Rocky Mountain Power
Docket No. 23-035-40
Witness: Mariya V. Coleman

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF UTAH

ROCKY MOUNTAIN POWER

Direct Testimony of Mariya V. Coleman

October 2023

Introduction and Witness Qualifications

Q. Please state your name, business address, and present position with PacifiCorp d/b/a Rocky Mountain Power ("PacifiCorp" or the "Company").

A. My name is Mariya V. Coleman. My business address is 2755 E Cottonwood Parkway, Salt Lake City, Utah 84121. I am currently the Vice President of Corporate Insurance and Claims for Berkshire Hathaway Energy Company ("BHE"), PacifiCorp's parent company.

Q. Please describe your education and professional experience.

A. I joined NV Energy as a Risk Analyst in 2010 and worked in roles of increasing responsibility in corporate insurance through 2017. Since 2015, I have managed PacifiCorp's insurance costs and insurance personnel. In 2017, I was named the Director of Corporate Insurance for BHE and its subsidiaries including PacifiCorp. I assumed my current role as Vice President of Corporate Insurance and Claims in May 2023. I have a Bachelor of Science in Finance from the University of Nevada, Las Vegas and a Master of Business Administration from the University of Nevada, Las Vegas.

Q. What are your primary responsibilities as Vice President of Corporate Insurance and Claims for the Company?

A. As Vice President of Corporate Insurance and Claims, I am responsible for the corporate insurance function for BHE and the Company, including the acquisition and management of all corporate insurance programs covering $132 billion in assets.

Q. Have you testified in previous regulatory proceedings?

A. Yes. I have testified in regulatory proceedings in Nevada and Wyoming. This is my first time testifying before the Utah Public Service Commission ("Commission").

Purpose and Summary of Testimony

Q. What is the purpose of your direct testimony in this case?

A. The purpose of my testimony is to support and explain the Company's request for a deferred accounting order for the incremental costs associated with extraordinary and unforeseeable increases in the Company's excess liability insurance premiums.

Q. Please summarize your direct testimony.

A. My testimony provides an overview of the Company's insurance program, the role excess liability policies play in providing critical insurance coverage, and the manner in which insurance costs are treated in Utah rates. My testimony details the dramatic increases in the Company's excess liability insurance premiums in 2023 and how wildfire liability risk has impacted the commercial insurance markets and the premiums for available excess liability insurance coverage.

Q. Are any other witnesses providing testimony in support of the Company's application for deferred accounting order?

A. Yes. Ms. Shelley E. McCoy provides additional background on recovery of insurance costs in the Company's rates and the material financial impact on the Company associated with the increase in excess liability insurance premiums.

Overview of Insurance Programs

Q. How does PacifiCorp obtain its commercial insurance?

A. PacifiCorp obtains its commercial insurance, including its excess liability insurance, as part of BHE's aggregated insurance program. This allows PacifiCorp to reduce its insurance costs by sharing a single placement, when possible, instead of purchasing its own. BHE allocates the cost of insurance to PacifiCorp and other BHE companies using corporate cost allocation methodologies and principles.

Q. What types of commercial insurance does PacifiCorp maintain?

A. PacifiCorp maintains several types of insurances, including, but not limited to the following categories:

<u>Excess Liability</u>
A claims-made policy form that provides coverage for legal liability to third parties arising out of bodily injury and property damage losses suffered by those third parties. This includes excess wildfire liability insurance.

<u>Punitive Damages</u>
Provides indemnity-only excess liability coverage for punitive damages imposed or awarded against the insured under certain circumstances specified in the policy.

<u>Onshore Property</u>
Covers all risks of physical loss or damage to operating locations (i.e., fire, earthquake, flood, theft, boiler and machinery breakdown, turbine generator breakdown). This coverage includes peripheral coverages such as business interruption at select sites, increased cost of construction, incidental transit, service interruption, debris removal, accounts receivable, and firefighting equipment.

<u>Terrorism</u>
Provides sabotage and terrorism coverage with respect to property insured under onshore property policies. Terrorism coverage applies to certified and non-certified acts.

<u>Inland Transit and Storage</u>
Coverage for transits of turbine rotors, generators, combustion components, exciters, and similar machinery and equipment.

Wind and Solar Equipment Storage
Provides property coverage for wind and solar equipment in storage.

Large-Deductible Worker's Compensation
Provides statutory coverage once the deductible is met for employees injured directly as a result of their employment with the Company.

Excess Workers Compensation
Provides statutory coverage in excess of self-insured retention for employees injured directly as a result of their employment with the Company.

Automobile Liability
Coverage for third-party bodily injury and property damage liability arising out of automobile accidents where the Company is at fault. This covers liability arising out of the use of owned, non-owned, and hired automobiles. Coverage does not include physical damage.

Aviation and Unmanned Aircraft Systems
Provides liability for bodily injury and property damage to third parties arising out of the use of owned and non-owned aircraft. The policy also includes physical damage loss to aircraft as well as war and terrorism and sabotage buyback purchases for both liability and physical damage. Each aircraft is individually rated, and charges are sent to the business which owns the aircraft.

Occurrence Liability Fronting Policy
Allows for insurance certificates issued for contracts that require an occurrence-based commercial general liability policy form.

Surety Bonds
Used for contractual obligations where the Company is required to have a surety company financially guarantee that it will act in accordance with the terms established in the bond.

Q. How are the excess liability premiums allocated to PacifiCorp?

A. PacifiCorp's premiums are allocated through BHE's corporate allocation, which is calculated based on an average percentage of property, plant and equipment; employee count; loss history; overhead electric transmission and distribution lines; and transmission and distribution pipeline miles.

Q. Please describe PacifiCorp's excess liability insurance coverage.

A. Excess liability insurance includes the following major areas of coverage: general liability, wildfire liability, auto liability and employer's liability. Claims for damages to third parties are included within excess liability coverage.

Q. Please explain how PacifiCorp structures its excess liability insurance.

A. PacifiCorp's commercial insurance covers third-party liability for claims in excess of $10 million. The Company self-insures for claims under $10 million.

Q. What insurance premium cost increases are addressed in the Company's application for a deferred accounting order?

A. The Company's excess liability insurance policies expire every August. The Company's application is based on the unprecedently large increase in premium costs when these policies were renewed in August 2023.

Q. How has the Commission treated insurance costs in the Company's rates?

A. As discussed in the direct testimony of Shelley E. McCoy, the Commission has approved the inclusion of insurance premium costs in the Company's revenue requirement as a prudent business expense that protects the Company and customers against financial losses from third-party claims.

Excess Liability Insurance Premium Increase

Q. What changes in excess liability insurance premiums has the Company experienced in 2023?

A. The premiums for excess liability insurance available to the Company in 2023 are currently $125 million (total-Company), and potentially more as the Company considers additional policies, a dramatic increase from the $10.5 million in premiums that was included in the rates authorized in the 2020 GRC. The scale and speed of the increase is extraordinary: the increase in excess liability insurance premium costs from the 2022 policy year to the 2023 policy year is 234 percent; the increase over the years 2019 to 2023 is 1,764 percent.

Q. Please provide context for the increase in excess liability premiums.

A. Against the backdrop of prolonged drought conditions and increased development in wildland areas, wildfires across the western United States ("U.S.") have proliferated in the last several years, and these fires have become larger and more destructive.[1] This has resulted in significantly increasing wildfire costs for utilities and an inability to acquire insurance at rates and coverage levels consistent with past premiums. Insurers have increased the price at which they will consider selling insurance covering claims from wildfire liability. Additionally, insurers who historically would consider selling wildfire liability will no longer do so. For these reasons, the increase the Company experienced is not a one-time anomaly but is indicative of the high cost of obtaining excess liability coverage due to ongoing challenges with wildfire issues.

Q. Has Utah recognized its exposure to the risks and costs associated with wildfires?

A. Yes. As noted by the Utah Department of Public Safety, "Utah is one of the most wildfire prone states in the U.S."[2] Utah has been proactive in addressing this risk, including by enacting the Wildland Fire Planning and Cost Recovery Act effective 2020.[3]

[1] For example, see Rocky Mountain Power's Utah Wildland Fire Protection Plan, Docket No. 20-035-28, Introduction and Cost Summary at 5 (June 1, 2020). *See also,* Rocky Mountain Power's Utah Wildland Fire Protection Plan, Docket No. 23-035-44 (Sept. 25, 2023).
[2] Utah Dept. of Public Safety, Wildfire Hazard Mitigation, https://hazards.utah.gov/wildfire/.
[3] Utah Code Ann. § 54-24-101 et seq.

Q. How are liabilities associated with wildfires covered under the prior and current policies?

A. The total amount of insurance per occurrence is $448.25 million with varying sub-limits for occurrences between states. Claims in any state use up the total amount of the limit available for all states. This means that if there is a claim in one state, then there is less insurance available for the next claim in any other state. Liabilities prior to this renewal were covered similarly to how they are after the August 15, 2023, renewal with an increase in the amount of cumulative, shared insurance limit as reflected below:

August 15, 2022 – August 14, 2023		August 15, 2023 – August 14, 2024	
State	Shared Total Limit	State	Shared Total Limit
CA	$110m	CA	$334.75m
ID, UT, WY	$232.5m	ID, UT, WY	$448.25m
OR, WA	$188m	WA	$353.25m
		OR	$338.25m

Most policies are issued with a single cost for all states, with just a few outliers insuring only California. Without purchasing additional insurance products for each individual state, at an additional cost, insurers will not differentiate how much risk is allocated by state any further than reflected in the statement above.

Q. How do insurers handle coverage for PacifiCorp's multiple states?

A. Insurers impose sub-limits within a policy to differentiate risks between various states. These sub-limits allow PacifiCorp to insure the entire system at lower cost for our customers.

Q. How did the Company determine the level of reasonable liability insurance coverage?

A. The Company evaluated wildfire claims results from the western U.S. and purchased available insurance limits that were offered by the market. As the Commission has recognized in prior Company rate cases, maintaining insurance is a necessary component of operating a utility and managing the risks associated with the business. The Company endeavors to maintain insurance at sufficient levels to avoid negative and volatile impact of claims on customer rates. Unfortunately, in the event of a catastrophic wildfire, liabilities can exceed the insurance coverage limits now available.

Q. How would you characterize the size of the excess liability premium increases the Company experienced in 2023?

A. I have worked in utility industry insurance and risk management since 2010. In that time, I have never seen a year-on-year increase in excess liability premiums like the one facing the Company today. Insurance premiums can be volatile, but the amount of increase PacifiCorp is experiencing due to wildfire risk in its service territory is extraordinary. In addition, the continuing risk of wildfire is prompting ongoing review by excess liability carriers that could result in further increases in future years or lead to a continued reduction in the number of carriers offering coverage to the Company. Accounting for this new reality in PacifiCorp's costs is urgent both because the expense increases are extraordinary, but also because they are part of the new reality the Company faces in the excess liability insurance market.

Q. Could PacifiCorp have foreseen these premium increases when its authorized recovery for insurance costs was set in the 2020 GRC?

A. No. PacifiCorp provided the Commission with the best information available in 2020 regarding its expected excess liability insurance premiums. While premium increases are always a possibility, nothing in the insurance market of 2020 indicated that the market for excess liability insurance would drive PacifiCorp's coverage costs to the extraordinary levels we are seeing in 2023. In large measure, the changes are driven by the increasing challenges posed by wildfire liability.

Q. How are wildfire challenges changing the insurance market for PacifiCorp?

A. Wildfire risk increases with the higher incidence of extreme wind, heat, and drought conditions experienced in recent years in Utah and other western states. While it is increasingly foreseeable that wildfire could occur in these conditions, the extent and duration of wildfires remains unpredictable – and subject to forces beyond a utility's control – as other types of weather-driven disasters. The Company has taken significant steps to mitigate the incidence and impact of wildfires in Utah, but those positive actions cannot make anyone capable of forecasting the specific impacts of future fires. This lack of foreseeability is reflected in the dramatic increase in the Company's liability insurance premiums. Insurance underwriters are making decisions based not only on Company-specific risks, but the overall impact of extreme weather and the way it is seen to drive wildfire risk. The extreme weather events leading to increased wildfire risk have been a major driver of the reduced availability and increased cost of commercial liability insurance.

Q. Are there other factors that have impacted how wildfire risks impact the Company's excess liability premium costs?

A. Yes. The extraordinary change in the Company's 2023 insurance premiums is driven by the increasing incidence of wildfires, but also by litigation outcomes related to those fires. PacifiCorp understands that litigants might sue the Company alleging wildfire damages, and we must size our overall insurance package accordingly. However, the scale of the impacts of recent wildfire litigation was not foreseeable.

Q. In summary, why is it reasonable for the Commission to allow deferred accounting for increased excess liability insurance premium costs?

A. Maintaining insurance is a necessary part of operating a utility and the risks associated with that business. Wildfire liability insurance protects the Company and customers against financial losses from third-party claims associated with this risk in Utah and other states in which the Company provides utility service. Wildfire risk for utilities in the western U.S. has radically changed in the past few years, and the premiums for available commercial liability insurance have significantly increased.

Conclusion

Q. What is your recommendation?

A. I recommend the Commission approve the Company's application for a deferred accounting order as related to excess liability insurance premiums. PacifiCorp estimates that its excess liability insurance costs are approximately $125 million (total-Company) for the policy period beginning August 15, 2023, or later. Current rates reflect approximately $10.5 million (total-Company) in excess liability insurance costs, which would result in a deferral for Utah's allocated share of approximately $114.5 million (total-Company) for the difference between current costs and the amount in rates.

Q. Does this conclude your direct testimony?

A. Yes.