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

Rebuttal Testimony of Mariya V. Coleman

December 2023

Q. Are you the same Mariya V. Coleman who previously filed direct testimony in this proceeding on behalf of PacifiCorp d/b/a Rocky Mountain Power ("PacifiCorp" or the "Company")?

A. Yes.

I. PURPOSE OF TESTIMONY

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

A. My testimony provides the updated cost of the insurance premiums that the Company seeks to defer in this case. I also respond to certain issues raised by the Division of Public Utilities ("DPU"), the Office of Consumer Services ("OCS") and the Utah Association of Energy Users ("UAE") in direct testimony. I refer to the parties collectively as "the Parties" throughout my testimony. Specifically, I address whether the insurance premiums in this case are an extraordinary cost and respond to Parties' concerns that the outcome of specific litigation may have affected the costs of these premiums.

Q. Are any other witnesses providing testimony in response to issues raised by the DPU, the OCS and UAE?

A. Yes. Ms. Shelley E. McCoy responds to the Parties' assertions regarding whether these insurance premium costs were foreseeable and whether its impact on earnings is material and extraordinary. Ms. McCoy also addresses whether the Company should have sought recovery of these expenses through a general rate case proceeding instead of this deferral application.

II. EXCESS LIABILITY INSURANCE PREMIUM INCREASE

Q. As a preliminary matter, do you have any updates to the estimated change in excess liability insurance premiums that the Company experienced in 2023?

A. Yes. My direct testimony stated that the premiums for excess liability insurance available to the Company in 2023 were currently expected to be $125 million (total-Company), but noted it was subject to change as the Company considers additional policies. The current expectation is $122.6 million (total-Company), which is slightly lower but still a significant increase from the $10.5 million in premiums that was included in the rates authorized in the 2020 general rate case ("2020 GRC").

III. REQUIREMENTS FOR DEFERRAL

Q. What are the requirements for deferred accounting in Utah?

A. While I am not an attorney or expert in regulatory affairs for the Company's Utah operations, as I understand it, a cost or revenue that is considered for deferred accounting treatment must be unforeseeable and extraordinary. This is discussed in more detail in Ms. McCoy's testimony.

Q. Did the Parties address the Company's request for deferred accounting with respect to these two standards?

A. Yes. Ms. McCoy, who is the witness on regulatory matters, summarizes the Parties' opinions regarding the standards for approving a deferral and offers the majority of the Company's response. However, I address some of the claims the Parties make in their testimony.

Q. DPU witness Mr. Jeffery S. Einfeldt claims that the increase in premiums is significant but not extraordinary since the higher insurance premiums are expected to continue as the new normal.[1] Do you agree that the insurance premiums are likely to remain elevated?

A. Yes. As stated in my direct testimony, increased wildfire activity across the western United States ("US") has significantly impacted the insurance markets. The Company believes this will not be a one-time anomaly but is indicative of the high cost of obtaining excess liability coverage due to ongoing challenges with wildfire issues.

Q. Do you agree with Mr. Einfeldt that the fact that cost increases are ongoing means they are not extraordinary?

A. No, I do not agree. While the Company's insurance costs will likely remain elevated moving forward, the increased premiums compared to the premiums included in rates in the Company's 2020 GRC is extraordinary and therefore appropriate for deferral.

Q. Mr. Einfeldt claims the Company's insurance costs have also increased in prior years yet the Company did not request a deferral.[2] Can you address his claims?

A. As I stated in my direct testimony, in my time in utility industry insurance and risk management I have never seen a year-on-year increase in excess liability premiums like the one facing the Company today. 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. Comparing this increase to the normal premium renewal increases does not adequately consider the scope of the increase in recent years.

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[1] Direct Testimony of Jeffrey S. Einfeldt at 6.
[2] *Id.* at 7.

IV. IMPACT OF DISCRETE EVENTS ON EXCESS LIABILITY INSURANCE PREMIUMS

Q. Did the Parties raise concerns regarding specific events that they assert have impacted the costs of the Company's excess liability insurance premiums?

A. Yes. The Parties all mention wildfire events that occurred in Oregon in 2020 and PacifiCorp's potential legal liability resulting from those fires, including a jury verdict in which the Company was found liable for certain wildfire damages ("*James*").

Q. Please summarize the Parties' recommendations with respect to specific wildfire events and the insurance premium increase.

A. The DPU states that when the increased insurance costs are reviewed for prudence, the Commission should examine how much of the increase can be directly related to the legal liability resulting from the 2020 wildfires in Oregon.[3] The DPU further states the recovery should be conditioned on the determination of any perceived negligence on the Company's part that impacted the insurance premiums.[4]

The OCS states that before the Commission grants the Company's request for a deferred accounting order, it should determine the cause of the excess liability increase and whether the costs should be recovered from Utah customers.[5] The OCS claims that there is not adequate information to determine how much of the premium increase is related to the *James* jury verdict.[6]

UAE also notes that it is not clear to what extent, if any, the *James* verdict or other litigation against PacifiCorp influenced the size of the premiums the Company is

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[3] Direct Testimony of Jeffrey S. Einfeldt at 7-8.
[4] *Id.* at 8.
[5] Direct Testimony of Alyson Anderson at 5-6.
[6] *Id.*

being required to pay for excess liability insurance coverage, but concludes the issue can be addressed when rate treatment for the deferral is requested.[7] UAE does not oppose the Commission granting the Company's request for deferred accounting subject to a prudence review in the next general rate case.[8]

Q. What is the Company's position?

A. In this proceeding, the Company seeks the ability to defer the incremental costs associated with the excess liability insurance premiums. As discussed in the application and in Ms. McCoy's testimony, the Company is not requesting a prudence determination or rate treatment at this time and agrees with UAE that granting deferral does not guarantee full cost recovery.

Q. The parties all refer to the *James* verdict in their testimony. Did the jury verdict in *James* affect the insurance premium costs that the Company seeks to defer?

A. PacifiCorp's insurers did not communicate to PacifiCorp the impact, specific or general, of the *James* verdict, the timing of which was coincidental to the renewal of the Company's excess liability insurance. Insurers did indicate in renewal discussions that climate change resulting in increased wildfire risk, in addition to claims against multiple utilities in the western US was influencing their decisions to withdraw from selling wildfire insurance or to charge more to insure wildfire risk. As a general matter, insurance companies base their policies on the total risk being insured and do not compartmentalize certain percentages of that risk to specific events. Specific to the *James* verdict, excess liability insurance covers damages that the Company pays to parties and attaches only after PacifiCorp pays a claim. The Company has not yet paid

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[7] Direct Testimony of Kevin C. Higgins at 5-6.
[8] *Id.* at 4-5.

the damages in *James* and, as a result, has not filed any *James*-related claims with its insurers.

Q. The OCS also asserts that, regardless of the impact of the *James* verdict on the Company's insurance premiums, the Commission should reconsider whether the costs of insurance premiums should be shared between shareholders and customers.[9] How do you respond?

A. As discussed by Ms. McCoy in her direct testimony, the Commission has historically allowed full recovery of insurance premiums in rates. As discussed below, maintaining insurance is a necessary component of operating a utility business that protects customers from excess costs. Consistent with the Commission's historical practice, this necessary business cost should be included in full in the Company's revenue requirement.

Q. Do you agree with Mr. Einfeldt's suggestion that approving the Company's request to defer excess liability insurance premiums creates a disincentive for the Company to manage wildfire risk?[10]

A. No. Deferral and eventual recovery of these insurance premium costs will not affect the Company's wildfire risk management activities. The Company does not rely solely on insurance for wildfire risk mitigation but rather takes many actions to mitigate the wildfire risk of operating an electric utility. For example, the Company files Wildfire Mitigation Plans throughout its service territory, including in Utah.[11] The Company

[9] Direct Testimony of Alyson Anderson at 5-6.
[10] Direct Testimony of Jeffrey S. Einfeldt at 9.
[11] *In the Matter of Rocky Mountain Power's 2023 Utah Wildland Fire Protection Plan*, Docket No. 23-035-44, Utah Wildfire Mitigation Plan for 2023-2025 (filed Sept. 25, 2023) (available at https://pscdocs.utah.gov/electric/23docs/2303544/329969UTWldfrMtgtnPln202320259-25-2023.pdf) (last visited Dec. 15, 2023).

plans to file these mitigation plans even in states where they are not required, which demonstrates the Company's commitment to mitigating wildfire risk. The Company then follows the actions detailed in these plans to reduce its wildfire risk. Insurance is a necessary business expense for occasions when unanticipated liabilities arise, but the Company takes action to avoid those liabilities in the first place. In fact, these mitigation actions are crucial because if the Company were not taking sufficient actions to safely operate its business it is likely that insurers would not offer insurance in the first place. Moreover, even with excess liability insurance, the Company has a clear financial interest in mitigating wildfire risk because of coverage limitations and to control the Company's costs, ensure rate stability, and maintain credit ratings.

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 managing 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 US has radically changed in the past few years, and the premiums for available commercial liability insurance have significantly increased.

V. CONCLUSION

Q. What is your recommendation to the Commission?

A. I recommend the Commission approve the Company's application for a deferred accounting order for its excess liability insurance premiums. PacifiCorp estimates that its excess liability insurance costs are approximately $122.6 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 $112.1 million (total-Company) for the difference between current costs and the amount in rates.

Q. Does this conclude your rebuttal testimony?

A. Yes.