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State of Utah
DEPARTMENT OF COMMERCE
Office of Consumer Services

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To: Utah Public Service Commission

From: Office of Consumer Service
Michele Beck, Director
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Date: June 2, 2020

Subject: Application of Rocky Mountain Power for a Deferred Accounting Order Regarding Costs Incurred Due to the COVID-19 Public Health Emergency. Docket No. 20-035-17.

Introduction and Background

On April 3, 2020, Rocky Mountain Power (RMP) filed with the Public Service Commission of Utah (PSC) an application for a deferred accounting order related to costs incurred due to the COVID-19 public health emergency (Application). In its Application, RMP describes certain actions it has taken with regards to all non-managed accounts[1] in order to assist customers facing extraordinary economic pressures and to support ongoing efforts to limit and slow the spread of the COVID-19 virus. For the non-managed accounts, RMP has: 1) suspended disconnections of service for non-payment, 2) suspended reconnection fees, and 3) is waiving late fees upon customer request. RMP explains that additional response may be needed as the public health emergency continues.

In its Application, RMP seeks PSC authorization to record a regulatory asset associated with costs incurred as part of its response to the COVID-19 public health emergency. The requested accounting deferral would be tied to the increase in bad debt expense caused by the COVID-19 pandemic. RMP's Application indicates that it will establish a tracking account to monitor additional costs caused by the virus and that additional accounting deferrals may be proposed as the public health emergency evolves. RMP also proposes that carrying charges be applied to COVID-19 related deferrals at the PSC approved carrying charge rate.

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[1] Non-managed accounts include residential customers and "Commercial, industrial, agricultural and federal government customers that do not have a single site load of 750kW or larger and $250,000 per year in annual electric revenue, or do not have at least $1 million in aggregate account electric revenue." (Response to OCS Data Request 1.3).

The PSC, on April 16, 2020 issued a Scheduling Order and Notice of Hearing establishing June 2, 2020 and July 21, 2020 as the dates by which interested parties may submit comments and reply comments, respectively. The following comments provide the Office of Consumer Service's (OCS) perspective on and recommendations regarding RMP's request. Donna Ramas, a consultant retained by the OCS, assisted in the preparation of these comments.

Initial Threshold and Potential Sharing Considerations

The PSC recently addressed a request by RMP for the establishment of a regulatory asset in Docket No. 18-035-48 involving the *Application of Rocky Mountain Power for an Accounting Order for Settlement Charges Related to its Pension Plans*. In the Findings and Conclusions of the Order, issued May 22, 2019, the PSC discussed Utah law as it pertains to a general rule against retroactive ratemaking, citing to *MCI Telecommunications Corp. v. PSC*, 840 P.2d 765, 770-771 (Utah 1992). While the entirety of the Findings and Conclusions are not being repeated herein, the OCS recommends that the PSC maintain consistency with its recent order as it is applicable to the current proceeding.[2] As part of the Findings and Conclusions, the PSC discussed an exception to the retroactive ratemaking provisions, stating that "The exception contemplates two conditions: (1) the event giving rise to the increase or decrease was unforeseeable; and (2) the increase or decrease is extraordinary."[3]

OCS recognizes that the COVID-19 public health emergency would qualify as an event that was unforeseeable at the time of RMP's last rate case proceeding. However, prior to authorizing the recovery of costs sought by RMP for deferral, the impact of the increase in costs caused by the unforeseeable event must also have an extraordinary effect on RMP's earnings. Thus, in evaluating whether or not the requested COVID-19 regulatory asset should be recovered from RMP's customers, whether or not the impact of the costs being deferred is extraordinary must also be evaluated. The extent of the impacts on costs incurred by RMP as a result of its response to the COVID-19 public health emergency remains unknown at this time due to the high degree of uncertainty regarding the full impact of the public health emergency and the potential duration thereof. While the impact on expenses incurred by RMP could ultimately reach an extraordinary level, whether or not that will occur is yet unknown.

Additionally, many non-rate regulated businesses in Utah, and throughout the United States, are experiencing significant financial impacts and hardships as a result of the public health emergency. Many businesses will not make it out of this crisis as viable entities, and very few are likely to make it out of the crisis unscathed. Given the impact on individuals from this public health crisis, the full impact of which is yet unknown, the ability of non-rate regulated businesses to simply pass increased costs and higher levels of uncollectible accounts resulting from the pandemic on to remaining customers and

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[2] For ease of review, *Application of Rocky Mountain Power for an Accounting Order for Settlement Charges related to Pensions,* Order, Docket 18-035-48 (Utah P.S.C., May 22, 2019), is attached to these comments.
[3] *Id.* at 4.

future customers without also sharing in the economic burdens is problematic. Given this economic reality of what will likely occur for non-rate regulated business entities, whether or not RMP should be permitted to fully recover increases in uncollectible accounts from its remaining and future customers should not be a foregone conclusion. Since the full impacts of the public health emergency on the citizens of the State of Utah and businesses within the State of Utah are not yet known or knowable, it would be reasonable and appropriate for the Commission to hold off on reaching judgement regarding whether or not RMP should be permitted to fully recover increases in uncollectible accounts caused by the COVID-19 public health emergency from its captive ratepayers at this time. A sharing of such financial impacts between the Company's shareholders and remaining customers may be a reasonable result given the extenuating circumstances.

Bad Debt Regulatory Asset

RMP seeks approval to defer the incremental costs associated with the increase in bad debt expense resulting from the COVID-19 public health emergency as a regulatory asset. The suspension of disconnections during the public health emergency, coupled with the significant economic impact on RMP's customers during this trying time, is likely to cause an increase in the percentage of retail revenues that ultimately become uncollectible, thereby increasing bad debt expense. RMP indicates at paragraph 6 of its Application that it estimates the cost impacts will be material, but it has not yet provided an estimate of the cost impacts.

In determining the amount to be deferred, RMP proposes to use calendar year 2019 as the baseline for bad debt expense, with costs incurred in excess of the baseline being recorded in a regulatory asset account. RMP provided the 2019 baseline for Utah bad debt expense in Table 1 of its Application. Table 1 presented the 2019 "Net Write-offs" of $3,868,502, 2019 retail revenues of $1,988,715,510, and the 2019 uncollectible rate of 0.195% calculated as the ratio of net write-offs to retail revenues. The Application did not include an explanation of how the baseline amounts presented in Table 1 would be used to calculate the amount to be deferred. When asked in OCS Data Request 1.12 how RMP intends to calculate the amounts to be recorded in its proposed deferral account, the response explained "The Company intends to set up a regulatory asset for any additional bad debt expense that exceeds the .195% uncollectible rate." The example of the proposed calculation method provided by RMP in an attachment to the data response is presented below:

Line #	Description	2019 (Base)	Assumed 2020
1	General Business Revenues	1,988,715,510	2,000,000,000
2	Uncollectible Amount	3,868,502	4,500,000
3	Uncollectible Rate	0.195%	0.225%
4			
5	Uncollectible Expense (Ln. 1 x Ln. 3 (Base))		3,890,453
6	Deferred Uncollectible Expense (Ln. 2 - Ln. 5)		609,547

As shown in the above RMP provided calculation, the determination of the amount to be deferred would be tied to the actual 2019 uncollectible rate of 0.195%, with the uncollectible amount exceeding the 0.195% baseline uncollectible rate during the deferral period being deferred in the regulatory asset account.

Many estimates and assumptions come into play in accounting for the portion of outstanding revenues that are ultimately unrecoverable and determining the amount of associated bad debt expense recorded on a company's books and records. This includes estimates of the amount of outstanding revenues that have been earned by a company that will ultimately be uncollectible. Factors such as past recovery rates of outstanding receivables based on the number of days outstanding (i.e., aging of accounts receivable) come into play, with different estimated percentage recovery rates applied to different receivable aging groups which is informed by past experience. Additionally, the subsequent recovery of customer accounts that were previously written-off on a company's books also impact the assumptions used in estimating the amount of bad debt expense recorded on a company's books. It is not yet known the extent to which the public health emergency will impact the level of revenues that will ultimately become uncollectible, and assumptions will need to be made in RMP's accounting process in estimating the amount of bad debt expense to record on its books. Additionally, changes in collection policies and procedures will impact the ultimate amount that is collected, and changes in accounting policies and procedures can impact the resulting amount of estimated bad debt expense that is recorded on a company's books.

OCS does not object to the establishment of a regulatory asset to record the incremental increase in bad debt expense caused by the public health emergency, and agrees that the use of the 2019 uncollectible rate of 0.195% in calculating the amount to be deferred appears to be a reasonable approach so long as the underlying bad debt costs recorded by RMP during the deferral period are subject to close scrutiny prior to determination of potential recovery of the regulatory asset from ratepayers. The focus should be to ensure that nothing more than the incremental increase in uncollectible retail revenues caused by the COVID-19 public health emergency are recovered through the regulatory asset account (subject to review that the costs are found to be extraordinary). With the high level of assumptions and estimates used in determining the amount of bad debt expense recorded on RMP's books, the uncertainty regarding the impact of the public health emergency on the accuracy of the assumptions and estimates ultimately used, and the fact that a portion of outstanding accounts that end up being written-off are subsequently recovered—a detailed review of the bad debt cost ultimately deferred by RMP in the regulatory asset account will be needed. In the Recommendations section of these comments, OCS presents several recommended reporting requirements that will aid in the review to ensure that only the incremental increases in actual uncollectible amounts are included in the regulatory asset.

Inclusion of Late Fees in the Regulatory Asset

The Application indicates that RMP is waiving late fees on non-managed accounts "upon customer request." OCS anticipates that the suspension of disconnections coupled with the financial hardship many customers are experiencing as a result of the public health emergency will result in delayed payments for some impacted customers and potential inability to pay for others. This will result in an increase in late fees being charged by RMP and added to customer bills. Many of RMP's residential customers and other non-managed account customers are likely to be unaware that RMP is waiving late fees on request. In response to OCS Data Request 1.5, RMP indicates that when late fees are waived, they are reversed on a customer's account with both the revenue balance and the accounts receivable balance being reduced on RMP's books. However, for customers that do not request the late fee be waived, the late fees remain in the accounts receivable balance. Thus, if such customer accounts ultimately end up being uncollectible and written-off, the late fees will presumably be included in the bad debt expense that is deferred in the regulatory asset by RMP. RMP's response to OCS Data Request 1.6 indicates that the 2019 net-write offs, which ties to the 2019 uncollectible expense and impacts the resulting 0.195% uncollectible rate, included $269,076 for late fees that were written-off.

While OCS does not object to the establishment of a regulatory asset to record the incremental increase in bad debt expense caused by the public health emergency, as discussed in the previous section of these comments, OCS is not supportive of any incremental increase in late fees recorded by RMP as a result of the public health emergency being included as a component of the bad debt regulatory asset to potentially be recovered from customers. Such late fees would be in addition to the base rates charged to customers for the provision of electric service from RMP and RMP should not be allowed to include such an additional incremental source of revenue in the regulatory asset to be potentially recovered from future customers.

Potential Additional Regulatory Assets

In its Application, at Paragraph 4, RMP expresses its intent to "establish a tracking account to monitor additional costs associated with the COVID-19 emergency, including any fees waived, for possible approval for deferral and recovery in a future proceeding." RMP has committed to provide information on the additional COVID-19 related costs being tracked in its proposed quarterly updates to the PSC.[4] At Paragraph 11 of the Application, RMP states, in part: "To the extent the Company identifies any new costs related to its COVID-19 response that it proposes to use deferred accounting for, the Company will separately file with an explanation why deferral and potential recovery is appropriate, and what baseline will be used to calculate the deferral for that cost category."

It is reasonable for RMP to be tracking costs it incurs as part of its response to the COVID-19 public health emergency. In fact, RMP does not need PSC approval to simply

[4] Application at Paragraph 11.

track costs it is incurring. The tracking of costs does not equate to the authorization of a regulatory asset, and as such, there is no objection to the tracking of costs by RMP. However, if RMP intends to seek the establishment of a future regulatory asset for potential recovery of such costs it is tracking, it should also track any incremental cost savings it may realize as a result of the public health emergency. A lot remains unknown regarding the potential costs and impacts that could result from COVID-19 as well as the duration of the impacts. Any tracking should be done on a balanced approach to ensure that both costs and savings are considered prior to the potential approval of future COVID-19 regulatory assets.

In the event RMP does in fact request PSC authorization for the establishment of additional COVID-19 costs as regulatory assets, parties should be granted the opportunity to issue discovery on the request with the provision for comments and reply comments on the request so that the PSC can make an informed decision that takes into consideration the recommendations of non-RMP parties such as OCS and the Division of Public Utilities (DPU).

Given the degree of unknowns regarding the potential impacts on RMP and its operations, and uncertainty regarding potential COVID-19 related regulatory assets RMP may seek to establish, OCS is unable to opine on the reasonableness of the establishment of potential future COVID-19 related regulatory assets at this time. However, OCS does wish to put RMP on notice that OCS is highly likely to oppose any requests to recover claimed lost revenues or waived fees as potential regulatory assets. Additionally, it should be established that the costs have the potential to reach a level to be considered extraordinary prior to authorization of the requested regulatory asset, and a finding that the costs would have an extraordinary effect on RMP's earnings absent the deferral prior to recovery from ratepayers being permitted.[5]

Requested Carrying Charge

In the Application, at Paragraph 9, RMP "proposes to record a carrying charge on the COVID-19 related deferrals at the Commission approved carrying charge rate." OCS strongly recommends that the PSC reject this request. Included in carrying charges are not only debt costs, but also a profit to shareholders through the equity return component. In evaluating the carrying charge request, focus and perspective should be placed on the fact that the requested regulatory asset associated with the deferral of increased bad debt expense will be caused by <u>customers being unable to pay their bills as a result of the COVID-19 public health emergency</u>. RMP's future customers are being asked not only to provide funds to RMP at a yet-to-be determined future time for the portion of electric bills that some of the current customers will be unable to pay due to the severe impacts of the crisis (i.e., the incremental bad debt costs), but to also pay RMP a return on those amounts. Customers are not being made whole for the numerous financial hardships they are facing and continue to face as a result of the pandemic. While RMP may be

[5] See *Application of Rocky Mountain Power for an Accounting Order for Settlement Charges related to Pensions*, Order, Docket 18-035-48 at 4 (Utah P.S.C., May 22, 2019)

provided the opportunity to recover incremental costs it incurs as a result of its response to the COVID-19 public health emergency, which is much more than many of its customers are able to achieve, RMP should not also earn a return on the amounts deferred. Given the significant impacts of the public health emergency on RMP's customers, particularly on their potential physical health and financial wellbeing, RMP's request to be entitled to earn a return on the amounts it is permitted to defer for future recovery is particularly distasteful.

Recommendations

OCS recommends that the PSC approve RMP's request to establish a regulatory asset to record the increase in bad debt expense associated with the COVID-19 public health emergency, subject to the following conditions:

1. The determination of the increase in bad debt expense should be calculated based on the amount by which the bad debt expense exceeds a 2019 base-line uncollectible rate of 0.195%. Amounts recorded in the regulatory asset should be subject to in depth review at the time it is requested to be recovered from ratepayers, since the recording of bad debt expense is subject to accounting estimates and assumptions and since RMP has not yet demonstrated that the costs will be extraordinary in magnitude
2. The write-off of incremental late fees caused by the COVID-19 public health emergency should not be allowed for inclusion in the requested regulatory asset.
3. In light of the significant economic impact on RMP's Utah customers resulting from the public health emergency, RMP's request to record carrying charges on the COVID-19 related deferrals should be rejected.
4. Potential recovery of the requested regulatory asset should be established at a future date. The impact on RMP's earnings associated with RMP's response to the COVID-19 public health emergency needs to reach a level to be considered extraordinary prior to being approved for recovery from RMP's customers. Whether or not the impact reaches the level of being considered extraordinary cannot yet be established based on the information known at this time. Additionally, whether or not there should be a sharing of the amounts accumulated in the regulatory asset between RMP and its captive ratepayers should be decided by the Commission at a future time when the full extent of the public health emergency on the citizens of the State of Utah and businesses in the State of Utah can be evaluated.
5. RMP's proposed quarterly reports, to be provided 30 days after the end of each quarter, should be a requirement for approval of the requested accounting deferral. OCS recommends that RMP proposed quarterly reports also include, at a minimum, the following information:
    a. The total amount of Utah jurisdictional bad debt expense pre-deferral (i.e., total amount the expense would be absent the deferral), the

amount of bad debt costs deferred, and the calculation of the deferred amount.

b. The amount included in the Utah jurisdictional bad debt expense pre-deferral and in the deferred bad debt costs associated with write-off of late fees.
c. The actual amount on a Utah jurisdictional basis of write-offs of bad debt, recoveries of bad debt previously written-off, and the resulting net write-off of bad debt.
d. In addition to the information being tracked and provided by RMP related to costs incurred due to COVID-19, RMP should also be required to track and report cost-savings resulting from the COVID-19 public health emergency, if any, in the reports.
e. If any changes are made to RMP's policies and/or procedures regarding: (i) the pursuit of past due accounts; (ii) estimating uncollectible accounts and bad debt expense; and (iii) accounting for bad debt expense, RMP should be required to include detailed descriptions of any such changes in the quarterly reports and identify the effective date of the change. With the description of the change in policies and/or procedures, RMP should explain why any change was implemented and describe the anticipated impact of the change on the regulatory asset associated with the increase in bad debt expense caused by the COVID-19 public health emergency.

6. In the event RMP proposes to use deferred accounting for any additional costs related to its COVID-19 response, such requests should be submitted in this docket for ease of review and administration. This would allow the various impacts of RMP's COVID-19 response to be considered in a combined manner. In the event of such RMP proposal(s) for additional COVID-19 related deferred accounting, OCS, DPU and other interested parties should be given the opportunity to conduct discovery on the request and file comments on RMP's request for the PSC's consideration prior to the PSC's ruling on the request. Cost savings to RMP resulting from the COVID-19 public health emergency, if any, should also be taken into consideration prior to the approval of additional COVID-19 related regulatory assets.
7. OCS recommends that the end date for any COVID-19 public health emergency-related regulatory asset deferral(s) ultimately approved by the PSC be preliminarily set as December 31, 2020, with a review of potential extension of the deferral period taking place in December 2020. If the deferral period is extended beyond the recommended initial December 31, 2020 end-date, then the extension period could be addressed by the parties and re-evaluated by the PSC on a quarterly or semi-annual basis thereafter.