

PUBLIC SERVICE COMMISSION OF UTAH

Docket No. 20-035-04

PUBLIC HEARING REDACTED

November 06, 2020

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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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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)
)
Application of Rocky)
Mountain Power for Authority)
to Change its Depreciation)
Rates Effective January 1,)
2021)
_____)

DOCKETS 20-035-04 and 18-035-36

REDACTED

PUBLIC HEARING PROCEEDINGS
TAKEN VIA GOOGLE MEET
THROUGH ADVANCED REPORTING SOLUTIONS

*** CONFIDENTIAL SESSION ***

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Taken on Friday, November 6, 2020
9:00 a.m. to 9:28 a.m.

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Salt Lake City, Utah 84101

Reported by: Kimberly A. Harmon, RPR, CSR

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1 P R O C E E D I N G S

2 -o0o-

3
4 COMMISSIONER LEVAR: Okay. Good morning.
5 We'll be on the record in Public Service Commission
6 Dockets 20-035-04 and 18-035-36. This is Rocky
7 Mountain Power's general rate case and depreciation
8 case. It is Friday, November 6th, 2020, and this is
9 day 4 of the revenue requirement hearings in these
10 two dockets. My name is Thad LeVar and we have
11 Commissioner Ron Allen and Commissioner David Clark
12 also with us.

13 Before we continue with the evidentiary
14 hearing, I'm just going to ask if any of the
15 attorneys present in this portion of the hearing have
16 any objection or comment to the legal briefing
17 proposal that we outlined yesterday -- and I'll just
18 repeat what that was. Our inclination is to allow
19 but not require legal briefs to be filed in this
20 docket, up to 40 pages, on or before Friday,
21 December 4th.

22 And if any -- we have to recognize that not
23 all intervenors in the rate case are participating in
24 this phase of the hearing, so whatever we decide, we
25 will issue a notice in the docket to give notice to

1 all parties. But if any of those participating in
2 the hearing today have comments on that proposal,
3 please make those comments now.

4 MR. JETTER: Sorry. I just have a question,
5 maybe, about the scope of that. Is it -- you're
6 looking for legal analysis or summary-type briefs of
7 the testimony as well?

8 COMMISSIONER LEVAR: I don't know that we
9 have an intention to be that descriptive. I know
10 that there is -- I mean, what was expressed, at least
11 by Rocky Mountain Power in the beginning, was a
12 desire to be able to summarize the interplay between
13 the legal and factual issues because admittedly those
14 sometimes get mixed up in our hearings and we have,
15 you know, testimony that at least comes very close to
16 discussing legal issues.

17 And so there was -- my understanding was
18 just a desire for each party to try to tie those
19 together as they see fit. And I don't think -- I
20 don't think, as a commission, we have any further
21 direction than that other than to allow it for those
22 parties who want to do so.

23 MR. JETTER: Okay. Thank you.

24 COMMISSIONER LEVAR: Mr. Moscon, were you
25 wanting to make a comment?

1 MR. MOSCON: Thank you. Yeah. First,
2 before I speak to this, I've been sent a note that
3 the YouTube streaming apparently is not working, and
4 I've been asked to let the Commission know. I don't
5 know how that's -- but I was asked to relay that. So
6 there you have it, for what that's worth.

7 COMMISSIONER LEVAR: Okay. Is it still not
8 working as of this moment? I know before we started
9 streaming, the link was having trouble. I was hoping
10 that would be resolved when we started the live
11 stream.

12 Can we take -- just because I know a lot of
13 people are relying on that stream, so why don't we
14 take just a -- well, why don't we take one or two
15 minutes, not recess, but just hold on here for a
16 minute or two and try to see if that's resolved.

17 MS. SHURMAN: It's working.

18 MR. MOSCON: All right. It is up and
19 working now. So thank you.

20 First of all, thank you for indulging what
21 was my request on behalf of my client to submit, as
22 we proposed it, briefs or oral argument or both. And
23 noting, as Mr. Jetter just did, that we think that
24 there are legal issues tied in with the factual
25 issues in this case. There's -- there are different

1 statutes that have been cited, different standards,
2 and a lot of that is not addressed by the parties or
3 it's an awkward thing do with the witnesses. So we
4 thought that would be a good idea.

5 When the Commission came out with it -- its
6 kind of proposal of giving everybody up to 40 pages,
7 I've thought about it, and I would propose the
8 Commission consider a slight revision. But, of
9 course, we'll be grateful for whatever we get. And
10 I'd like to tell you why I'm going to propose a
11 slight revision.

12 The first is we all know that attorneys,
13 given a 40-page limit, will all take 42 pages, plus
14 have 15 exhibits beyond that. And I'm slightly
15 concerned that when the Commission's got such a short
16 time frame, that if it gets literally hundreds of
17 pages of briefs, that it won't have time to kind of
18 read deeply the information. So I have a little bit
19 of concern there.

20 I have a concern that if we have just
21 briefs, that if there are questions raised, it's
22 difficult for the Commission to kind of interplay
23 with the -- you know, and ask questions.

24 On the other hand, I recognize that if we
25 had just oral arguments and attorneys are making

1 legal arguments and citing cases or, you know,
2 statutes, it's very difficult for a commissioner to
3 be taking down, by hand, the laws that are being
4 cited. So that's one issue.

5 Another issue that I've been kind of
6 struggling with on behalf of my own client is we have
7 parties that have filed testimony now only in one of
8 the three phases, parties that are in two of the
9 three, and parties like mine that are in all three
10 phases.

11 If you have a party that's in only one
12 phase, they can devote 40 pages to literally one
13 topic; or if you're in two topics, you'd get 40 pages
14 heightened on two; and if you're like the Office or
15 my client, you kind of have to respond to everything
16 in the same amount of pages. And so while it seems
17 an egalitarian thing to just say everyone gets that,
18 it does pose some problems.

19 So I had this proposal for the Commission to
20 consider. If the Commission would tell the parties
21 that they could all file up to 10 pages, using it
22 however they want -- legal argument, outline, road
23 mapping, summation -- everyone gets 10 pages, that
24 could be done in a relatively short time because it's
25 not a lot of writing for the parties, and I believe

1 it would provide the Commission a usable thing that
2 they could read and not be overwhelmed with papers.

3 I would then propose that the Commission
4 convene at some point, after it has received those
5 briefs, one session for oral argument. And just like
6 it's common for a court tribunal to -- you don't just
7 have briefs or argument, you argue the briefs. The
8 Commission could ask questions of the parties based
9 on what was in the briefs, the parties would be able
10 to kind of react to what they had seen in each
11 other's briefs. And rather than just having that be
12 open-ended and take a dramatic amount of time and to
13 introduce a level of parity, I would suggest the
14 Commission give the parties up to 20 minutes per
15 phase of the hearing that they had witnesses in.

16 So if a party had witnesses in only one
17 phase, they would have up to 20 minutes; if they had
18 them in two phases, they'd have up to 40 minutes; if
19 they were in all this phases, they would have up to
20 an hour to argue their legal position, sum up the
21 case. Of course, they don't have to take that much
22 time.

23 If we did something like that, I think it
24 would allow the Commission to interact with and have
25 a dialogue with the briefs or the parties or to see

1 if there are questions. The parties could respond to
2 what they've seen in each other's, and it kind of
3 gives that level of parity that if you just have a
4 brief and they're all just the same page length that
5 I'm concerned is lacking.

6 So I know that's different than I originally
7 pitched it, so I apologize for putting the Commission
8 on the spot, but as we thought about it, that's
9 something I hope the Commission might consider.
10 Because I -- I'm just worried that long briefs
11 without an ability to respond may be overwhelming for
12 the Commission and difficult for the parties.

13 Thank you.

14 COMMISSIONER LEVAR: Okay. Thank you for
15 that feedback. I think it is probably not equitable
16 to ask all the other parties to respond to that
17 proposal on the spot right now. So we need to
18 consider the best way to -- to see how parties feel
19 about it. That might -- it might involve us issuing
20 a notice outlining the proposal you've just made
21 today or Monday and asking for one- or two-day
22 turnaround on -- if there's any objection to that
23 process.

24 So I think that's probably the direction we
25 should move, is issue some kind of notice outlining

1 the process you just described and give parties a day
2 or two to respond to it before finalizing anything.
3 But before we move forward that way, let me just see
4 if any other parties want to comment on that
5 truncated process for us to try to nail this down in
6 the next few days.

7 MR. JETTER: At least as far as the Division
8 is concerned, we're pretty flexible in whatever --
9 whatever will help the Commission get the information
10 that it needs to make its decisions. And so whatever
11 the commissioners, I think, prefer, we're happy to go
12 with. So that's kind of the only input I would have
13 is just that we'll be flexible. So we'll help in
14 whatever way that we can.

15 COMMISSIONER LEVAR: Okay. Let me just --
16 again, this is very preliminary, but just so we all
17 at least have something to think about, if we were --
18 if we were proposing briefs due on or before Friday,
19 December 4th, one possible day for oral argument
20 could be -- well, we might need to think about this,
21 as I'm looking at potential conflicts on our
22 calendar, but the following week sometime would
23 probably be the right time to try to have these
24 oral -- the oral arguments or closing statements,
25 however we decide to caption them.

1 With that, I think there's maybe not much
2 else to discuss except express our intention today or
3 Monday to issue a notice asking for a one- or two-day
4 turnaround on comments regarding a proposal to move
5 forward that way.

6 Any other comments from anyone before we
7 move back to the evidentiary hearing?

8 MR. MOSCON: Just on behalf of my client,
9 thank you for considering this. And we'll be
10 grateful for whatever the Commission gives us.

11 Thank you.

12 COMMISSIONER LEVAR: Okay. Thank you.

13 Okay. With that, we will move back to
14 Mr. Higgins.

15 Mr. Higgins, you're still under oath from
16 yesterday. And at this point, I think we're to
17 recross. So let me ask if anyone other than
18 Mr. Sabin has any recross for Mr. Higgins. If you
19 do, please indicate that you do.

20 I'm not seeing or hearing anything, so I'll
21 go to Mr. Sabin.

22 Do you have any recross for Mr. Higgins?

23 MR. SABIN: I do, very brief, but I --
24 because we were in confidential session yesterday
25 discussing these points, I'm inclined to do the same,

1 in particular because there's a couple of documents
2 that I will be sending right now that are both
3 marked -- one of them is marked, specifically,
4 confidential and was filed confidentially in the
5 Wyoming docket. And I think it is the one
6 Mr. Higgins was either reading from or quoting
7 yesterday or referring to. And because we need to
8 keep that confidential and it wasn't submitted in
9 this proceeding but it is protected in that
10 proceeding, I don't think it would be appropriate for
11 it to be public here.

12 COMMISSIONER LEVAR: Okay. With that, I
13 think the finding that the Commission made yesterday
14 would still apply to closing it today, so I don't
15 know that we need much more discussion. But if any
16 party or commissioner wants to weigh in at this
17 point, please do so.

18 And I'm not seeing or hearing anyone with
19 commentary on this, so with that, based on the
20 findings we made yesterday afternoon, we will again
21 close the hearing to the public. I'll ask that the
22 streaming be temporarily discontinued, and if
23 everyone will just take a moment and look over the
24 participant list to ensure that there's no concerns
25 there.

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16 COMMISSIONER LEVAR: Okay. We are back
17 streaming. And for those who are watching the
18 stream, I will just inform them that we were -- that
19 I was a little late getting the streaming started
20 after the confidential session ended. Mr. Dickman
21 has been sworn in, and we are moving forward from
22 that point.

23 MR. SANGER: Thank you.

24 ///

25 ///

DIRECT EXAMINATION

BY MR. SANGER:

Q. Mr. Dickman, can you state your full name and spell it out for the record?

A. Yes. It's Brian Dickman. B-R-I-A-N,
D-I-C-K-M-A-N.

Q. And who do you work for, Mr. Dickman?

A. I am an executive consultant for NewGen Strategies & Solutions.

Q. And on whose behalf today are you testifying?

A. I am providing testimony on behalf of Stadion, LLC, which is a subsidiary of Facebook.

Q. And did you file or cause to be filed rebuttal testimony which is marked as Stadion Exhibit 1?

A. Yes.

Q. And did you also file or cause to be filed Stadion Exhibits 1.1 and 1.2?

A. Yes, I did.

Q. And do you have any changes to that prefiled testimony or prefiled exhibits?

A. No, I do not.

Q. And if you were asked the same questions today, would your answers be the same?

1 A. Yes.

2 **Q. Thank you.**

3 MR. SANGER: Chair, I now move to admit the
4 rebuttal testimony and exhibits of Mr. Brian Dickman.

5 COMMISSIONER LEVAR: Thank you. If anyone
6 objects to that motion, please indicate your
7 objection.

8 I'm not seeing or hearing any objections, so
9 the motion is granted.

10 (Testimony and exhibits admitted.)

11 COMMISSIONER LEVAR: And whatever either of
12 you did, I think you solved the echo problem, so
13 thank you. Go ahead, Mr. Sanger.

14 BY MR. SANGER:

15 **Q. Mr. Dickman, have you prepared a summary of**
16 **your testimony?**

17 A. Yes, I have.

18 **Q. Can you please proceed with that summary of**
19 **your testimony?**

20 A. Yes.

21 Good morning, Chair LeVar,
22 Commissioner Clark, and Commissioner Allen. My
23 rebuttal testimony in this case responds to the
24 direct testimony filed by Dr. Joni Zenger on behalf
25 of the Division related to the contract between

1 PacifiCorp and Vitesse, LLC, a Facebook subsidiary in
2 Oregon, under which Vitesse will purchase renewable
3 energy attributes of the Pryor Mountain wind project.

4 This contract was executed according to the
5 terms of Oregon Schedule 272, which is a part of
6 PacifiCorp's Blue Sky program, and it requires
7 Vitesse to purchase all of the renewal energy
8 credits, or RECs, generated over the first 25 years
9 of Pryor Mountain's operation. PacifiCorp will
10 require the RECs on Vitesse's behalf, and revenue
11 from the contract will be passed back to PacifiCorp's
12 customers in all states.

13 Dr. Zenger pointed out that when she
14 prepared her testimony, the Schedule 272 tariff was
15 under review in PacifiCorp's Oregon general rate
16 case. And she suggested that the Oregon review may
17 be pertinent to the Utah rate case.

18 I'm currently assisting Facebook as a
19 consultant in both PacifiCorp's Oregon and Utah
20 general rate cases. In the Oregon rate case, the
21 commission staff has recommended that the Oregon
22 Commission review whether Schedule 272 should be
23 treated as a voluntary renewable energy tariff under
24 Oregon law in the future. Aside from the review of
25 Schedule 272 recommended by the Oregon Commission

1 staff, which would take place on a prospective basis,
2 no party to the Company's Oregon rate case
3 recommended any proposal regarding the executed
4 Schedule 272 agreement between Vitesse and
5 PacifiCorp.

6 Testimony in this case in Utah explains that
7 the review of the Schedule 272 tariff in Oregon was
8 not relevant to the issues in the Utah general rate
9 case, and I provide background on the Oregon
10 proceeding and renewable energy policies there.

11 A voluntary renewable energy tariff is
12 Oregon's name for what is often called a "green
13 tariff" or an optional program offered by some
14 utilities which allows the end-use customers to
15 purchase both the energy and renewable attributes
16 directly from a specific renewable project.

17 The Oregon Commission has been investigating
18 the potential implications of voluntary renewable
19 energy tariffs in that state, especially since large
20 commercial and industrial customers are already
21 allowed to opt out of utility service and choose an
22 alternative energy supplier. PacifiCorp does not
23 offer a voluntary renewable energy tariff option in
24 Oregon, so Vitesse worked with the Company to
25 purchase the Pryor Mountain RECs under Schedule 272.

1 In her surrebuttal testimony, Dr. Zenger
2 agreed that the issues under review in Oregon are not
3 relevant to the Company's Utah general rate case and
4 that the Division takes no position with respect to
5 Schedule 272 agreements in Oregon.

6 The impact of future changes to Oregon
7 Schedule 272, if any, will not affect the contract
8 between Vitesse and PacifiCorp for the purchase of
9 Pryor Mountain RECs as included in the current rate
10 case here in Utah.

11 Thank you.

12 COMMISSIONER LEVAR: Mr. Sanger, you're
13 muted.

14 MR. SANGER: Thank you, Chair.

15 How I solved the feedback problem was going
16 on mute. Thank you.

17 Mr. Dickman is available for
18 cross-examination or commissioner questions at this
19 time.

20 COMMISSIONER LEVAR: Thank you, Mr. Sanger.
21 I'll go to Mr. Jetter first.

22 Do you have any questions for Mr. Dickman?

23 MR. JETTER: I have no questions. Thank
24 you.

25 COMMISSIONER LEVAR: Thank you.

1 Mr. Snarr?

2 MR. SNARR: No questions.

3 COMMISSIONER LEVAR: Mr. Russell?

4 MR. RUSSELL: No questions. Thank you.

5 COMMISSIONER LEVAR: Mr. Holman?

6 MR. HOLMAN: No questions. Thank you.

7 COMMISSIONER LEVAR: Mr. Boehm?

8 MR. BOEHM: (No audible response.)

9 COMMISSIONER LEVAR: Okay. Does anyone from
10 Rocky Mountain Power have any questions for
11 Mr. Dickman?

12 MR. SABIN: We have no questions. Thank
13 you.

14 COMMISSIONER LEVAR: Thank you.

15 Commissioner Clark, do you have any
16 questions for Mr. Dickman?

17 COMMISSIONER CLARK: No questions. Thank
18 you.

19 COMMISSIONER LEVAR: Okay.

20 Commissioner Allen?

21 COMMISSIONER ALLEN: Thank you. No
22 questions.

23 COMMISSIONER LEVAR: I don't either. So
24 thank you for your testimony today, Mr. Dickman.

25 MR. DICKMAN: Thank you, Commissioners.

1 COMMISSIONER LEVAR: Anything further from
2 your client, Mr. Sanger?

3 MR. SANGER: No. Thank you very much.

4 COMMISSIONER LEVAR: Anything further from
5 anyone?

6 I'm not seeing or hearing anything, so with
7 the understanding that we expressed that we will
8 issue either today or Monday a notice asking for a
9 quick turnaround for any concerns with the proposal
10 that Rocky Mountain Power made for briefs and closing
11 arguments, with that, we are adjourned until Tuesday,
12 November 17th, for the cost of service phase of this
13 hearing.

14 Thank you.

15 (Public hearing proceedings were
16 adjourned at 9:28 a.m.)

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REPORTER'S CERTIFICATE

STATE OF UTAH)
)
COUNTY OF UTAH)

I, KIMBERLY A. HARMON, a Certified Shorthand Reporter and Registered Professional Reporter, hereby certify:

THAT the foregoing proceedings were taken before me at the time and place set forth in the caption hereof; that the witnesses were placed under oath to tell the truth; that the proceedings were taken down by me in shorthand and thereafter my notes were transcribed through computer-aided transcription; and the foregoing transcript constitutes a full, true, and accurate record of such testimony adduced and oral proceedings had, and of the whole thereof.

I further certify that I am not a relative or employee of any attorney of the parties, nor do I have a financial interest in the action.

I have subscribed my name on this 12th day of November, 2020.



Kimberly A. Harmon, RPR, CSR

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