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## MEMORANDUM

**To:** Public Service Commission

**From:** Division of Public Utilities  
Chris Parker, Director  
Artie Powell, Manager  
Tom Brill, Technical Consultant  
Charles Peterson, Technical Consultant

**Date:** April 2, 2012

**Ref:** Docket No. 09-035-15—Response to Certain Comments of the Division’s Report on the EBA Pilot Program Evaluation Plan and Recommended Filing Requirements.

### BACKGROUND

The Division of Public Utilities (Division) filed on March 1, 2012 its final report on the Commission-ordered work group in this docket. Pursuant to the Commission’s request for comments on this report by March 22, 2012, the Office of Consumer Services (Office), the intervention group Utah Industrial Energy Consumers (UIEC), and Rocky Mountain Power (RMP, or the Company), filed separate comments on the report. In this memorandum the Division provides brief responses to those comments.

### RESPONSE TO UIEC

On page 2 of its comments, UIEC raises issues of prudence. The Division fully intends to look at the prudence of transactions during its extended audit of the Company’s energy balancing

accounts. This will likely require that the Division look at many more documents than will be filed with a March 15 filing. The Division notes that even with the extensive filing requirements the Company has in a general rate case, the Division and other parties request numerous additional documents, as needed, throughout the rate case. The Division expects that the audit of the EBA will be no different. The Division does not believe in burdening the Company with the filing of mandatory documents it may not need, or documents the Division may not be prepared to deal with at the time of the annual March filing.

UIEC comments on page 3 that “Mistakes and mishandling during the so-called trial [EBA program] will cost ratepayers money that they cannot recover.” The Division believes this statement mischaracterizes the EBA program. In fact the EBA trial program provides for many opportunities to comment on and correct “mistakes and mishandling.” For example, there will be opportunities at each annual EBA Filing, there will be opportunities with the filings of the Division’s audit reports, there will be opportunities at the time of the Division’s two mandated milestone reports, and finally there will be opportunities to deal with NPC issues generally in general rate cases.

On page 4 of its comments, UIEC seems to suggest that a deadline be set to make EBA interim rates final in the EBA tariff. Whatever UIEC’s actual intent is, the Division reiterates that it strongly opposes such a recommendation. The Division should be given the time it needs to complete its work given its resources and the competing projects (such as rate cases) for those resources.

#### **RESPONSE TO THE OFFICE**

The Office’s main point appears to be that the annual EBA Filing should include additional information, specifically information from a list of data apparently required in Wyoming. The Division does not dispute that these additional items may be of interest, but it suggests that such additional information can be readily obtained through data requests as needed. However, the Company may find it easier to simply send the Division a copy of this information when it files in Wyoming rather than waiting for a data request.

**RESPONSE TO ROCKY MOUNTAIN POWER**

On pages 5 and 6 of the Company's comments is a discussion of a comment in the Division's report that there may be additional information required in the filing requirements of a general rate case. The Division did not intend this to mean that there are necessarily additional items that need to be filed as part of the filing requirements in a general rate case, but only to mention that it may be determined at some future point that such additional requirements might be needed.

On pages 6 and 7 the Company comments extensively on a Division statement in its report that the Division would in future reports comment on Company efforts to smooth NPC variability "in addition to the EBA." The Company takes exception to the idea that the EBA's purpose was to smooth NPC variability. The Company is apparently using a different definition of "NPC variability" than the Division. In this context the Division understands "NPC variability" to be the differences in actual NPC from the baseline forecast included in rates. In this regard the very purpose of the EBA *is* to smooth out this variability in order to provide the Company with more reliable cash flows. But the larger issue is: what else can and will the Company do in the intermediate and longer terms to mitigate NPC variability? To give some context, Division witness Mr. Charles Peterson testified in the ECAM/EBA Docket No. 09-035-15 that "[t]he Division is not convinced that some of the costs faced currently by the Company could not be mitigated in the intermediate and longer terms [through] such things as more natural gas storage, a more balanced and multifaceted hedging strategy, and more owned generation capability."<sup>1</sup> The Division continues to believe that these and other possible mitigations to NPC variability, such as improved forecasting, should be pursued by the Company. Therefore, the Division stands by its statement in the report.

CC Dave Taylor, RMP  
Michele Beck, OCS  
Robert Reeder, UIEC  
William Evans, UIEC  
Vicki Baldwin, UIEC

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<sup>1</sup> Direct Testimony for Phase I of Charles E. Peterson; Docket No. 09-035-15, November 16, 2009, lines 554-558.