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State of Utah
DEPARTMENT OF COMMERCE
Office of Consumer Services

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To: Utah Public Service Commission

From: Office of Consumer Services
Michele Beck, Director
Cheryl Murray, Utility Analyst
Dan Gimble, Manager

Date: September 18, 2014

Docket: In the Matter of the Application of Rocky Mountain Power for Approval of its Proposed Energy Cost Adjustment Mechanism; Docket No. 09-035-15

Re: Office Comments on Division's Preliminary Evaluation of Rocky Mountain Power's EBA Pilot Program

Background

On May 22, 2014, the Division filed its preliminary evaluation of the EBA Pilot Program. As required by the Commission's May 3, 2011 (Corrected) EBA Order, the Division addressed a number of key areas: the 70-30 sharing mechanism; whether the EBA includes the proper NPC components; annual versus monthly accruals; and the effect of the EBA on the Company's IRP, resource acquisitions, market reliance level, hedging program, and plant dispatch and maintenance. In its evaluation, the Division also discussed issues such as the adequacy and timeliness of information provided by the Company and staffing requirements. At this time, the Division recommends no changes to the EBA Pilot Program.

The Office appreciates the analysis provided by the Division in its EBA evaluation. We have also found the Division's annual EBA Audit Reports to be useful in our review of the Company's EBA filings. Accordingly, the Office submits the following comments on a number of key areas addressed in the Division's EBA evaluation.

Comments

Access to Information and Documentation Issues

The Division raised a significant concern in its 2014 (current) EBA Audit Report regarding lack of documentation and incomplete information, which appears to contravene a

conclusion earlier reached by the Division in its EBA evaluation that these problems “...seem to have mostly been worked out.” (EBA Evaluation, Page 36). A fundamental necessity in performing a comprehensive EBA audit over a relatively short period is ready access to all types of information in the possession and control of the Company. Failure by the Company to provide complete information and data in a timely way serves to undermine the basic premise of the audit, which is to enable regulators to determine whether the EBA transactions are accurate and prudent.

In the Office’s view, there are two primary concerns in this area. First, what changes can be made to expedite discovery responses and facilitate the access to information in a timely way so that the Division can meet deadlines established in connection with the relatively brief EBA audit period. As indicated by the Division’s testimony and process recommendations in the 2014 EBA proceeding, this is a serious issue that requires a thoughtful resolution. Second, a four-month audit period may not be sufficient time to allow the Division to thoroughly review the numerous entries, fuel contracts and hedging transactions included in the EBA. In its 2014 Audit Report, the Division indicates certain EBA adjustments were reviewed at a high level and that a pattern of delayed, missing and incomplete information hindered its analysis of trades. While the first issue is being addressed via testimony in the 2014 EBA proceeding, the second issue should be further evaluated in as part of the Division’s Final EBA Report.

70-30 Sharing Mechanism

With the advent of the EBA, there has been a shift in net power cost (NPC) forecast risk from the Company to ratepayers. This risk is evidenced by the fact that during a period of relatively stable electricity and natural gas prices, the Company’s three EBA filings have all included positive accrual amounts and increases in EBA rates paid by customers. In addition, the EBA has only been in effect for two calendar years and there is limited data regarding the impact of the EBA on resource planning and acquisition decisions, market reliance levels, hedging activities, and plant dispatch and maintenance. Lastly, the Division has encountered a number of difficulties in performing its annual EBA audit.

In considering all of these factors, the Office agrees with the Division that the 70-30 sharing mechanism should continue unchanged through the EBA pilot period. The Commission also recognized the importance of the 70-30 sharing mechanism when it stated that relying solely on prudence reviews to address suboptimal planning and operation by management shifted too much risk from the Company to ratepayers. Specifically, the Commission viewed the 70-30 sharing mechanism as the “best method” to align shareholder and ratepayer interests and to ensure the public interest is maintained.¹

At the point in time when the Commission requests comments on whether the EBA should be made permanent, the EBA sharing mechanism and associated percentages can be fully addressed along with other relevant EBA issues.

¹ Utah Public Service Commission, EBA Order, (Corrected) March 3, 2011, pgs. 69-70.

NPC Allocator (EBA Rate Spread)

The Office agrees with the Division that the NPC Allocator represents a precise and dynamic method for spreading EBA deferrals among the rate schedules and applicable contract customers. This method was adopted by the Commission in Docket 11-035-T10. The Commission should continue to use this method for rate spread purposes and ensure that the allocator used is properly aligned with specific EBA periods.

Market Reliance (Level of FOTs)

In Docket 09-035-15, the Office raised concerns about the impact of the EBA on the Company's level of short-term, firm market purchases, which have been referred to in various ways including front-office transactions (FOTs) and market reliance. Based on its review of this issue, the Division indicated that market reliance has increased post-EBA and further stated it is unable to determine if the increase in market purchases (FOTs) is related to the EBA.

The Company's level of market reliance post-EBA can be determined by comparing the respective FOT levels in PacifiCorp's 2011 IRP and recent 2013 IRP Update. This comparison is provided below.

Table 1
Preferred Portfolio Annual Front Office Transactions - FOTs (MW)

	2014	2015	2016	2017	2018	2019	2020	2021	2022
2011 IRP	1,190	1,149	775	822	967	695	995	700	750
2013 IRP Update	445	583	701	831	931	1,027	1,261	1,042	1,098
2011 IRP vs. 2013 IRP Update	-740	-566	-74	9	-36	332	266	342	348

Based on Table 1, along with a general comparison of the 2011 IRP and 2013 IRP Update, the Office notes the following:

- The Company relies almost exclusively on FOTs to meet load requirements over the next decade in the 2013 IRP Update. The only other resources expected to make a meaningful contribution to satisfying load requirements are DSM programs.
- As indicated in the 2013 IRP Update, a lower load forecast has resulted in a sharp decline in the level of near-term FOTs. However, FOT levels are anticipated to

increase in the 2019-2022 period, at a time when some WECC sub-regions (e.g., Basin, So Cal.) begin to fall below planning reserve margin targets.

- The acquisition of wind and gas resources is deferred out to the 2024-2025 timeframe. In addition, wind resources have declined from approximately 2,000 MWs in the 2011 IRP to 480 MWs in the 2013 IRP Update.

In the context of the EBA, the current FOT situation implies an even more significant shift in market risk from shareholders to ratepayers. Specifically, the Company is not planning to build or acquire any major resources for about 10 years. With long lead times to build new resources and the possibility of rapid changes in market conditions and loads, the Office remains concerned about adequately safeguarding ratepayer interests.

The Office has previously recommended that the Company develop a FOT contingency plan in the event that market supplies tighten and prices increase significantly;² and the Commission directed the Company to examine this issue in the 2015 IRP cycle.³ The Office views this as a positive step and looks forward to the Company's IRP presentation. However, short of disallowances for imprudence in EBA cases, the 70-30 sharing is currently the only mechanism in place that protects ratepayer interests. The reality is that 70-30 sharing may prove inadequate as we gain more experience with the impact of FOTs in future EBA filings.

Generation Plant Operation

The Office agrees with the Division that PacifiCorp's generation unit heat rates do not appear to be very different pre- and post-EBA and that the lower achieved capacity for coal and gas units in the post-EBA period could be due to a number of factors, including market prices, fuel costs, dispatch of wind resources, and load variability. In short, there will be more data at the conclusion of the EBA pilot to better compare how the Company is operating its generation resources pre- and post-EBA.

Generation Plant Maintenance

The Office agrees with the Division that two years is an insufficient period of time to discern a trend that would suggest an overall decline in plant maintenance. However, this does not eliminate the need for regulators and other interested parties to examine information pertaining to individual generation plant/unit outages in EBA cases and, as warranted, propose disallowances to protect ratepayer interests.

Energy Imbalance Market (EIM) Costs

In comments provided to the Division on the EBA pilot, the Company alleges that since benefits of EIM will flow through NPC, the variable costs associated with the EIM should be included in the EBA. Thus, the non-GRID NPC accounts that are not currently included in the EBA would have to be added.

² Office of Consumer Services' Comments on the PacifiCorp 2013 IRP, September 9, 2013, pages 8 – 9.

³ Docket No. 13-2035-01, Report and Order, January 2, 2014, page 22.

The Company's comments on EIM costs were submitted prior to the stipulation in Docket 13-035-184, which addresses treatment of EIM costs (see Paragraphs 30 and 31). Specifically, the Company can petition the Commission to include Utah's portion of EIM costs incurred after September 1, 2014 that relate to a) O&M expense and b) depreciation expense for capital investment in a deferred account. The stipulation also indicates deferred accounting treatment provides no assurance of future recovery of EIM costs and the Company has the burden in a future case to demonstrate that EIM provides a net benefit to customers. Thus, parties retain the ability to challenge the prudence of any EIM costs proposed by the Company for recovery.

Regarding any EIM costs that might be included in the EBA pilot, the stipulation is silent on that matter. Before any new cost categories could be included in the EBA, the Company would need to provide a more complete justification for the change. Thus, the Office agrees with the Division that such potential changes should be held for consideration until after the EBA pilot period.

EBA Accruals – Annual vs. Monthly Calculation

The Company calculates the EBA accrual and associated interest on an annual basis. In other words, monthly positive and negative amounts are netted against each other in order to determine an annual EBA deferral that needs to be either collected from or refunded to customers. In its Corrected March 3 EBA Order, the Commission found that this approach promoted rate stability and simplicity objectives.

For the pilot period, the Office recommends that no changes be made to the annual approach that has been used by the Company to calculate the EBA deferral. This issue can further examined in connection with the Division's Final EBA Report.

Recommendation

The Office recommends that no changes be made to the EBA through the pilot period. In particular, the 70-30 EBA sharing should remain intact as a measure to safeguard ratepayer interests and should be re-visited, along with other relevant EBA issues, at the conclusion of the EBA pilot period. At the appropriate time, the Commission should hold a scheduling conference to provide any guidance regarding the Division's Final EBA Report and set a schedule for comments and a hearing.

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