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**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

In the Matter of Rocky Mountain Power for Approval of its Energy Cost Adjustment Mechanism	<b>Docket No. 09-035-15</b>  <b>COMMENTS RESPONDING TO THE DIVISION OF PUBLIC UTILITIES PRELIMINARY EVALUATION OF PACIFICORP'S EBA PILOT PROGRAM</b>
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Pursuant to the Public Service Commission of Utah's (Commission) Notice of Filing and Comment Period issued May 29, 2014, Rocky Mountain Power (Rocky Mountain Power or Company) hereby files its comments responding to the Division of Public Utilities Preliminary Evaluation of PacifiCorp's EBA Pilot Program filed with the Commission May 22, 2014 ("Preliminary Report").

**BACKGROUND**

On March 3, 2011, the Commission issued its Corrected Report and Order in *In the Matter of the Application of Rocky Mountain Power for Approval of its Energy Cost Adjustment Mechanism*, Docket No. 09-035-15 (EBA Order). In the EBA Order, the Commission directed the Division of Public Utilities (DPU) to "file a written preliminary evaluation of the pilot program per item 4, including the identification of issues or concerns with the program, within four months

after the conclusion of the second calendar year of the pilot.”<sup>1</sup> Upon DPU’s request, the Commission extended the due date of the preliminary evaluation to May 22, 2014. In accordance with the EBA Order, on May 22, 2014, the DPU filed the Preliminary Report with the Commission. Rocky Mountain Power commends the DPU for all of its work in drafting the Preliminary Report and provides the following comments:

### **RESPONSIVE COMMENTS**

The DPU recommends the EBA continue as is and that no changes be made until the completion of the pilot program. The Company compliments the DPU on its thorough and equitable evaluation of the EBA pilot program. During the EBA pilot program, the DPU has conducted its reviews in a professional manner which the Company greatly appreciates.

While the Company believes the EBA is functioning generally as expected, working well mechanically and should continue, there are some areas where it could be improved. The Company makes the following recommendations:

- **Remove the sharing mechanism:** The Company recognizes the reasons the sharing mechanism was implemented. However, due to the uncontrollable nature of net power costs (NPC) and the adequate and effective controls and overall governance in place to ensure the prudent actions of the Company, the sharing mechanism is not serving as an incentive to the Company, but is a de facto penalty for NPC variance. Furthermore, the introduction of the energy imbalance market (EIM) results in optimized dispatch of resources for the benefit of customers, but the sharing mechanism makes it difficult to ensure EIM benefits are realized by customers and that the Company is not penalized for pursuing innovative solutions for customers.
- **Consider Unbundling NPC from Base Rates:** Unbundling NPC from base rates would improve the tracking of actual recovered NPC, and would facilitate updates to Base NPC independent of a general rate case. This would eliminate mismatches between test periods in base rates and the rate effective period in the EBA which leads to unnecessarily larger and more volatile EBA results that the DPU has correctly observed in periods that do not match. Reduced volatility between forecast NPC in base rates

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<sup>1</sup> *In the Matter of the Application of Rocky Mountain Power for Approval of its Proposed Energy Cost Adjustment Mechanism*, Docket No. 09-035-15, Corrected Report and Order, March 3, 2011, page 79.

and actual NPC in the EBA benefits customers and sends more efficient price signals to customers.

- Implement a process to expand the EBA when necessary: A process for expanding the EBA to include other unpredictable and uncontrollable variable costs on an as-needed basis should exist.
- Use a single EBA calculation / allocation method: In addition to the method stipulated to in the 2013 general rate case which is used to set the EBA collection rate, the Company files the Commission-approved method and two additional methods to determine the Utah EBA deferral.
- Issues resolved in a general rate case should not be re-litigated in the EBA: While parties should have the opportunity to generally review all of the Company's actual EBA costs for the previous year, issues that were resolved in the general rate case that established base net power costs, such as prudence of specific contracts, should not be re-litigated in the annual EBA true-up process.
- Remove the EBA SAP accounts from the tariff: Identification of SAP accounts could still be provided annually with the EBA filing, but including all of the accounting detail in the tariff is too detailed for the typical customer.
- Eliminate duplicate and additional filing requirements: Duplicative filing requirements should be eliminated, and filing requirements and additional filing requirements should be condensed into one set of filing requirements.

Each of the foregoing items is discussed below in more detail along with a reply to the DPU's analysis of each of the items required by the Commission's June 15, 2012, order in Docket No. 09-035-15.

#### **A. The Sharing Mechanism**

The DPU concludes that discussions concerning changing the sharing mechanism should not be held until after the pilot period is complete. The DPU gives two reasons for its support of the sharing mechanism: (1) The sharing mechanism helps "mitigate the potential for moral hazard should the Company perceive that it is essentially guaranteed recovery of costs even if the Company makes mistakes"<sup>2</sup> and (2) The sharing mechanism incentivizes the Company to act

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<sup>2</sup> Preliminary Evaluation of PacifiCorp's EBA Pilot Program, Docket No. 09-035-15, page 13.

prudently because of the potential for loss.

In response to DPU's first reason, the Company continues to believe that sufficient internal and external controls exist and are in place to "mitigate the potential for moral hazard" identified by the DPU. Therefore, the sharing mechanism merely serves as a vehicle to unjustly force the Company to absorb a share of NPC variances regardless of prudence. In fact, from October 2011 through December 2013, approximately \$20 million of the Utah-allocated NPC variance has been disallowed due solely to the sharing mechanism.

In response to DPU's second reason, the Company believes that the sharing band serves no incentive purpose, that it instead serves to either limit benefits to customers or penalize the Company for prudent and innovative actions taken to benefit customers, that the introduction of the EIM eliminates the argument that the Company needs an incentive to optimize the dispatch of resources to serve customers, and that the combination of establishing NPC in base rates combined with the EBA provide ample opportunity for prudence review.

A portion of NPC is determined by the Company's wholesale natural gas and electricity transactions, which are influenced by changes in load and resources due to weather, markets and other factors out of the Company's control. To mitigate risk related to these transactions the Company has several policies and procedures in place, including the Risk Management Policy, Governance and Approvals Process, and Front Office Procedures and Practices. These policies and procedures outline the internal controls the Company has implemented and the measures taken to protect the interests of both its customers and shareholders. Internal controls include hedging limits and documented management approval of hedge transactions consistent with governance requirements, system controls (logic in the natural gas and power transactions trade capture system), contract reviews and documented management approval of new contracts consistent with governance requirements.

In a collaborative effort with Utah stakeholders and other interested parties, the Company changed its hedging policy to be consistent with the DPU guidelines resulting from the 2011 Utah hedging collaborative. This policy requires the Company to maintain a specified level of exposure to natural gas and power market prices, which influences NPC volatility, and over which the Company has no control. The Company has filed detailed semi-annual hedge reports beginning in 2012, also resulting from the 2011 hedging collaborative, which describe hedges transacted since the previous report and planned hedges. Comments from the DPU and the Office of Consumer Services (OCS) on the hedge reports have affirmed hedging compliance and have been non-controversial.

An important new development that impacts the EBA is the Company has committed to participate in an EIM with the California Independent System Operator (CAISO), which is scheduled to go live in non-binding parallel operations October 1, 2014 and in financial binding operations November 1, 2014. The EIM will automate and optimize the dispatch of resources on a least-cost basis every five minutes to serve load within reliability and transmission constraints. The EIM will therefore provide the controls necessary to ensure the “potential moral hazard” is never realized, and removes the need for the sharing mechanism as an incentive policy. Conversely, maintaining a sharing mechanism creates the perverse impact of either limiting benefits to customers or penalizing the Company for pursuing innovative solutions to reduce costs for customers. Removing the sharing mechanism ensures that customers receive the full benefits of the EIM, which further extends customer savings resulting from the diversity and opportunity in an expanded market footprint beyond PacifiCorp’s borders.

Perhaps the greatest control that mitigates the potential “moral hazard” is the EBA filing itself. Once the EBA is filed, the DPU and other interveners have been able to audit the Company’s filing and records and make proposals to the Commission relating to the prudence of the

Company's NPC. The Company recognizes the DPU has voiced concern stating: "after-the-fact prudence reviews are, at best, imperfect mechanisms to protect ratepayer interests."<sup>3</sup> However, the Company is confident that as the DPU continues its review of the Company's operational procedures and controls it will be able to take greater confidence in the results of its substantive testing. The DPU has taken a similar approach with regard to accounting internal controls which the DPU has determined are adequate and as a result "the DPU can move with some assurance, based on its review of the numbers provided by the Company, that they are accurate and the accounting is done properly."<sup>4</sup>

The DPU also notes an unintended consequence of the EBA:

One noteworthy realization concerning EBA has arisen in general rate case proceedings. For a given revenue requirement in a general rate case proceeding, customers' incentives are to set an NPC figure artificially high and the Company to set the figure artificially low. At any given revenue requirement, an artificially low NPC figure allows the Company greater recovery (or less liability) in EBA proceedings. The reverse is true for customers. This can invert parties' positions on adjustments to NPC items. The 70/30 sharing band and the interest accrual in the EBA may mitigate these incentives.<sup>5</sup>

While the Company agrees the EBA can invert parties' positions on adjustments to NPC during a rate case, the Company disagrees that the sharing mechanism mitigates this effect as stated by the DPU. Indeed, it is the existence of a sharing band that causes the phenomenon described by the DPU and is evidence that the sharing band inappropriately serves as a de facto NPC disallowance. An EBA with no sharing band, or a dollar-for-dollar recovery/refund, would align the parties' interest in setting NPC at the most accurate level possible.

The Company's position on the sharing mechanism is well documented in Docket No. 09-035-15. The Company supports the removal of the sharing mechanism, even more so now with

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<sup>3</sup> Preliminary Evaluation of PacifiCorp's EBA Pilot Program, Docket No. 09-035-15, page 13.

<sup>4</sup> Preliminary Evaluation of PacifiCorp's EBA Pilot Program, Docket No. 09-035-15, page 36.

<sup>5</sup> Preliminary Evaluation of PacifiCorp's EBA Pilot Program, Docket No. 09-035-15, page 18.

the introduction of the EIM which optimizes the economic dispatch of resources to serve customers.

## **B. Controllable vs Uncontrollable NPC**

NPC consists of purchased power expense, wheeling expense, and fuel expense, less wholesale sales revenues. NPC are dependent upon unpredictable weather, load, forced outages and market prices, all of which are outside of the Company's control. The Company has made a good faith effort to reduce the volatility of NPC where it can have a partial influence, such as improvements to short-term wind and load forecasting, hedging within guidelines established with stakeholders in the hedge collaborative and making the decision to participate in the EIM. However, forecasting technology is not 100 percent accurate and hedging guidelines reached in the collaborative process require the Company to maintain exposure to power and natural gas price volatility. Since much of NPC is not able to be controlled and the new EIM optimizes the economic dispatch of resources to serve customer load, the Company would propose removing the sharing band.

Weather causes variability by affecting both the volume of retail load and generation. Abnormally hot or cold weather causes load to spike due to increased energy consumption from retail customers. Also the Company has become more reliant on intermittent energy (because of qualifying facilities (QF) and other owned and contracted generation) to service its load. Solar, wind, and hydro generation are all zero cost NPC generation; however, in the event of unfavorable weather the lost generation has to be replaced by either coal or gas generation and/or purchased on the market.

Notably, the Company does not operate QFs from which it takes energy and cannot control their generation, but is required by federal law and state regulation to purchase power from these facilities. These contracts are often long-term levelized contracts that are priced above short-term

market rates, therefore increases in production from QF facilities combined with EBA sharing bands result in unfair harm to the Company as it cannot fully recover the costs from these projects that it is required to take at state regulated prices. This concern is amplified by the recent unprecedented level of QF activity in Utah with over 2,500 MW of indicative price requests that the Company has responded to since last fall.

Market prices affect both the purchased power expense and wholesale sales revenues. However, the Company does have controls in place to mitigate the market exposure to a limited degree. The Company uses load and weather forecasts to minimize the amount of system balancing that must take place in the real time market. The Company also uses hedging of natural gas and electric power to reduce NPC volatility consistent with the hedging collaborative guidelines.

The Company is in the process of implementing an EIM. As part of the EIM, CAISO will be providing a load forecast of the PacifiCorp balancing authority areas which will provide the Company with incremental improvement by having two forecasts to compare. It will also enable more efficient automated dispatch of the Company's system and take advantage of diversity across a much wider footprint to further reduce costs and improve situational awareness within and outside of the Company's borders.

#### **C. EBA Effect on the Company's Resource Portfolio**

The EBA has not had an effect on the Company's resource portfolio. The Company's resource portfolio is determined as a result of robust integrated resource plan (IRP), request for proposals, and rate case processes which are all transparent proceedings that are subject to focused and rigorous scrutiny by parties and the Commission.

#### **D. Appropriate Components of the EBA**

The Company generally agrees the components of the EBA are appropriate. However, a process for expanding the EBA to include other related variable costs on an as-needed basis should



exist. The Company would propose adding generation costs that vary with production such as the costs of chemicals and reagents which increase significantly with the addition of new environmental controls at the Company coal plants.

In its Preliminary Report the DPU describes that the costs and revenues related to the GP Camas (or James River Paper Company) contract are treated differently for the EBA – the costs of the purchase contract are included in NPC and the EBA, but non-NPC revenues received from leasing a generating plant at the mill site to GP Camas are not included. The DPU questions why the Company would treat GP Camas in this manner but propose to include all EIM-related costs in the EBA even if they are not modeled in GRID. The Company has suggested that EIM costs could be true-up using the EBA while some such costs were not included in base rates from a general rate case. Under those circumstances, the EBA would be an effective vehicle to true-up EIM-related costs since EIM benefits will automatically flow through the EIM while all EIM costs will not. However, the settlement stipulation in Docket No. 13-035-184 allows the Company to defer certain costs related to EIM for consideration in a future rate case.

**E. EBA Effect on the Company’s Hedging Decisions/Level of Market Reliance on NPC**

The EBA pilot program has had no impact on PacifiCorp’s natural gas and power hedging program. PacifiCorp’s hedging program is designed consistent with the guidelines that resulted from hedging collaborative workshops with stakeholders. The DPU notes that since 2009 system requirements have increased but that there has been only a minor change in total generation over that time, implying an increased reliance on purchased power. However, the DPU concludes that the changes year-to-year appear to be market driven, rather than based on any regulatory program. The Company agrees.

**F. Incremental Cost to Audit EBA**

The Company has absorbed the additional work load required to support the EBA and to facilitate the DPU audit with its existent complement of employees, and as a result has not incurred any incremental labor costs in administering the EBA.

**G. Unintended Consequences of the EBA**

The Company is not aware of any unintended consequences of the EBA, with the exception of the inverse incentives arising in general rate case settlements with respect to the sharing band as described in the sharing mechanism section of these comments. The Company agrees that the following issue described by the DPU is a consequence of the EBA.

The situation where the EBA period extends beyond, usually by about six months, the test year of the most recent rate case. Thus there is no specific EBA baseline for those months. The baseline months used are the previous calendar months for which there was a baseline. In a period of generally rising costs, this means that there will likely always be an under-collection of NPC during the EBA period due to this situation.<sup>6</sup>

The Company agrees that this mismatch and consequence observed by the DPU has had a material impact on the EBA deferral, on an annual and monthly basis. The only way to improve this situation would be to always update base NPC in rates that reflect the period the rates are in effect. However, DPU notes, “this seems to be undesirable from the perspective that customers would have to endure more rate changes.” The Company’s position is that the goal should be to provide accurate price signals to customers and to minimize customer volatility by reducing the probability that NPC forecasts vary from actuals. Removing the mismatch to ensure that the test period for NPC in base rates matches the rate effective period for the EBA is an obvious solution to mitigate NPC volatility for customers. The Company supports unbundling NPC from general rate cases to increase the likelihood that the Company can avoid burdensome rate cases and provide more stable rates for customers. It may also be possible to establish a system of annual updates to base NPC

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<sup>6</sup> Preliminary Evaluation of PacifiCorp’s EBA Pilot Program, Docket No. 09-035-15, page 18.

timed to take effect coincident with other rate changes, such as the true up of the EBA deferral, to minimize the number of rate changes experienced by customers.

#### **H. Monthly vs. Annual Accrual Differences**

The Company agrees with the DPU that calculating the EBA on a monthly basis is more complex, but it is more accurate in computing interest amounts and allocating NPC.

#### **I. DPU Evaluation of Additional Items**

In its EBA Pilot Program Evaluation Plan the DPU identified several other items which it would evaluate over the course of the EBA pilot program. These items range from the impact of the EBA process on the DPU work load and staffing, impact on the Company's IRP, plant performance, to the accuracy of monthly versus annual forecasting in GRID. In its Preliminary Report the DPU summarized the data it had gathered and described its preliminary analysis. In many cases the DPU's analysis indicated that at this stage of the pilot program the data is inconclusive or available for an inadequate number of periods to make any findings regarding the impact of the EBA on the Company's operations. The Company will continue to provide the data required for the DPU to continue its analysis for its final EBA pilot program report in 2016.<sup>7</sup>

As it relates to the Company's planning and operation of the system, the DPU reached the conclusion that "at this time the [DPU] cannot attribute changes in the Company's IRP to the EBA"<sup>8</sup>, and "to date there is no evidence of the EBA affecting plant performance."<sup>9</sup> The Company agrees. The Company must plan to provide a least-cost, least-risk portfolio of resources, and it must operate its resources in a prudent manner. Those standards apply regardless of the existence of an EBA in Utah, and consequently the EBA has no impact on the Company's day-to-day

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<sup>7</sup> The settlement agreement approved in Docket No. 13-035-184 extended the deadline for the final EBA report by one year, from 2015 to 2016.

<sup>8</sup> Preliminary Evaluation of PacifiCorp's EBA Pilot Program, Docket No. 09-035-15, page 26.

<sup>9</sup> Preliminary Evaluation of PacifiCorp's EBA Pilot Program, Docket No. 09-035-15, page 27.

operations.

Regarding the accuracy of GRID model forecasts on a monthly versus annual basis, the DPU stated that it “considers the mismatch in months [between actual NPC and base NPC] to be the greatest concern in the current EBA structure.”<sup>10</sup> The Company agrees the mismatch in months is a concern and has a material impact on the EBA deferrals; additional comments regarding potential remedies were provided in prior sections of these comments.

**J. Other Items**

*a. Use a Single EBA Calculation/Allocation Method*

The Company currently calculates the EBA using four different methods: the Scalar Method, the Commission Order Method, the A2 Method, and the A3 Method. The Scalar Method is the method approved for calculating the amount charged or refunded to customers, and the other methods are provided for informational purposes. The DPU recommends, and the Company agrees, no changes to the Scalar Method are needed at this time. The A2 Method is the result of using a simplified annual allocation in the settlement of Docket No. 11-035-200, and will no longer be relevant once new base rates are in effect from Docket No. 13-035-184. The Company recommends eliminating from the EBA filing at least the A2 Method and A3 Method that are not used.

*b. Issues Resolved in a General Rate Case Should not be Re-litigated in the EBA*

The Company believes parties should have the opportunity to generally review all of the Company’s actual EBA costs for the previous year. However, issues that were resolved in the general rate case that established base NPC, such as prudence of specific contracts, should not be re-litigated in the annual EBA true-up process. Continuous litigation of already resolved issues

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<sup>10</sup> Preliminary Evaluation of PacifiCorp’s EBA Pilot Program, Docket No. 09-035-15, page 32.

only strains all parties' resources. Pursuant to Tariff Schedule 94, the EBA provides for a review of the difference between base net power costs and actual net power costs, as those costs are defined under the Tariff Schedule 94.

*c. Remove the EBA SAP Accounts from the Tariff*

In addition to listing the FERC accounts that are included in the EBA, Tariff Schedule 94 also lists the SAP accounts. The Company recommends removing the SAP accounts from Tariff Schedule 94 as it does not provide value to the typical customer. The Company understands the value to the DPU and other parties, and identification of SAP accounts could still be provided annually with the EBA filing. However, this level of accounting detail is too cumbersome for the typical customer. In addition, SAP accounts change every year with the accounting needs of the Company and the value of listing the SAP accounts in Tariff Schedule 94 does not justify the maintenance.

*d. Eliminate Duplicate and Additional Filing Requirements*

The filing requirements should be reviewed and consolidated and any duplicative filing requirements should be eliminated. With each annual EBA filing, the Company provides a set of filing requirements and an additional set of filing requirements in accordance with recommendations made during the case. The Company sees no need for two sets of filing requirements; the additional filing requirements should just be consolidated into one set of filing requirements that are not duplicative.

*e. DPU Audit Process*

The Company is committed to a continued cooperative relationship with the DPU. Though professional skepticism is part of an auditor's ethical responsibility and the DPU has noted

“concerns about determining transaction prudence,”<sup>11</sup> the Company believes that through recent collaboration with the DPU, it has satisfied DPU’s documentation requirements and is confident it can address any future transparency needs in collaboration with the DPU. One suggestion the Company recently agreed to was to increase documentation related to the purpose of front office transactions.<sup>12</sup> The Company concurs that improvements will be made as the DPU and the Company provide feedback to each other.

DATED this 18<sup>th</sup> day of September, 2014.

Respectfully submitted,

ROCKY MOUNTAIN POWER



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<sup>11</sup> Preliminary Evaluation of PacifiCorp’s EBA Pilot Program, Docket No. 09-035-15, page 39.

<sup>12</sup> Response Testimony of John A. Apperson, Docket No. 14-035-31.

## CERTIFICATE OF SERVICE

I hereby certify that on September 18, 2014, I caused to be emailed a true and correct copy of the foregoing Comments Responding to the Division of Public Utilities Preliminary Evaluation of PacifiCorp's EBA Pilot Program to the following:

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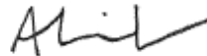
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