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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF PACIFICORP DBA ROCKY MOUNTAIN POWER FOR APPROVAL OF AN ACCOUNTING ORDER RECORDING CERTAIN POST-RETIREMENT PRESCRIPTION DRUG COSTS AS A REGULATORY ASSET.

CASE NO. PAC-E-10-4

COMMENTS OF THE COMMISSION STAFF

The Staff of the Idaho Public Utilities Commission, by and through its Attorney of Record, Neil Price, Deputy Attorney General, in response to the Notice of Application and Notice of Modified Procedure, issued on May 20, 2010, Order No. 31088, submits the following comments.

BACKGROUND

On April 2, 2010, PacifiCorp dba Rocky Mountain Power ("Rocky Mountain" or "Company") filed an Application with the Idaho Public Utilities Commission ("Commission"), pursuant to *Idaho Code* §§ 61-301, 61-307, 61-622, and 61-623, for approval of an Accounting Order authorizing the Company to record a regulatory asset associated with tax benefits previously reflected in rates that will no longer be realized for certain costs incurred for post-retirement prescription drug coverage as the result of the Patient Protection and Affordable Care Act ("PPACA").

Rocky Mountain's Application for an Accounting Order was spurred by the passage of the PPACA on March 23, 2010. Designed to encourage employers to continue providing high quality prescription drug coverage, the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 ("MMA") contains provisions for a federal subsidy of 28 percent for employers offering post-retirement prescription drug coverage to its retirees that is at least as valuable as the Medicare Part D standard drug benefit. Prior to passage of the PPACA, employers were permitted to deduct for income tax purposes the entire cost of providing the coverage, even though 28 percent of the benefit was offset by the subsidy. The PPACA eliminates the MMA rule permitting deduction of the portion of the expense offset by the subsidy.

Rocky Mountain requests authorization to record a regulatory asset to FERC Account 182.3 (Other Regulatory Assets) and a credit to FERC Account 410.1 (Deferred Tax Expense) in order to allow recovery of the Idaho portion of tax benefits previously reflected in rates that will no longer be realized as the result of the MMA.

Rocky Mountain proposes that the aforementioned regulatory asset should be amortized over a period of four years beginning January 1, 2011. Rocky Mountain also proposes to reflect the amortization expense in the Company's next general rate case.

Rocky Mountain estimates $30 million in system-wide OPEB (Other Post-Employment Benefit) related costs associated with the change in law. Rocky Mountain attributes approximately $11.4 million of that amount to the first quarter of the 2010 calendar year resulting, when amortized and grossed-up for tax effects, in a revenue requirement impact of approximately $18.5 million on a total company basis with a proposed four-year amortization period. The Company estimates that Idaho's share of the regulatory asset is approximately $1.0 million.

Rocky Mountain does not request a final Commission decision regarding rate recovery in this filing.

STAFF ANALYSIS

In the Medicare Modernization Act ("MMA") of 2003, the federal government provided a 28 percent subsidy to companies that provided a retiree drug discount. Subsequent to negotiations related to the MMA, companies were allowed to deduct 100 percent of the cost of the drug benefit provided to their retirees even though the companies were paying only 72 percent of the benefits.

However, due to provisions included in the PPACA, the portion of the expense offset by the 28 percent subsidy is no longer deductible for tax purposes and companies may deduct only the net amount of the drug costs. Therefore, companies must reduce the post-retirement benefit obligation on the balance sheet by the amount of the actuarially-determined subsidy to be received. In addition, the related deferred tax asset was based on the gross benefit obligation before the reduction for estimated future subsidies because the subsidy was tax deductable. Under the PPACA the future subsidies receivable will remain non-taxable, but the corresponding amount of OPEB related costs will become non-deductable for income tax purposes. As a result, the related deferred tax assets will now be based on the benefit obligation net of subsidy payments expected after 2012.

Consistent with Financial Accounting Standards Board Statement No. 106 (FASB106) (circa 1990), the future retiree health costs must be recorded as a liability. For most companies, this will result in a one-time accounting entry that will be recorded in the first quarter of 2010. The reduction in the deferred tax asset will be recorded in earnings from continuing operations in the period including the March 2010 enactment date.

Staff believes it is reasonable to allow the Company to create a regulatory asset in FERC Account 182.3 (Other Regulatory Assets) to account for the effect of the PPACA on deductibility of retiree drug benefits. Staff also believes it is reasonable to amortize the expense over a four-year period beginning January 1, 2011. Staff believes this provides a direct benefit to customers by minimizing the rate impact related to the change in accounting procedures. Staff recommends that the Company use separate sub-accounts specifically for these entries in order to facilitate Staff's ability to audit account activity as needed. Staff notes that the actual financial data provided by the Company in its Application has not been audited and reviewed. Although Staff believes that creation of a regulatory asset in this case is reasonable and beneficial, further review will be conducted by Staff during its financial audit related to General Rate Case No. PAC-E-10-7 filed May 28, 2010. The specific bookkeeping entries and amounts booked will be evaluated and verified for inclusion in rates when the Commission renders its decision in Case No. PAC-E-10-7.

The Company did not request a carrying charge on the regulatory asset associated with the accounting changes mandated by the PPACA. Staff agrees with this position. Because this regulatory asset is created by a change in accounting procedures, Staff believes it would be inappropriate for the asset to be included in rate base or accrue a carrying charge.

SUMMARY AND RECOMMENDATIONS

Upon review of the Company's Application and the related accounting standards, it is the recommendation of Staff that the Commission approve Rocky Mountain Power's Application for an Accounting Order allowing the Company to create a regulatory asset and amortize the expenses associated with the change in deductibility of retiree drug benefits resulting from passage of the PPACA. These deferred expenses should be amortized over a four-year period beginning January 1, 2011.

Staff also recommends that Rocky Mountain Power not be permitted to earn a return on the regulatory asset associated with the change in deductibility of retiree drug benefits. The Company has not requested a return at this time.

Finally, Staff recommends conditioning language in the Commission's final Order reiterating that approval of the Company's Application for an Accounting Order allows creation of a regulatory asset, amortization of costs and provides the opportunity for recovery of the amortization. It does not determine the specific dollar amounts recorded in the regulatory assets that may be included in the calculation of the Company's revenue requirement. The actual amounts booked will be verified with the amount to be recovered in rates determined during proceedings associated with the General Rate Case (PAC-E-10-7) filed by the Company on May 28, 2010.

Respectfully submitted this 10th day of June 2010.

Neil Price
Deputy Attorney General

Technical Staff: Cecily Vaughn
Terri Carlock

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 10^{TH} DAY OF JUNE 2010, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF,** IN CASE NO. PAC-E-10-04, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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