

Anderson OCS – 1D

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

)	
)	Docket No. 23-035-40
)	
In the Matter of the Application of Rocky)	Direct Testimony of
Mountain Power for a Deferred Accounting)	Alyson Anderson
Order Regarding Insurance Costs)	On behalf of the Utah
)	Office of Consumer Services
)	

November 29, 2023

1 **Q. WHAT IS YOUR NAME, OCCUPATION AND BUSINESS ADDRESS?**

2 A. My name is Alyson Anderson. I am a utility analyst for the Utah Office of
3 Consumer Services ("OCS"). My business address is 160 East 300 South,
4 Salt Lake City, Utah.

5

6 **Q. PLEASE DESCRIBE YOUR EDUCATION AND EXPERIENCE.**

7 A I earned a Bachelor of Business Administration in Accounting from Boise
8 State University. Upon graduation, I worked as an auditor for the Idaho
9 Public Utilities Commission. Prior to joining the OCS, I managed several
10 telecommunications programs as a self-employed consultant. I have
11 completed The Basics Practical Regulatory Training course through New
12 Mexico State University, as well as the NARUC Regulatory Studies and
13 Advanced Regulatory Studies programs through Michigan State
14 University. I have previously submitted testimony before the Utah Public
15 Service Commission ("PSC").

16

17 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

18 A. My testimony addresses the OCS's concerns regarding Rocky Mountain
19 Power Company's (RMP) application for a deferred accounting order for
20 the incremental costs associated with increases in RMP's excess liability
21 insurance premiums.

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23

24 **Q. WHAT IS RMP REQUESTING IN THIS APPLICATION?**

25 A. RMP is requesting a deferred accounting order authorizing the company
26 to record a regulatory asset associated with the costs related to the
27 increase in insurance premiums due to increasing wildfire liability risk.
28 RMP asserts that currently approved rates include approximately \$10
29 million (total company) in premiums for commercial insurance covering
30 third-party liability claims, and RMP is now estimating those premiums to
31 increase to approximately \$125 million (total company) beginning August
32 15, 2023. RMP proposes to defer Utah's allocated share of the \$115
33 million (total company) difference between what is in rates and the new
34 premium cost. Using the System Overhead allocation factors of 44.4%
35 from the 2022 Utah Results of Operations report results in a Utah
36 allocated proposed deferral of approximately \$50 million.¹

37

38 **Q. WHAT CRITERIA QUALIFIES AN EVENT FOR DEFERRED**
39 **ACCOUNTING TREATMENT?**

40 A. Deferred accounting treatment is a form of retroactive ratemaking, which
41 Utah law only allows under rare circumstances. My understanding is that a
42 1992 Utah Supreme Court case, MCI v. Public Service Commission, sets
43 forth a two-part test for the allowable exceptions to a general prohibition
44 on retroactive ratemaking. Events that are unforeseen at the time of the

¹ Docket No. 23-035-40 Direct Testimony Shelley E. McCoy, October 13, 2023, lines 87-89.

45 last general rate case and have an extraordinary impact on the utility's
46 earnings are the basic criteria that may qualify an event for deferred
47 accounting. Further, as the OCS has previously cautioned, "deferred
48 accounting orders should be granted judiciously, and each request must
49 be carefully scrutinized for appropriateness in light of the particular
50 circumstances."²

51

52 **Q. DOES RMP'S INCREASE IN EXCESS LIABILITY INSURANCE**
53 **PREMIUMS MEET THE BASIC CRITERIA FOR DEFERRED**
54 **ACCOUNTING TREATMENT?**

55 A. RMP witness Coleman explained in testimony the "scale and speed of the
56 increase [in excess liability insurance premium costs] is extraordinary"
57 going from the \$10.5 million authorized in 2020 rates to \$125 million (total
58 company), which represents a 1,764 percent between 2019 and 2023³.
59 While the increase in excess liability insurance premiums appears to be
60 unforeseen, RMP has not provided specific evidence that this increase
61 has had an extraordinary impact on its earnings.

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² Docket Nos. 06-035-163, 07-035-04 and 07-035-14 CCS Direct Testimony Murray, September 10, 2007, lines 34-36.

³ Docket No. 20-035-40 RMP Direct Testimony Coleman, October 13, 2023, lines 123-129.

64 **Q. DOES RMP CORRECTLY CHARACTERIZE THE REQUIREMENT THAT**
65 **THE EXCESS LIABILITY INSURANCE PREMIUM COSTS ARE**
66 **EXTRAORDINARY?**

67 A. No. In fact, the Utah Supreme Court case that I referenced earlier in my
68 testimony specifically ruled that the prohibition against retroactive
69 ratemaking includes an “exception for unforeseeable and extraordinary
70 increases in a *utility's expenses*. . . because the increase or decrease must have
71 *an extraordinary effect on the utility's earnings*, the increase or decrease will
72 necessarily be outside the normal range of variance that occurs in projecting
73 future expenses.”⁴ *Id.* at 771-72 (emphasis added.) Thus, the Court was clear
74 that the test is not “extraordinary” by any other measure, but specifically
75 requires an extraordinary impact on earnings.

76

77 **Q. HAS RMP DEMONSTRATED THE REQUIREMENT THAT THE EXCESS**
78 **LIABILITY COSTS HAVE HAD AN EXTRAORDINARY IMPACT ON**
79 **EARNINGS?**

80 A. RMP did not provide evidence to show how increased excess liability
81 insurance costs have had an extraordinary impact on earnings. The OCS
82 acknowledges that RMP is experiencing overall extraordinary impacts on
83 its earnings but reiterates that the requirement is that the costs at issue in

⁴ *MCI Telecommunications Corp. v. Pub. Serv. Comm'n*, 840 P.2d 765, 771-72 (Utah 1992).

84 the deferred accounting order request are demonstrated to specifically be
85 the cause of extraordinary impacts on earnings. Therefore, the PSC
86 should not grant deferred accounting treatment of these costs unless and
87 until RMP has made this demonstration.

88

89 **Q. ARE THERE OTHER CONCERNS THAT SHOULD BE ADDRESSED**
90 **BEFORE GRANTING RMP'S REQUEST FOR A DEFERRED**
91 **ACCOUNTING ORDER?**

92 A. RMP asserts in its application and testimony that the incremental increase
93 in the liability insurance premiums are prudent costs. Ideally the PSC
94 should be able to determine the cause of the increase in the excess
95 liability insurance premium costs and whether the costs can be prudently
96 recovered from the ratepayers. However, we do not have enough
97 information to adequately determine what portion of the increase in
98 premiums is due to industry changes from the increasing wildfire risk and
99 activity in the Western United States and what portion is due specifically to
100 the June 2023 jury verdict in Oregon that found PacifiCorp grossly
101 negligent.⁵ Any portion of the costs related to the negligence judgement is
102 most likely not prudent and should not be recovered from ratepayers.
103 Despite not having enough information to determine the portion of the
104 increase in excess liability insurance premiums directly associated with

⁵ *James, et al. v. PacifiCorp, et al.*, Case No. 20-cv-33885.

105 the jury verdict, the PSC should consider whether these costs should
106 generally be shared between shareholders and ratepayers and evaluate
107 who benefits from the liability insurance coverage and assign the costs
108 accordingly.

109

110 **Q. IS RMP ALSO REQUESTING RECOVERY FROM RATEPAYERS FOR**
111 **THE COSTS REQUESTED FOR DEFERRED ACCOUNTING**
112 **TREATMENT IN THIS DOCKET?**

113 A. No. In the application RMP acknowledged that the “Commission’s
114 approval of deferred accounting treatment for these increased insurance
115 costs will not, in itself, constitute approval of ultimate recovery of these
116 costs.”⁶ However the PSC has previously indicated “that authorization of
117 an accounting order for a particular expense is an indication, if but an
118 early tentative one, that there is a likelihood that the particular expense
119 can be included in a future revenue requirement determination.”⁷ It is for
120 this reason that the PSC should also consider in this docket whether these
121 costs should be shared between shareholders and ratepayers.

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⁶ Docket No. 23-035-40 Application of Rocky Mountain Power for a Deferred Accounting Order, August 21, 2023, page 4, statement 9.

⁷ In the Matter of the Application of Rocky Mountain Power, a Division of PacifiCorp, for a Deferred Accounting Order to Defer the Costs of Loans Made to Grid West, the Regional Transmission Organization; In the Matter of the Application of Rocky Mountain Power for an Accounting Order to Defer the Costs Related to the MidAmerican Energy Holdings Company Transaction: In the Matter of the Application of Rocky Mountain Power for an Accounting Order for Costs related to the Flooding of the Powerdale Hydro Facility, Docket Nos. 06-035-163, 07-035-04, and 07-035-14 Report and Order at 16-17, (Utah P.S.C., January 3, 2008).

123 **Q. IN SUMMARY, WHAT IS THE OCS'S POSITION ON RMP'S**
124 **APPLICATION FOR DEFERRED ACCOUNTING ORDER REGARDING**
125 **INSURANCE COSTS?**

126 A. The PSC should not approve RMP's request for a deferred accounting
127 order unless RMP can demonstrate that the associated costs have an
128 extraordinary impact on its earnings. If such a demonstration is eventually
129 made, the PSC should also carefully consider a possible sharing of this
130 incremental liability insurance premium cost between shareholders and
131 ratepayers when granting recovery.

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133 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

134 A. Yes.

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