

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

Application of Rocky Mountain Power for a Deferred Accounting Order Regarding Costs Incurred Due to the COVID-19 Public Health Emergency	<u>DOCKET NO. 20-035-17</u>  <u>ORDER APPROVING</u> <u>ACCOUNTING ORDER</u>
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ISSUED: September 15, 2020

SYNOPSIS

The Public Service Commission (PSC) approves Rocky Mountain Power's (RMP) application for a deferred accounting order pertaining to certain costs RMP incurred as a result of the COVID-19 Public Health Emergency.

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**I. BACKGROUND AND PROCEDURAL HISTORY**

On April 3, 2020, RMP filed an Application for Accounting Order ("Application"), requesting the PSC authorize RMP to record a regulatory asset associated with certain costs it incurred responding to the COVID-19 Public Health Emergency ("COVID PHE").<sup>1</sup> The Application also requests the PSC allow a carrying charge on the deferred costs at the PSC-approved rate.<sup>2</sup>

On June 1, 2020, the Division of Public Utilities (DPU) filed comments supporting the Application, subject to certain conditions. On June 2, 2020, the Office of Consumer Services (OCS) filed comments also recommending approval of the Application in part and subject to certain conditions. RMP and OCS filed reply comments on July 21, 2020.

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<sup>1</sup> On March 6, 2020, Utah Governor Gary Herbert declared a state of emergency in response to the evolving outbreak of novel coronavirus. See March 6, 2020 press release from the Utah Governor's Office (available at, <https://governor.utah.gov/2020/03/06/gov-herbert-declares-state-of-emergency/>).

<sup>2</sup> Application at ¶ 9.

The PSC held a hearing on August 4, 2020, during which witnesses for RMP, DPU, and OCS testified.

## II. THE APPLICATION

The Application states RMP is experiencing an increase in its bad debt expense (BDE) related to the COVID PHE and describes the need to establish a deferral account in which to record the associated incremental costs.<sup>3</sup> The Application notes that RMP intends to establish a tracking account to monitor additional costs associated with the COVID PHE and that RMP may seek deferral and recovery of such costs in a future proceeding.<sup>4</sup>

In response to the COVID PHE, RMP has suspended service disconnections for non-payment and is waiving late fees upon customer request (for non-managed accounts). RMP has also suspended reconnection fees for such accounts. RMP represents it took these actions to assist customers facing extraordinary economic pressures as a result of the COVID PHE and to support Utah's ongoing efforts to limit and slow the spread of the disease. RMP asserts that, based on preliminary estimates, costs related to its COVID PHE response efforts will be material<sup>5</sup> and the risks related to RMP's response are well outside of its ordinary business risks.<sup>6</sup>

If the accounting order is granted, RMP will record the deferral as a regulatory asset in FERC Account 182.3, "Other Regulatory Assets," and credit the appropriate FERC accounts associated with the BDE (*e.g.*, FERC Account 904, "Uncollectible Accounts").<sup>7</sup> RMP proposes

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<sup>3</sup> *Id.* at ¶ 4.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at ¶ 6.

<sup>6</sup> *Id.* at ¶ 5.

<sup>7</sup> *Id.* at ¶ 8.

to use calendar year (CY) 2019 as the baseline for BDE and to record costs and revenues incurred in excess of the CY 2019 baselines in the deferral account. As presented by RMP, the CY 2019 BDE rate is 0.195 percent.<sup>8</sup> RMP proposes to record a carrying charge on the COVID PHE-related deferrals at the PSC approved carrying charge rate.<sup>9</sup>

RMP acknowledges in the Application that PSC approval to defer the COVID PHE-related costs will not constitute approval of ultimate recovery of those costs and that the costs would be subject to a prudence review in a future regulatory proceeding.<sup>10</sup> RMP's Application also proposes: (1) certain quarterly reporting to be provided 30 days after the end of the quarter; (2) tracking and monitoring of additional COVID PHE-related costs for possible approval of deferral and recovery in a future proceeding; and (3) filing requirements pertaining to future requests for deferral.<sup>11</sup>

### **III. COMMENTS**

DPU recommends the PSC approve the Application, conditioned on the PSC's review and approval of the actual costs that RMP incurs consistent with the method described in the Application. DPU generally agrees with RMP that the COVID PHE constitutes an unforeseen and extraordinary event. DPU also recommends that RMP analyze, track, and report potential

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<sup>8</sup> RMP determined the 2019 uncollectible rate by dividing the net amount it wrote off in CY 2019 (\$3,868,502) by its Utah retail revenues (\$1,988,715,510) for the same year.

<sup>9</sup> Application at 4, ¶ 9.

<sup>10</sup> *Id.* at ¶ 10.

<sup>11</sup> *Id.* at ¶¶ 4, 11.

COVID PHE savings to mitigate RMP's COVID PHE costs. With these conditions, DPU believes approval of the Application is just, reasonable, and in the public interest.<sup>12</sup>

OCS recommends approval of RMP's request for a deferred accounting order with the following modifications: (1) written-off incremental late fees are not included in the regulatory asset;<sup>13</sup> and (2) no carrying charge applies to the deferrals;<sup>14</sup> (3) certain enhancements to RMP's proposed quarterly reports;<sup>15</sup> and (4) a preliminary expiration date of December 31, 2020 for the initial deferral period. The OCS emphasizes that the PSC should later evaluate potential sharing of the amounts accumulated in the regulatory asset between RMP and ratepayers once parties understand the full extent of the emergency.<sup>16</sup> OCS also recommends that RMP submit any future request for deferred accounting related to its COVID PHE response in the instant docket for ease of review.

In reply, RMP agrees to adopt the additional reporting requirements that the OCS recommended. RMP also commits to seek PSC authorization before including any additional COVID PHE-related expenses in the regulatory asset and to obtain permission from the PSC before extending deferrals beyond December 31, 2020.<sup>17</sup>

Further, as requested by DPU, RMP has identified certain cost savings and agrees to identify and quantify these savings as a potential offset to the deferred costs at the time it seeks

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<sup>12</sup> DPU's Comments at 2.

<sup>13</sup> OCS's Comments at 5.

<sup>14</sup> *Id.* at 6-7.

<sup>15</sup> *Id.* at 7-8.

<sup>16</sup> Hr'g Tr. at 26:16-21.

<sup>17</sup> RMP's Reply Comments at 3.

recovery of them.<sup>18</sup> RMP also states it has identified certain other cost categories it will track for possible future deferral and recovery. If RMP later elects to seek deferral of these costs, it will file supporting information in this docket.<sup>19</sup>

Regarding the proposed carrying charge, RMP testified it should be permitted to account for the time value of money and clarified it is not seeking its allowed full rate of return but a lower customer deposit rate consistent with “most regulatory assets and liabilities.”<sup>20</sup> At hearing, RMP testified it will track waived late fees resulting from the COVID PHE for possible future recovery but it is not presently seeking to include these fees in the deferral account.<sup>21</sup>

#### **IV. DISCUSSION, FINDINGS OF FACT, AND CONCLUSIONS OF LAW**

Regulation of utilities’ accounting practices is a fundamental and essential tool in service of Title 54’s objective of ensuring just and reasonable rates.<sup>22</sup> Consequently, Utah Code Ann. § 54-4-23 grants the PSC broad jurisdiction to prescribe accounts and accounting practices public utilities must use and follow.

In this docket, RMP seeks an accounting order whereby its incurrence of certain COVID PHE-related costs can be accounted for in a manner providing an opportunity for future recovery in rates. The parties generally agree that deferred accounting is appropriate and that standards set

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<sup>18</sup> *Id.* at 3-4.

<sup>19</sup> *Id.* at 4.

<sup>20</sup> *Id.* at 4-5.

<sup>21</sup> Hr’g Tr. at 7:14-22.

<sup>22</sup> *See, e.g.*, Utah Code Ann. § 54-4-4.1.

forth in *MCI Telecommunications Corp. v. Public Service Commission of Utah*, 840 P.2d 765, 771 (Utah 1992) should pertain to any eventual recovery.<sup>23</sup>

Having reviewed the parties' comments and evidence and noting the absence of opposition, the PSC finds and concludes the COVID-PHE presents circumstances that warrant accounting for potential deferred recovery. RMP's ultimate recovery and potential sharing of the deferred amounts are issues to be determined in a future proceeding.

RMP has stipulated to the OCS's and DPU's respective recommendations regarding (1) tracking certain costs and savings for possible future inclusion in the deferred account; (2) enhanced reporting; (3) various filing requirements; and (4) a preliminary expiration date. Based on our review of the evidence, we find and conclude these modifications are consistent with applicable law, reasonable, and in the public interest.

OCS and DPU do not contest RMP's proposed method for tracking BDE. However, OCS argues RMP should not be allowed to include late fees in the regulatory asset as an additional incremental source of revenue. We have previously concluded that the late fee identified in RMP's Electric Service Schedule 300, Regulation Charges, is not cost based and principally serves to encourage prompt payment.<sup>24</sup> Therefore, we conclude OCS's proposal to exclude incremental late fees above the CY 2019 level identified in OCS Data Request 1.6 (\$269,076) from the deferral account is consistent with applicable law, reasonable, and in the public interest.

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<sup>23</sup> See, e.g., RMP's Reply Comments at 3.

<sup>24</sup> *In the Matter of the Investigation into the Reasonableness of Rates and Charges of PacifiCorp, dba Utah Power & Light Company*, Docket No. 97-035-01, Report and Order issued March 4, 1999 at 71.

The only remaining disputed issue concerns whether the PSC-approved carrying charge should apply to the regulatory asset. OCS opposes RMP's proposal in light of the COVID PHE's significant impact on customers, pointing out the deferred amounts arise out of economically distressed customers' inability to pay. Further, while RMP may be provided the opportunity to recover the incremental costs it incurs as a result of its response to the COVID PHE, OCS asserts customers are not being made whole for the numerous financial hardships they are facing and continue to face as a result of the pandemic. RMP argues that because it is carrying the bad debt deferral cost until it is permitted recovery, it should be allowed to apply a carrying charge to the deferral amount to account for the time value of money similar to other deferrals. In addition, RMP asserts applying a carrying charge on the amounts in the deferral account is consistent with past practice concerning regulatory assets and liabilities.

We recognize RMP is encountering a potential increase in BDE that it would not incur but for the pandemic, subject to our future determination that the associated costs were prudently incurred and the result of unforeseen and extraordinary circumstances. Given that BDE is a recognized component of just and reasonable rates, we find RMP's Application, comments, and testimony provide ample rationale for accrual of the typical carrying cost. RMP is not seeking its full rate of return but the lower customer deposit rate consistent with most regulatory assets and liabilities. We find and conclude the delay in rate recovery occasioned by the use of the deferred accounting mechanism warrants a reasonable carrying cost consistent with the carrying charge

we routinely apply to such accounts. Therefore, we find application of our approved carrying charge rate<sup>25</sup> to the regulatory asset is reasonable, and we approve it.

**V. ORDER**

1. We authorize RMP to establish a regulatory asset to record costs associated with its COVID PHE response, effective until December 31, 2020;
2. RMP shall comply with the reporting, tracking, and filing requirements to which it agreed in its Reply Comments and testimony;
3. RMP shall not include non-waived late fees in this regulatory asset; and
4. We approve RMP's preliminary request to apply the PSC-approved carrying charge on the deferred amounts.

DATED at Salt Lake City, Utah, September 15, 2020.

/s/ Michael J. Hammer  
Presiding Officer

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<sup>25</sup> See, e.g., *Rocky Mountain Power's Proposed Tariff Revisions to Electric Service Schedule No. 300, Regulation Charges*, Docket No. 20-035-T01, Order issued March 3, 2020.



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Approved and Confirmed September 15, 2020 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#315406

Notice of Opportunity for Agency Review or Rehearing

Pursuant to §§ 63G-4-301 and 54-7-15 of the Utah Code, an aggrieved party may request agency review or rehearing of this Order by filing a written request with the PSC within 30 days after the issuance of this 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 does not grant a request for review or rehearing within 30 days after the filing of the request, 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 §§ 63G-4-401 and 63G-4-403 of the Utah Code and Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on September 15, 2020, a true and correct copy of the foregoing was delivered upon the following as indicated below:

By Email:

Data Request Response Center ([datareq@pacificorp.com](mailto:datareq@pacificorp.com), [utahdockets@pacificorp.com](mailto:utahdockets@pacificorp.com))  
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Administrative Assistant