounting Standards ("FAS") 158. The Company had historically

[4] *Id.,* Exhibit 1.1. The Company does not necessarily endorse the Division's guidelines but agrees that events that are unusual, unique and nonrecurring qualify for deferred accounting.

[5] Direct testimony of Donna Ramas, p. 4, ll. 69-72 (the slight modification pertained to changing the Company's period over which the curtailment gain was to be amortized).

used a September 30th measurement date for its pension and other postretirement benefit ("OPEB") plans. FAS 158, issued September 2006, required all entities to measure the pension and OPEB plan assets and liabilities at the fiscal year end. For the Company, this resulted in the requirement to record and recognize fifteen months of pension and OPEB expense in the then-current fiscal year ending December 31, 2008 to retained earnings. The Company had to make an adjustment of $14 million, and proposed that the $14 million be added to its existing pension regulatory asset instead.

In the OCS witness's pre-filed direct testimony in response to the question, "[d]o you agree that RMP should be permitted to record the $14 million as an increase in regulatory assets to be recovered from ratepayers in future periods?", the witness responded, "[t]ypically, this would be an allowable expense that the Committee would not oppose, when requested in a timely manner."[6] The Division's witness opposed the Company's request to record the $14 million as an increase in regulatory assets but explained, "[t]he Division would like to note that it believes that, based on the facts of this Application if the measurement date change transition amount had been put forth in the last rate case, the Division would most likely have accepted the setting up and amortizing of a regulatory asset into costs of the future test year period."[7] Importantly, the measurement date change event, like the settlement event here, was beyond the Company's control, and both the OCS and Division witnesses would have supported the

[6] *Id.,* at p. 7, ll. 154-155. (The OCS opposed the request because it indicated that the Company "was clearly aware of the change in measurement date issue, yet it did not raise the issue or make a request for special regulatory accounting treatment in that case." *Id*., at p. 9, ll. 205-206 and p. 10, l. 207).
[7] supra, n. 3, p. 13, ll. 268-271.

Company's request related to the measurement date change event if the Company had made it on a "timely" basis.

ii. Contrary to the Division's position, the pension event in this case was unusual, non-recurring and unforeseeable; therefore, it qualifies for deferred accounting.

The Division in this case also states that it does not support "ordinary pension cost variability" and that "ordinary pension costs (in this case settlements and curtailments) handled by normal pension provisions should be set for recovery only in the normal course of a general rate case."[8] It further claims, contrary to its position in the 2008 case, that the "variability of pension costs due to settlements and curtailments is ordinary and foreseeable".[9] However, the Company has not had any other pension event similar to the current event since 2008, over ten years ago. This event was not foreseeable before 2018 and was not ordinary, as evidenced by the fact that a similar event has not occurred in the past decade. It is possible that pension settlements will become more frequent if market forces keep discount rates low which sets the defined threshold at a relatively low level compared to when threshold levels were calculated when discount rates exceeded five percent. But it is difficult to predict what future discount rates will be as these are driven by market forces. In any event, the Company has not had any other pension event similar to the current event for ten years. Therefore, it is not ordinary and foreseeable.

Consistent with prior deferral applications, the Company's proposal here is designed to address a unique circumstance and maintain normalized pension costs to avoid exposing customers and the Company to potential cost volatility from circumstances beyond the

---

[8] Division comments, p. 6.
[9] *Id.*

Company's control.[10] The Company requests permission to be allowed to record the impact of a pension event as part of the Company's pension regulatory asset as an addition, not a reduction.[11] Absent approval, the pension event will otherwise be charged to income for the Company in fiscal year ending December 31, 2018.[12] The Company requests the same treatment here for a similarly unique pension event that occurred in (and hasn't occurred since) 2008 (curtailment gain) and which was supported by both the Division and the OCS at the time.[13]

C. The Company can make its request at any time and not as part of a general rate case.

i. The Company's request is not "piecemeal" ratemaking and will not shield the Company from increase in expense because parties will have the opportunity to review offsets to expenses when the Company seeks ratemaking treatment at a later date.

Both the Division and the OCS argue that the Company's request should more appropriately be made as part of a general rate case. The Application seeks approval of accounting treatment for an event that was unique and outside of the Company's control and therefore should not be dependent on filing a general rate case. It is neither practical nor in the public interest for the Company to file a general rate case every time expenses or income change as a result of an event or item and which may impact customer rates. Indeed, as both

---

[10] While the Parties indicate that the Company had control to the extent it offered the one-time distribution option as part of its pension plan, the option was added in 1988 and lump sum distributions are now common and expected.

[11] Another difference here is that the Company seeks to amortize the pension event over 21 years, closely approximating the amortization of the rest of the pension regulatory but for the pension event amount's accelerated recognition required by standard accounting principles.

[12] As the Commission is aware, there are two primary types of pension events: 1) a settlement or transaction that is an irrevocable action that relieves the employer of primary responsibility for a pension benefit obligation, and eliminates significant risks related to the obligation and the assets used to affect the settlement; and 2) a curtailment or event that significantly reduces the expected years of future services of plan employees or eliminates for a significant number of employees the accrual of defined benefits for some or all of their future services.

[13] Neither a settlement nor a curtailment creates new costs, rather, under Pension GAAP these events change the timing for recognizing the previously unrecognized net periodic benefit costs.

the Division and the OCS note, the Company has not filed a general rate case since 2014. The Company has been able to keep rates stable during this period by managing costs that are within its control in order to mitigate rate increases to customers. It is only under unique circumstances like this pension event or to ensure a matching of costs and benefits that the Company has sought accounting treatment outside of a general rate case. Nonetheless, even if the Company had filed a general rate case with a test period that captured this event, the regulatory treatment sought in this Application is the same treatment it would have sought in a rate case because of the unique circumstances of this pension event. This will allow the Company an opportunity to recover prudently incurred costs in a reasonable manner because costs are spread or "smoothed" over several periods instead of resulting in spikes in a utility's cost of service.

Moreover, in its Application, the Company was clear that it was not seeking ratemaking treatment as part of its request, only that the Company be given the opportunity to seek ratemaking treatment at some future date. Contrary to the Parties' positions, they will have the opportunity to review offsets to the Company's expenses when the Company seeks ratemaking treatment of its pension regulatory asset. Therefore, the arguments that the Company's request is "piecemeal" ratemaking and shields the Company from increases in expense without providing the opportunity to review offsets to expenses are unfounded.

ii. The request to amortize the amount related to the pension event for 21 years, consistent with the amortization period of the underlying pension regulatory asset, is not another cost recovery mechanism.

The Division's claim that the Company's request is another cost recovery mechanism is incorrect. To reiterate, the Company's Application states that it does not seek ratemaking treatment in this case. Rather, it proposes to amortize the immediate cost recognition ordinarily

triggered by a settlement event, over 21 years. Recognition over 21 years is the way the Company would have otherwise smoothed the costs had such an event not occurred. The Company seeks permission to continue to treat it as though it is part of the Company's pension regulatory asset and amortized over 21 years, the same amortization period of its pension regulatory asset. To the extent the Company files a general rate case, the Company would propose the amortization as part of its pension-related expenses. The Company will defend the level of pension-related expenses in its next general rate case.

D. The Company's current earnings have nothing to do with whether the pension event qualifies for deferred accounting.

The OCS notes that the Company should be held to a higher standard because the pension event has seemingly not impacted its earnings. The impact of the pension event on the Company's current earnings has nothing to do with whether the pension event qualifies for deferred accounting. Furthermore, even if it were true that the Company may be earning near its authorized rate of return, that is no basis for rejecting the Company's request. In fact, attempting to argue that there should be an earning's test in determining whether a pension event qualifies for deferred accounting would probably be against public policy. "A utility should be rewarded for becoming more efficient through its own efforts. If the authorized rate of return were an absolute ceiling on profits, that objective would be subverted."[14] In any event, while an earnings test would be impractical to administer because it would require a general rate case, such recommendation also suggests that costs should be deferred if a utility is under-

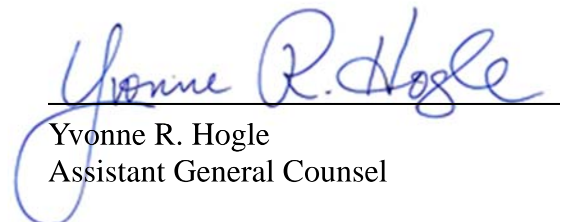
[14] *MCI Telecommunications Corp.*, 840 P.2d at 776 (holding that utilities should not be penalized for overearning unless their excess profits resulted from an unforeseen and extraordinary reduction in expenses).

earning its authorized rate of return. Decisions to defer expenses or income as a result of an event should be based on unusual and the non-recurring nature of such event. The issue of the appropriate rate of return should be handled with all of the other utility costs are presented in a general rate case.

E. Summary

In summary, the settlement that occurred as a result of decisions made by the Company's retirees in 2018 to take lump sum distributions at retirement rather than annuities qualifies for deferred accounting because it was beyond the Company's control and it was unique, unusual and non-recurring. It was as unique as the curtailment gain in the 2008 case which qualified for deferred accounting, a position that was supported by the Division and the OCS. It was as beyond the Company's control as was the measurement date change event that occurred in the 2008 case which the Division and the OCS both indicated probably qualified for deferred accounting but for the timing of the Company's request. And it is as unusual and non-recurring given that a similarly unusual pension event had not occurred since 2008, over ten years ago. Based on the foregoing, the Company respectfully requests that the Commission authorize the Company to defer and amortize the impact of the pension event as described in the Company's Application.

Respectfully submitted,
ROCKY MOUNTAIN POWER



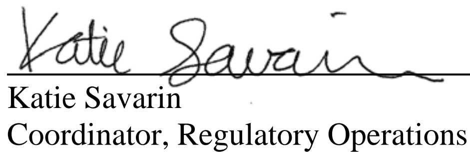
Yvonne R. Hogle
Assistant General Counsel

CERTIFICATE OF SERVICE

Docket No. 18-035-48

I hereby certify that on February 19, 2019, a true and correct copy of the foregoing was served by electronic mail to the following:

Utah Office of Consumer Services	
Cheryl Murray	cmurray@utah.gov
Michele Beck	mbeck@utah.gov
Division of Public Utilities	
Erika Tedder	etedder@utah.gov
Assistant Attorney General	
Patricia Schmid	pschmid@agutah.gov
Justin Jetter	jjetter@agutah.gov
Robert Moore	rmoore@agutah.gov
Steven Snarr	stevensnarr@agutah.gov
Rocky Mountain Power	
Data Request Response Center	datarequest@pacificorp.com
Jana Saba	jana.saba@pacificorp.com; utahdockets@pacificorp.com



Katie Savarin
Coordinator, Regulatory Operations