



SPENCER J. COX
Governor

DEIDRE M. HENDERSON
Lieutenant Governor

State of Utah
DEPARTMENT OF COMMERCE
Office of Consumer Services

MICHELE BECK
Director

To: The Public Service Commission of Utah

From: The Office of Consumer Services

Michele Beck, Director
Béla Vastag, Utility Analyst

Date: August 28, 2023

Subject: Docket 23-035-27

Rocky Mountain Power's 2023 Wildland Fire Cost and Compliance Report – Phase 2 Comments (Section 5 of Report)

INTRODUCTION

On June 1, 2023, Rocky Mountain Power (“RMP”) filed with the Utah Public Service Commission (“PSC”) its 2023 Wildland Fire Cost and Compliance Report (“Report”). On July 12, 2023, the PSC issued a Scheduling Order and Notice of Hearing. The PSC adopted the parties’ request from the July 10, 2023 scheduling conference to bifurcate the schedule into two phases – Phase I on 2022 accomplishments (Sections 1 thru 4 of the Report) and Phase II on RMP’s cost recovery and a requested rate increase (Section 5 of the Report). The Scheduling Order set a Phase II deadline of August 28, 2023 for parties to file initial comments and September 22, 2023 for reply comments on RMP’s 2023 Cost Report. Pursuant to the PSC’s Scheduling Order, the Utah Office of Consumer Services (“OCS”) submits these Phase II initial comments in this docket.

OFFICE OF CONSUMER SERVICES PHASE 2 COMMENTS

Background on Wildland Fire Protection Plan and Reporting Requirements

The 2020 Wildland Fire Planning and Cost Recovery Act (“WFPCRA”) requires RMP to prepare and submit for approval a wildland fire protection plan and gives the PSC the authority to review and approve the wildland fire protection plan.¹ In addition, the WFPCRA allows RMP to recover, through rates, the capital investment and expenses prudently incurred to implement its wildland fire protection plan. RMP is required to annually report the prior year actual capital investments and expenses incurred for the implementation of a wildland fire protection plan to the PSC.

¹ See Utah Code Chapter 24 Wildland Fire Planning and Cost Recovery Act, § 54-24-101 to 203.

PSC Rule R746-315 governs the regulatory process for reviewing RMPs Wildland Fire Protection Plan and RMP's annual Wildland Fire Cost and Compliance Report. R746-315-3 (6) states:

*...the Commission will issue an order regarding the qualified utility's cost and compliance report, and, to the extent requested by the qualified utility, approving any deferral and collection of the incremental revenue requirement reasonably demonstrated by such report, provided the Commission finds the cost and compliance report satisfies statutory requirements and that **the reported costs were prudently incurred.** [emphasis added]*

OCS Phase 2 Review

The OCS has primarily conducted a review of the actual O&M expenditures in 2021 and 2022 for RMP's wildland fire protection efforts. As discussed in our August 11, 2023 initial comments in Phase 1 of this docket, RMP's O&M actual expenditures have been more than double (over 100% higher) than what was budgeted in RMP's original 2020 Wildland Fire Protection Plan. These costs are the primary driver for RMP's request of a rate increase, an increase of 0.51% for residential customers,² through the Wildfire Mitigation Balancing Account, Electric Service Schedule No. 97, in this docket. In total, from all customers, RMP wants to increase rates by the under collected balance as of May 1, 2023 of \$6,834,479.³

Through the discovery process, the OCS has attempted to acquire some details regarding the high level categories of expenses summarized in RMP's Report. Receiving results through our discovery process has been slow and we have not yet been able to review sufficient detail to attempt to determine if the "reported costs were prudently incurred."

To illustrate the problem we are dealing with in verifying costs, RMP's June 2023 Report only contains a very high level overview of O&M costs as shown in the table below.⁴

² See pdf pages 46 and 47 of RMP's June 1, 2023 Cost and Compliance Report.

³ Id., Attachment A, page 1 of 1, pdf page 21.

⁴ Id., pdf pages 7 - 9 (or Report pages 5 - 7), see Table 3 & Table 4. In the table below, the OCS replaced the column labeled "2023 Budget" from Table 4 in the Report with the column labeled "2023 Forecast" from Table 3.

Utah Wildland Fire Protection Implementation Summary – O&M Budget 2020-2024						
\$ Millions	2020 Actual	2021 Actual	2022 Actual	2023 Forecast	2024 Budget	Total
Distribution						
Advanced Protection	\$0.00	\$0.10	\$0.10	\$0.20	\$0.20	\$0.60
Environmental	\$0.00	\$0.30	\$0.30	\$0.40	\$0.40	\$1.40
Inspections and Corrections	\$2.60	\$1.30	\$4.90	\$1.90	\$4.30	\$15.00
Situational Awareness	\$0.20	\$0.40	\$3.70	\$3.00	\$3.30	\$10.60
System Hardening	\$0.00	\$0.10	\$0.00	\$0.20	\$0.20	\$0.50
Vegetation Management	\$0.00	\$2.80	\$2.70	\$1.30	\$2.10	\$8.90
Total Distribution	\$2.80	\$5.00	\$11.70	\$7.00	\$10.50	\$37.00
Transmission						
Advanced Protection	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Environmental	\$0.00	\$0.00	\$0.00	\$0.10	\$0.10	\$0.20
Inspections and Corrections	\$0.70	\$0.80	\$0.40	\$0.20	\$0.20	\$2.30
Situational Awareness	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
System Hardening	\$0.30	\$0.10	\$0.10	\$0.00	\$0.00	\$0.50
Vegetation Management	\$0.00	\$0.10	\$0.10	\$0.20	\$0.20	\$0.60
Total Transmission	\$1.00	\$1.00	\$0.60	\$0.50	\$0.50	\$3.60
Total Costs	\$3.80	\$6.00	\$12.30	\$11.70	\$11.00	\$44.80
Original 2020 Estimate	\$4.30	\$5.00	\$4.80	\$4.90	\$4.90	\$23.90
Variance	(\$0.50)	\$1.00	\$7.50	\$6.80	\$6.10	\$20.90

After our first round of discovery, RMP’s initial response to OCS’s data requests (“DR”) asking for more detail only produced slightly more detail as shown in the updated table below.⁵

⁵ The updated table below was provided by RMP in response to DR OCS 1.2 as an attachment, “23-035-27 Attach OCS 1.2-2.xlsx”, on July 25, 2023.

Rocky Mountain Power T&D Operations		
Wildland Fire Mitigation Balancing Account		
Base Calculation Mechanism		
	2021 Annual Total	2022 Annual Total
<u>Expenses</u>		
Distribution		
Vegetation Management	2,785,836	2,653,273
FHCA Inspections detail sound and bore	549,427	420,236
Condition Corrections	793,777	3,382,461
Wood pole wrap	62,121	-
Grant Study		134,228
Weather Monitoring		129,579
Cell for Fault Indicators		103,261
Community Mtgs, Advertising, Membership	83,773	135,302
Weather Station maint	41,708	74,748
EMS Dept costs		75,736
Meteorology Dept costs		81,567
Software: Technosylva		2,462,935
Software: ADS	116,892	144,438
Software: Storm GEO, Synoptic, PSCC		71,157
Feeder Relays		135,164
Environmental - Wildlife protection program	255,150	296,100
Patrolling costs, field response (PSPS)	113,809	1,124,832
Alert Wildfire Cameras	125,918	257,626
Total Distribution O&M²	4,928,410	11,682,643
Transmission		
Vegetation Management	148,153	102,936
FHCA Inspections detail sound and bore	727,743	421,520
Condition Corrections	19,155	-
Wood pole wrap	147,368	49,933
Weather Station maint	8,745	12,978
Total Transmission O&M²	1,051,164	587,368
Total Spend	5,979,574	12,270,011

As one can see, there is very limited information in the two tables above to help regulators determine if these costs are appropriate. The OCS submitted an informal follow-up request with RMP which has provided the accounting transaction detail⁶ associated with the expenses in the table above and now the OCS is awaiting RMP's

⁶ RMP response "OCS Data Request 1.2 - 1st Supplemental" was received on August 17, 2023.

responses to further DRs the OCS has submitted to gain more substantive information on some of this accounting transaction detail.

Even with the forthcoming detail, it is doubtful that the OCS has the expertise to verify that RMP has acted prudently in incurring these wildland fire mitigation expenses and to determine whether it is appropriate to include the large increase in expenses in customer rates. Auditing wildland fire protection expenses is a new area for Utah regulators, but the OCS expects to gain some expertise in the years ahead and will be better able to understand whether the expenses incurred are prudent. Further, the OCS notes that the regulatory system (including state agencies and other routine stakeholders) will need to collectively improve its understanding of best practices for wildfire mitigation and hardening the grid.

In the meantime, the OCS emphasizes the importance of RMP proactively providing the necessary information and analysis in its initial applications for future wildfire mitigation cost recovery, demonstrating that it has acted prudently in incurring these costs. The OCS does expect that RMP will be a good steward with ratepayer funds but that does not mean its wildland fire protection efforts should be given a blank check.

In other words, the OCS believes that it is RMP's burden to provide sufficient detail, explanation and analyses up front demonstrating that these expenses have been prudently incurred. RMP holds all the information regarding these expenses and it has the obligation to provide evidence that it is entitled to raise its rates for these wildland fire plan costs. The burden for showing that these expenses are prudent should not be shifted to other parties.

As these costs continue to increase, the OCS asks that the PSC hold RMP to its burden of proof to show it is acting prudently incurring these costs. The OCS points to the information exchange in RMP's Energy Balancing Account ("EBA") dockets and that the approach for these wildland fire mitigation costs could be similar to the EBA but proportionate in scale. (OCS notes that as these costs increase, the Wildfire Mitigation Balancing Account may also need a regular audit by the Division of Public Utilities ("DPU") as part of its routine review process of a utility's expenses.)

Concerns Regarding Prudency of Donations to 501(c)(3) Nonprofit Organizations

One area where the OCS questions the prudency of RMP's reported costs are the donations that RMP gave to two organizations – Pheasants Forever (\$250,000) and Hawk Watch International (\$45,000).⁷ In addition, when the OCS reviewed the accounting transaction information that RMP provided in its DR response, OCS 1.2-1 1st Supplemental, it appeared that the \$45,000 donation to Hawk Watch International was booked twice – i.e. double counted. The OCS does not believe that ratepayers are responsible for donations that RMP makes, and that the total \$340,000 donation costs should be removed from the Wildfire Mitigation Balancing Account unless RMP provides

⁷ See pages 9 and 10 of RMP's June 1, 2023 Cost and Compliance Report (pdf pages 11 and 12).

specific justification on how these donations provide benefits that accrue to RMP's ratepayers from the perspective of wildfire mitigation.

RECOMMENDATIONS

RMP should not be given a blank check to fund the costs associated with its wildland fire protection efforts. Therefore, the OCS recommends that going forward, the PSC order RMP to meet its burden of proof by requiring RMP to provide more substantial details, explanations and analyses demonstrating that its wildland fire mitigation expenditures were prudently incurred. This will become a more important issue as it appears that these expenditures may continue to grow significantly in the years ahead.

The OCS also specifically recommends disallowance of the \$340,000 of costs associated with donations to charitable organizations as identified above.

cc:

Jana Saba, Rocky Mountain Power
Chris Parker, Division of Public Utilities
Email Service List