Rocky Mountain Power
Docket No. 23-035-40
Witness: Shelley E. McCoy

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF UTAH

ROCKY MOUNTAIN POWER

Rebuttal Testimony of Shelley E. McCoy

December 2023

Q. Are you the same Shelley E. McCoy 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 responds 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:

- Quantify the revised total of excess liability insurance premiums paid in 2023 for which the Company seeks a deferral;
- Demonstrate how this extraordinary cost increase qualifies for deferred accounting;
- Address why deferred accounting is an appropriate ratemaking tool to capture excess liability insurance premium cost increases rather than a general rate case filing; and
- Respond to cost recovery issues raised by the DPU.

II. EXCESS LIABILITY INSURANCE PREMIUM UPDATE

Q. Did you update the change in excess liability insurance premiums the Company experienced in 2023 for which it seeks a deferral?

A. Yes. As addressed by Company witness Ms. Mariya V. Coleman, the actual excess liability premiums are $122.6million (total-Company), which is slightly lower than the $125.2 million (total-Company) referenced in the Company's application and supported in my direct testimony. This amount continues to represent a significant increase from the $10.5 million (total-Company) in premiums 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. I am not an attorney, but I understand that deferred accounting is permissible only when it meets two specific exceptions to the rule against retroactive ratemaking. First, the deferral must arise from circumstances that were unforeseeable at the time rates were set. Second, the unforeseeable increase or decrease in expenses must be material and have an extraordinary effect on the utility's earnings.[1] The Company's application meets both these standards.

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

A. Yes. The Parties all address these standards but take different positions on whether the Company's request meets them. Only the DPU challenges the application on the basis that the Company could have foreseen the increase in excess liability insurance costs. The DPU contends that the Company had an indication of the increased excess liability insurance premiums prior to filing its deferral application and should have filed a general rate case.[2] Neither the OCS nor UAE allege that the insurance cost increase was foreseeable.

As for the requirement that the impact on earnings must be material and extraordinary, both the DPU and the OCS contend that the Company's application fails

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[1] *MCI Telecomms. Corp. v. Pub. Serv. Comm'n of Utah,* 840 P.2d 765, 772 (Utah 1992).
[2] Direct Testimony of Jeffrey S. Einfeldt at 6-7.

to meet this standard. UAE does not challenge the Company's characterization of the cost increase as material and extraordinary.

Q. Do you agree with the DPU's application of the foreseeability standard in this case?

A. No. It is my understanding that this standard considers what the Company could have reasonably foreseen when the Public Service Commission of Utah ("Commission") last set the Company's rates. The Company filed its previous general rate case in 2020 utilizing a forecast calendar year 2021 test period. As mentioned in my direct testimony, the excess liability insurance premiums paid in August 2020 for coverage in 2020 and 2021 were approximately $10.5 million (total-Company). While the Company could have reasonably assumed some cost escalation for excess liability insurance premiums, an increase of 1,067 percent was unforeseeable.

Q. The DPU and the OCS oppose the Company's deferral application claiming the Company did not provide enough evidence to demonstrate an extraordinary impact on earnings.[3] How do you respond?

A. I fundamentally disagree with the claim that the Company has not demonstrated an extraordinary impact on earnings. On page 5 of my direct testimony, I specifically outlined the financial impact of the increased excess liability insurance premiums on earnings—a reduction of almost 100 basis points on the Company's earned return on equity.

[3] *Id.* at 6; Direct Testimony of Alyson Anderson at 4-5.

Q. Would you please quantify the financial impact on earnings using the most recent information available?

A. Yes. The excess liability insurance premium of $122.6 million (total-Company) is an increase over current rates of approximately $112.1 million (total-Company). Since the Company's direct filing, the Company has filed its Utah results of operations report for the June 2023 reporting period with the Commission ("June 2023 ROO").[4] Applying the updated 43.9 percent System Overhead allocation factor from that June 2023 ROO results in a Utah-allocated increase of $49.2 million for the excess liability insurance cost. This increase has an impact of more than 90 basis points on the Company's return on equity. Furthermore, the return on equity of 4.58 percent reported in the June 2023 ROO would decrease to 3.66 percent due solely to the increase in excess liability insurance premiums. That is nearly 600 basis points below the Company's authorized return on equity of 9.65 percent.[5]

Q. Do you believe a change of more than 90 basis points in the Company's return on equity constitutes an *extraordinary* impact on earnings?

A. Yes, particularly compared to the impacts in past cases where the Commission has approved deferrals. A Utah-allocated cost increase of $49.2 million would be approximately 13.7 percent of Utah's operating revenue for return as reported in the June 2023 ROO. By comparison, in Docket No. 17-035-69 ("TCJA Docket"), the Company deferred and refunded a $61.0 million tax decrease (Utah-allocated) resulting

[4] *In the Matter of PacifiCorp's Financial Reports 2023*, Docket No. 23-035-12, Rocky Mountain Power's June 2023 Results of Operations (Oct. 31, 2023).

[5] *In the Matter of the Application of Rocky Mountain Power for Authority to Increase its Retail Electric Utility Service Rates in Utah and for Approval of its Proposed Electric Service Schedules and Electric Service Regulations*, Docket No. 20-035-04, Redacted Order at 16 (Dec. 30, 2020).

from the Tax Cuts and Jobs Act of 2018.[6] Using comparable numbers from the December 2018 Utah results of operations report, the $61.0 million was approximately 12.9 percent of Utah's operating revenue for return, 60 basis points less than the 13.7 percent value of the deferral requested in this case.[7]

Q. Did the DPU support the deferral in the TCJA Docket?

A. Yes. Specifically, in the DPU's comments filed in that proceeding they stated:

> The tax law change plainly falls within the exception for unforeseeable and extraordinary events set forth in [*MCI Telecomms. Corp. v. Pub. Serv. Comm'n*, 840 P.2d 765 (Utah 1992)]. In order to avoid the unjust and unreasonable rates that would likely be substantially in excess of reasonable rates of return authorized in prior rate cases, justice and equity require action to be taken to avoid the windfall to [the Company] and [Dominion Energy Utah] as a result of tax law changes. Those benefits should fairly be passed to rate payers.[8]

Q. Did the OCS also support a deferral in the TCJA Docket?

A. Yes. Similar to the DPU, the OCS also supported deferred accounting in the TCJA Docket. The comments filed by the OCS stated:

> It is also self evident [sic] that a decrease in tax rates of this magnitude is likely to result in an extraordinary decrease in [the Company's] and [Dominion Energy Utah's] expenses and therefore an extraordinary increase in earnings leading to rates that were based on the previous tax rates being rendered unjust and unreasonable.[9]

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[6] *In the Matter of the Investigation of Revenue Requirement Impacts of the New Federal Tax Legislation Titled: "An act to provide for reconciliation pursuant to titles II and V of the concurrent resolution of the budget for fiscal year 2018"*, Docket No. 17-035-69, Order at 4-5 (Apr. 27, 2018).

[7] *In the Matter of PacifiCorp's Financial Reports 2019*, Docket No. 19-035-08, Rocky Mountain Power's December 2018 Results of Operations (Apr. 30, 2019).

[8] Docket No. 17-035-69, Comments of the Division of Public Utilities in Support of the Utah Association of Energy Users' Motion for Orders for Deferred Accounting Treatment of Benefits Associated with 2018 Tax Reconciliation Act at 3 (Jan. 12, 2018).

[9] Docket No. 17-035-69, Comments of the Office of Consumer Services in Support of Motion for Orders for Deferred Accounting at 3 (Jan. 12, 2018).

Q. The TCJA Docket addressed deferral of extraordinary revenues. Are there examples of the DPU and the OCS supporting deferrals for extraordinary expenses of a magnitude similar to or less than the insurance premium costs in this application?

A. Yes. For example, both the DPU and the OCS supported deferred accounting for $8.9 million (total-Company) in undepreciated plant and $6.3 million (total-Company) in decommissioning costs for the flood-damaged Powerdale dam, agreeing that the flood was unforeseen and extraordinary and the costs were material.[10] In that case, the DPU suggested that a materiality review begin with FERC's definition of 5 percent or more of income.[11] In its testimony in this case, the DPU estimates that the increase in insurance expense represents between 8.75 percent and 9.15 percent of total company net revenue (i.e. net income), meeting the materiality standard the DPU applied in past cases.[12]

Q. The DPU's witness Mr. Einfeldt describes this cost increase as the "new normal" and "ongoing," arguing that under current market conditions, the increase is large but not extraordinary.[13] Do you agree?

A. No. The DPU's position is inconsistent with the position they have taken in past

[10] *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, 07-035-14, Report and Order at 10-12 (Jan. 3, 2008). Similarly, DPU and OCS both also supported deferring $45.8 million in costs associated with the closure of the Trail Mountain Mine. *In the Matter of the Application of PacifiCorp dba Utah Power & Light Company for a Deferred Accounting Order*, Docket No. 01-035-02, Report and Order at 1 (Apr. 4, 2002).
[11] Docket Nos. 06-035-163, 07-035-04, 07-035-14, Report and Order at 9.
[12] Direct Testimony of Jeffrey S. Einfeldt at 5.
[13] *Id.* at 6.

deferral proceedings seeking accounting for a revenue credit to customers. Again using the TCJA Docket as an example, taxes were decreased on *an ongoing basis* and taxes paid under the new rate are an *ordinary cost* included in the revenue requirement, yet the DPU supported deferred accounting in that docket. Both the Tax Cuts and Jobs Act tax decrease and the excess liability insurance premium increase result in an extraordinary change in cost and both should be considered for deferred accounting.

Q. Did any party not oppose Commission approval of the Company's deferral application?

A. Yes. UAE does not oppose the Company's deferral application in this docket. UAE does request that the Commission consider a wide range of factors and determine the specific amount of costs the Company may recover in the Company's next general rate case.[14] As set forth in the application, the Company agrees that the Commission should consider ratemaking treatment in a subsequent proceeding. The Company does not necessarily agree, however, that all the factors UAE cites are relevant to the Company's recovery of these costs.

IV. ALTERNATIVE TOOLS FOR COST RECOVERY

Q. The DPU suggests the Company could have used other available ratemaking mechanisms such as a general rate case for recovery once it became aware of the increase in excess liability insurance premiums.[15] How do you respond?

A. While I addressed this in my direct testimony, I will provide more detail given the DPU's position. To accurately calculate a revenue requirement in a general rate case, the Company first begins with accounting data for a historical period of time, usually

[14] Direct Testimony of Kevin Higgins at 3.
[15] Direct Testimony of Jeffrey S. Einfeldt at 4.

12 months ending in the previous June or December. That data is then analyzed to determine if known and measurable adjustments are required for conditions expected to occur in the test period. For example, one area of evaluation is the Company's capital forecast. In the 2020 GRC, the Company forecasted over 1,750 capital projects to be placed in-service from the end of the historical base period through the test period. Those capital projects require a significant amount of time to identify and verify and calculate the necessary components used in the revenue requirement. This same evaluation is done on many of the Company's cost items such as net power costs and insurance premiums. From there, the Company needs additional time to prepare documents, workpapers, testimony, and other support for the application before it is ready to file with the Commission. Then, upon acceptance of filing the application, the statutory period to complete the general rate case is approximately 8 months in Utah.[16] In total, the time from initial preparation to final rates can be in excess of 12 months.

Q. Could the Company have requested interim rates to reduce some regulatory lag caused by the statutory period?

A. Yes, but the preparation of a general rate case and the presentation of such a request would still take months to complete. This would leave the Company with, at best, only partial recovery of these extraordinary and necessary expenses.

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[16] Utah Code § 54-7-12(3)(a).

Q. Are there other reasons why the Company elected to seek deferred accounting here rather than file a general rate case to recover the increase in excess liability insurance costs?

A. Yes. As a general practice, the Company seeks to file rate cases infrequently to avoid repeatedly increasing the rates Utah customers pay. The Company works hard to manage costs between rate cases to minimize the frequency and size of customer rate increases.

V. FACTORS RELATING TO COST RECOVERY

Q. Did the DPU raise other concerns regarding recovery of the Company's increased insurance costs?

A. Yes. The DPU noted other issues it deemed noteworthy in determining whether the increased costs are recoverable.[17]

Q. Are the DPU's cost-recovery concerns within the scope of this proceeding?

A. No. In the Company's application, it stated that the "Commission's approval of deferred accounting treatment for these increased insurance costs will not, in itself, constitute approval of ultimate recovery of these costs."[18] Thus, arguments related to cost recovery should be preserved for a future proceeding. As the DPU's witness Mr. Einfeldt acknowledges,[19] these topics are more appropriately addressed when the Company seeks to recover these costs.

[17] Direct Testimony of Jeffrey S. Einfeldt at 7-8.
[18] Application of Rocky Mountain Power for a Deferred Accounting Order at 4 (Aug. 21, 2023).
[19] Direct Testimony of Jeffrey S. Einfeldt at 8.

Q. Notwithstanding the fact that these cost-recovery concerns are outside the scope of this proceeding, would you like to address any of the factors that the DPU identified?

A. Yes. Mr. Einfeldt suggests that the Commission should explore "alternative strategies to mitigate wildfire risk rather than acquiring traditional insurance."[20] To the extent Mr. Einfeldt is asserting that the Company relies on insurance instead of mitigating wildfire risk, this assertion is completely wrong. As Ms. Coleman explains in greater detail in her testimony, the Company takes myriad actions to mitigate wildfire risk in addition to acquiring excess liability insurance, including the preparation of Wildfire Mitigation Plans filed for approval with several of the states in which the Company operates, including Utah. Nonetheless, the Company is working with stakeholders on alternative strategies to address the growing cost and risks associated with wildfire liability for future event coverage. However, those strategies will require regulatory approvals and could not have been timely implemented as an alternative to the excess liability policies for coverage this year.

VI. 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 for the 2023-2024 period. The Company 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

[20] *Id.*

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.