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Users

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of Rocky Mountain Power for Approval of Its Proposed Energy Cost Adjustment Mechanism	Docket No. 09-035-15
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UAE'S POST-HEARING BRIEF

The Utah Association of Energy Users (“UAE”) hereby submits its Post-Hearing Brief in this docket.

I. An ECAM is Not Currently Needed or in the Public Interest.

UAE has maintained throughout these proceedings that Rocky Mountain Power (“RMP”) has not carried its burden of proof to demonstrate that an energy cost adjustment mechanism (“ECAM”) is in the Utah public interest under existing circumstances. Like other forms of single-issue ratemaking, an ECAM for net power costs (“NPC”) should not be adopted absent a convincing showing of need and a strong showing that the benefits outweigh the drawbacks. RMP has made no such showing. The primary benefit of an ECAM is reduced risk of energy

cost recovery for the utility. The primary drawbacks include reduced incentives for management to control costs, shifting of risk from the utility to customers, violation of the matching principle and reduced economic incentives for the utility to undertake demand-side management actions. The evidence in this docket demonstrates that these drawbacks outweigh the benefits, particularly given that RMP's energy costs are not subject to significant volatility, are not beyond the control of management, and are not substantial enough to have a material impact on the utility's revenue requirement and financial health.¹ The use of a future test period to set base rates, combined with RMP's aggressive hedging practices and frequent rate case filings, combine to diminish any need or justification for an ECAM.

If the Commission nevertheless decides to adopt an ECAM, UAE submits that the ECAM design should be modified significantly from that proposed by RMP, as discussed in more detail in the following sections.

II. Any ECAM Should Include a Significant Risk-Sharing Component

RMP's proposal to shift all of the risk of inaccurate net power cost projections from RMP to its customers is unwarranted and should be rejected, as it would seriously reduce RMP's incentive to manage its fuel and purchased power costs. To remedy this problem and provide a more equitable balance between customer and shareholder interests, a sharing mechanism should be adopted that leaves at least 30% of the risk with RMP.

This Commission's current treatment of RMP's energy costs – where costs are projected in a rate case and the utility bears 100% of the risk/benefit of deviations in net power costs between rate cases (“NPC Deviations”) -- has been used in Utah for several decades, and for legitimate reasons. Primary among those reasons is that risk should fall upon the shoulders of those in a position to control the risk. The utility has such ability; customers do not.

¹ UAE Exhibit 1D, Higgins Direct, at 11-13.

RMP's ECAM proposal is predicated upon the argument that it is unfair and unreasonable for RMP to bear 100% of the risk of NPC Deviations. As a remedy, RMP proposes to shift 100% of that risk to customers, with no corresponding reduction in authorized ROE. RMP's proposal should be rejected out of hand, as it would be even more unfair and unreasonable than the status quo. Ratepayers have no ability whatsoever to control the utility's revenues or costs in between rate cases.

A pass-through of all NPC Deviations between rate cases would seriously reduce RMP's incentive to manage its fuel and purchased power costs as well as if RMP remained responsible for NPC Deviations between rate cases. When a company stands to gain or lose from its management decisions, as RMP does today, its economic self-interest gives it a powerful incentive to manage costs. UAE strongly opposes adoption of an ECAM design that removes this natural economic incentive.

RMP claims that controlling energy cost is largely out of its control. UAE disagrees. A utility is not a passive bystander in managing energy costs. A utility manages the dispatch of its systems every hour of the year. This requires a sophisticated approach to managing utility-owned resources, and involves a large volume of purchases and sales. Indeed, the NPC currently in Utah rates was derived by modeling the effects of over 8 million MWH of sales and over 2 million MWH of purchases in hourly balancing markets, with balancing sales occurring during 8,752 hours of the year and balancing purchases occurring during 6,231 hours of the year across six market hubs.² The depth and breadth of required dispatch and balancing activities are so extensive that regulators cannot safely rely solely on after-the-fact prudence audits to ensure

² UAE Exhibit 1D, Higgins Direct, at 11-12; Docket No. 09-035-23, Exhibit GND-1, and associated GRID run June 2010 (Gold)_2009 05 29 Net Power Cost Report.

sound utility cost-management. It is far preferable to harness the natural economic self-interest of the company to incentivize desired behavior.

In addition to hourly dispatch decisions, RMP enters into numerous transactions throughout the course of the year that impact NPC, such as short- and long-term purchases and sales and fuel procurement. For example, RMP/PacifiCorp transacted for more than 21 million MWH of long-term, intermediate-term, and short-term purchases, and 14 million MWH of exchanges in 2009, consummated in over 265 transactions. The Company also made over 22 million MWH of long-term, intermediate term, and short-term sales in 2009, conducted in over 150 transactions.³ It is critical that RMP have the proper incentives for these transactions to produce the greatest possible net benefit to customers. This incentive is most efficiently implemented if RMP bears, or at least significantly shares in, the benefits and risks of its decisions.

Incentives also play an important role with respect to the Company's own operations. For example, RMP should schedule plant maintenance so as to minimize NPC costs. Without an ECAM, the benefits and costs of NPC deviations are absorbed by RMP so it has a strong incentive to consider NPC impacts when scheduling outages. If 100% of NPC deviations are passed through to customers, the Company loses its natural economic incentive to consider NPC impacts.

UAE submits that RMP must continue to bear at least 30 percent of NPC deviation risk to produce an adequate economic incentive to drive proper behavior. This would still shift to ratepayers the majority of NPC Deviation risk, but it still aligns Company and ratepayer interests in a material manner. If an ECAM is adopted, a 70/30 weighting strikes a reasonable balance between utility customers and shareholders.

³ *Id.*, at 12; PacifiCorp FERC Form 1, pp. 310-11. Transaction count and MWH exclude out-of-period adjustments.

RMP is wrong in suggesting that those advocating for a sharing mechanism are asking the utility to recover less than 100% of its prudently incurred net power costs, or that a sharing mechanism is unfair or punitive to the utility. RMP's arguments ignore the significant difference between setting rates in a general rate case and using a single-issue cost recovery mechanism for an after-the-fact true-up.

Proper ratemaking is not a matter of simple cost reimbursement. Rates established in a general rate case should give the utility a reasonable opportunity to earn its authorized return and to recover all prudently-incurred costs, including NPC, based on test period parameters. Once rates are set, in the absence of extraordinary circumstances, the utility should be expected to operate within the framework of the approved rates, and to cope with normal business risks and the operation of economic forces for which it is paid a significant return on its equity investment.⁴ Base rates approved by the Commission provide a reasonable opportunity for full recovery of prudent test period costs. Failure of a utility to reach its full authorized return does not constitute a disallowance of prudently-incurred costs.

An ECAM, if approved, will provide RMP with an additional opportunity -- heretofore unavailable in Utah -- to recover (or refund) a portion of NPC cost deviations from rate case projections. This result is hardly unfair to RMP. Indeed, the question is whether it is fair to ratepayers.

RMP is also incorrect in suggesting that the Utah Code somehow prohibits a cost sharing arrangement. To the contrary, the statute is silent on the design and workings of an ECAM, leaving all such details to the sound discretion of this Commission. Several states currently employ cost-sharing mechanisms, including those applicable to RMP in Wyoming and Idaho.⁵

⁴ E.g., Report and Order, In the Matter of the Investigation into the Reasonableness of Rates and Charges of PacifiCorp, dba Utah Power & Light Company. Docket No. 97-035-01, March 4, 1999 at 47-48.

⁵ UAE Exhibit 1D, Higgins Direct, at 15.

It should be self evident that, if the Commission can properly assign 100% of the risk/benefit of NPC Deviations to RMP between rate cases, as has been the case for decades, the Commission can also properly assign just 30% of such risk to RMP. Moreover, the statutory language provides ample flexibility for the Commission to adopt a sharing mechanism. It defines an “Energy Balancing Account” as an account for “some or all” components of power costs. (Utah Code § 54-7-13.5(1)(b)) It requires a Commission finding that the balancing account is “in the public interest.” (*Id.*, 54-7-13.5(2)(b)(ii)) It requires that the collection method apply to “appropriate billing components.” (*Id.*, 54-7-13.5(2)(e)(i)) It requires all “allowed costs” to remain in the balancing account until refunded or charged to customers. (*Id.*, 54-7-13.5(4)(a)) The language provides broad discretion and flexibility for the Commission to design an ECAM for any portion, or all, of NPC Deviations.

In support of its fallacious argument that the Commission cannot adopt a sharing mechanism, RMP points to language that says that prudently incurred “actual costs” in excess of revenues shall be recovered by the utility. (*Id.*, 54-7-13.5(2)(h)). That section cannot be read as a limitation on the Commission’s ability to design an appropriate ECAM or to determine in the first instance what portion of NPC Deviations will be subject to recapture. Rather, its obvious purpose is to confirm that a utility may recover only prudently incurred actual costs through a bill surcharge stemming from an ECAM.

Finally, if RMP’s reading of the statute were accepted, it would leave the Commission with only two choices: leave 100% of the NPC Deviation risk on the utility, as is currently done, or shift 100% of such risk to customers under an ECAM. If those are the only choices, UAE submits that the Commission must decline to adopt an ECAM because an ECAM can only become effective upon a Commission finding that an energy balancing account is in the public interest. (Utah Code § 54-7-13.5(2)(b)(i)) Testimony offered by numerous witnesses in this

docket, including Kevin Higgins for UAE, Charles Peterson for the Division, Dan Gimble for the Office of Consumer Services, and Nancy Kelly for WRA, demonstrates as a matter of ratemaking policy that adoption of an ECAM for RMP in Utah without a sharing mechanism would not be in the public interest.

III. Any ECAM should include a Load Growth Adjustment.

If an ECAM is adopted in Utah, incremental margins attributable to load growth should be credited to customers as an offset for any ECAM measurement periods after the close of the test period in the most recent rate case (subject to the 70/30 sharing mechanism). If the Commission elects to make an ECAM effective before the conclusion of the next general rate case, the load growth adjustment factor should be set at \$27.86 per MWH.⁶

Two aspects of load growth are relevant to an ECAM: (1) NPC impacts; and (2) incremental margins. Load growth associated with the first aspect, NPC, is automatically recognized in the Company's proposed design, because the difference between base NPC and actual NPC will be measured on a per-unit basis (\$/MWH). With this approach, the measurement and recovery of NPC will thus be automatically adjusted for load growth. If base NPC and actual NPC are to be specified in total dollars instead of \$/MWH, as suggested by Charles Peterson of the Division, it will be necessary to adjust Actual NPC for changes in system load, to avoid levying an ECAM adjustor charge on customers that is attributable purely to an increase in NPC resulting from system load growth.

The second aspect of load growth is incremental margins recovered by the utility from increased retail sales due to load growth (i.e., sales revenue minus variable costs) that add to utility earnings. If deviations in NPC are to be recovered through an ECAM for periods beyond the close of the test period, it is equally appropriate to recognize an offset for incremental

⁶ UAE Exhibit 1D-SR, Higgins Surrebuttal, at 5.

margins, as a matter of basic fairness to customers. If the utility is allowed to recover deviations in NPC for measurement periods beyond the test period on a single-issue basis, a jurisdiction with load growth will provide the utility with incremental margins not taken into account in the test period. In determining an incremental ECAM revenue requirement, the incremental margins attributable to load growth should similarly be credited to customers as an offset in order to balance customer and utility interests equitably in a single-issue ratemaking context.

In Idaho, RMP provides a customer credit of \$17.48 per MWH for each MWH of growth in Idaho load relative to test period load.⁷ This credit reflects the difference between system production-related costs reflected in Idaho rates and NPC-related expenses (excluding wholesale margins), divided by system retail sales. In Utah, UAE proposes a load growth adjustment factor using the same methodology that RMP employs in Idaho, except that incremental margins earned on transmission plant should also be included because load growth will provide a significant increase to utility margins for transmission service not taken into account during the test period. If customers are to be subject to an ECAM adjustment, it is reasonable to recognize these margins as a credit against the ECAM balance. UAE's calculation of the load growth adjustment is reflected in UAE Exhibit 1.4D (CCH-4).

UAE's proposed load growth adjustment factor is applicable only for ECAM measurement periods after the close of the test period used in the last rate case because the adjustment factor is intended to account for the effects of load growth following the close of the test period used to set base NPC in a general rate case. UAE's adjustment is not intended to correct or true up the test period load forecast. Moreover, UAE proposes that the adjustment be applied symmetrically.

⁷ UAE Exhibit 1D, Higgins Direct, at 20.

RMP's objections to a load growth adjustment – based on arguments that it is not connected to NPC, does not reflect increases in non-NPC associated with load growth, penalizes utilities with significant capital investment programs, and violates the matching principle -- are not persuasive. They ignore the fact that RMP will have two separate single-item tools – an ECAM and a Major Plant Additions (“MPA”) case. RMP has pursued MPA cases vigorously, which permit it to recover many of the very costs that it claims are left out of UAE's proposed load growth adjustment. RMP has asked for single-issue ratemaking treatment for major plant additions without any recognition of incremental revenues it will receive from load growth. It now seeks to double down, with single issue ratemaking treatment for NPC, again without any recognition of incremental revenues from load growth. Taken in tandem, they would produce a very unfair, one-sided result to the detriment of customers. Recognition of incremental revenues from load growth is fair and reasonable.

IV. Adoption of an ECAM Should be Conditioned Upon RMP Agreeing to Use Rolled-In Interstate Allocations for Utah.

Based on the current inter-jurisdictional cost allocation methodology in use, an ECAM would subject Utah to hydro-related risk without commensurate hydro-related benefits. The “premium” to rolled-in rates currently paid by Utah in the form of the MSP rate mitigation cap is entirely attributable to removal of substantial net benefits of the PacifiCorp hydro system from Utah's allocation of system costs. For an ECAM to be in the Utah public interest, an interstate allocation methodology must be utilized that produces results for Utah that are equivalent to or better than rolled-in allocations. Such an allocation methodology for Utah ratemaking should be an explicit pre-condition of any type of ECAM adjustment at any time.

Utah law provides that an ECAM may become effective only at the conclusion of a general rate case. However, if an ECAM is nevertheless made retroactive to any degree (i.e., if

ECAM adjustments begin any time before the conclusion of RMP's next general rate case), the Commission should, as a condition to approval of any ECAM, require RMP to agree to an adjustment to the ECAM balancing account that will effectively credit customers with the entire 1% "premium" over rolled-in rates currently embedded in Utah base rates. The credit should equal 1% of the monthly base revenues paid by Utah customers for each month in which an NPC deferral is recognized.

If ECAM deferrals effectively begin in February 2010 as requested by RMP, the 1% premium currently in Utah rates should be credited to customers against the ECAM balancing account as of the same date. Similarly, if the ECAM begins in January 2011 as proposed by the Division, the 1% premium credit should begin on that date. The credit is necessary to maintain appropriate synchronization between Utah's exposure to hydro risk in the ECAM and the recognition of hydro benefits in Utah rates. This adjustment will be a one-time event, so long as rolled-in (or better) allocations to Utah continue so long as any ECAM is in place.

RMP has suggested that this issue be left to resolution in another docket. UAE strongly disagrees. Whatever may happen in the context of current or future MSP (Multi-State Process) negotiations or dockets, as a matter of fundamental fairness to Utah ratepayers, an ECAM which subjects Utah ratepayers to any degree of hydro risk greater than the commensurate hydro benefit is not fair to Utah ratepayers and is not in the public interest. Thus, regardless of the outcome of pending or future MSP or interstate negotiations or orders, a condition precedent to the existence of continuance of any type of ECAM should be the use of an interstate allocation methodology that produces results for Utah that are equivalent to or better than rolled-in allocations.

UAE's recommendations in this docket are fully consistent with its commitments in past MSP dockets. The MSP Revised Protocol and rate mitigation cap were conditionally approved by the Commission in Docket 02-035-04. The multi-state stipulation that led to that result

includes a “Reservation of Rights” section that clarifies that no party is bound to continue supporting the Stipulation if unforeseen or changed circumstances caused unjust or unreasonable results. Adoption of an ECAM that would subject Utah ratepayers to hydro-related risk without commensurate hydro benefits is a material change in circumstance that would produce unjust and unreasonable results in Utah. Moreover, UAE’s proposed condition for adoption of any ECAM in Utah in this docket is not intended as a comprehensive resolution of MSP issues. Rather, it is a proposal specific to and necessary for adoption of any ECAM in this State. While this recommendation might have implications for MSP discussions, it will not preclude or preempt a negotiated MSP resolution among the affected states and parties. Rather, it is tied to RMP’s voluntary pursuit of an ECAM and is akin to UAE’s recommendation in 2004 that the rate mitigation cap (which was not part of the MSP Revised Protocol) be adopted in Utah to protect Utah ratepayers.

Moreover, UAE has fully complied with its agreement to work in good faith to address interjurisdictional issues being considered by the MSP Standing Committee. UAE has participated actively in MSP Standing Committee activities for several years to address, among other things, concerns about the continuing fairness of Revised Protocol to Utah. Also, UAE long ago informed the MSP Standing Committee that adoption of an ECAM in Utah would constitute a significant change in circumstance that would require changes to produce just and reasonable results for Utah.

V. REC Revenue Should Not be Included in an ECAM; The Ratemaking Treatment of Deferred NPC and Deferred REC Revenues Should Not be Addressed in This Docket.

Two distinct issues have been raised by parties to this docket regarding revenue received by RMP in connection with Renewable Energy Credit (“REC”) sales: (1) whether REC revenues should be included in or excluded from cost categories to be trued-up to actual in an ECAM, if

one is adopted; and (2) whether incremental REC revenues deferred since February 2010 as a result of the UAE Application and Commission Order in Docket 10-035-14 should be offset against incremental NPC revenues deferred since February 2010 as a result of RMP's motion and Commission Order in this docket. UAE submits that the first question is properly before the Commission in this docket and should be resolved on a forward-looking basis, but that the second issue is not ripe for determination in this docket.

Inclusion of REC Revenue in an ECAM. RMP did not propose to include REC revenue in its original ECAM proposal, and there is no obvious or compelling reason to include them. REC revenues are not a component of energy cost. Rather, they represent one of several sources of potential utility revenue. Because REC sales are made possible by assets that are fully paid for by customers, REC revenues must be fully credited to customers. However, like most other categories of revenue (and expense), they can typically be projected and determined reasonably in a general rate case.

On a forward-looking basis, UAE submits that REC revenue should be excluded from an ECAM, for several reasons. First, UAE submits that an ECAM should be narrowly fashioned in the spirit of the authorizing statute to include only "fuel," "purchased power" and "wheeling expenses" and "wholesale revenues." (Utah Code § 54-7-13.5(1)(b)). Because utilities typically favor running all expenses through a balancing account (while being paid, through authorized ROE, as though they bore those risks), there is a tendency for such accounts to be broadened by including additional costs and revenues. Second, REC revenues have typically not been unduly volatile or unpredictable. The dramatic escalation in REC values in the west starting in November 2009 -- which provides a basis for retroactive ratepayer credits -- was unprecedented and is attributable largely to actions of the California government. There is no reason to believe that typical ratemaking treatment will be inadequate for REC revenue in most years. Finally,

inclusion of REC revenues in an ECAM represents yet another example of shifting risk to ratepayers without a corresponding reduction in ROE.

Deferred NPC and REC Revenue. Whether or not the Commission elects to include REC revenue in an ECAM on a forward-looking basis, UAE respectfully submits that the proper ratemaking treatment of both the Deferred NPC and the Deferred REC revenues should not be determined in this docket.

In the first place, RMP completely failed to carry its burden of proof in this docket to demonstrate that it is entitled to recover the deferred NPC from customers retroactively. Indeed, when RMP witness Greg Duvall was asked for any factual support for RMP's argument that the deferred NPC should be recovered retroactively by the Company in this proceeding, Mr. Duvall refused to characterize the deviations in NPC as extraordinary and RMP's counsel objected to any questions about whether the NPC Deviations were unforeseeable or extraordinary. (Tr. at 92-94). One will search the record in this docket in vain for any evidence supporting a claim by RMP that the Deferred NPC is recoverable retroactively under any recognized Utah legal principle.

UAE respectfully submits that the Deferred NPC cannot properly be charged retroactively to customers absent a sufficient showing under Utah law that retroactive ratemaking is appropriate. RMP made no attempt to make any such showing, choosing to rely solely upon its claim that it should be rewarded with retroactive collection of Deferred NPC because it filed its ECAM filing in 2009 and feels that the Commission should have resolved this docket prior to the completion of the 2009 rate case. (RMP Exhibit 1R, Duvall Rebuttal, at 17). That argument is unpersuasive and unavailable as a matter of Utah law.

The rule against retroactive ratemaking generally precludes the ratemaking process from being influenced by actual revenues that deviate from rate case estimates due to "missteps made

in the ratemaking process,” *Utah Department of Business Regulation v. Utah Public Service Commission*, 720 P.2d 420 (Utah 1986). There are very few exceptions to this rule recognized in Utah. One such exception is unforeseeable and extraordinary changes in cost or revenue. *MCI Telecommunications Corporation v. Utah Public Service Commission*, 840 P.2d 765, 771-772 (Utah 1992); Report and Order, Utah PSC Dockets 06-035-163, 07-035-04, 07-035-14, at 15 (January 3, 2008). Another recognized exception is for events or circumstances that may be known or foreseeable but not measurable at the time of a rate case, such as where the impact of a foreseen event on utility revenues was unforeseeable and extraordinary, or where the actual manifestations of an event vary from the projections in an unforeseeable and extraordinary way. Report and Order, Utah PSC Dockets 06-035-163, 07-035-04, 07-035-14, at 19 (January 3, 2008). A third exception is for utility misconduct that undermines the integrity of the ratemaking process. *Stewart v. Utah Public Service Commission*, 885 P.2d 759, 779 (Utah 1994).

Each of the recognized Utah exceptions to the general prohibition against retroactive ratemaking potentially applies to justify retroactive ratepayer refunds of the Deferred RECs -- as UAE intends to demonstrate in an appropriate proceeding in the near future. However, none of them justifies retroactive customer surcharges for Deferred NPC.

Another exception to the general rule against retroactive ratemaking is where applicable Utah law permits the same. RMP attempts to rely upon this exception, pointing to the ECAM authorizing statute. However, RMP’s attempt is misguided. That statute provides that an ECAM “formed and maintained in accordance with this section does not constitute impermissible retroactive or single-issue ratemaking.” (Utah Code § 54-7-13.5(4)(c)) However, it also expressly requires that an energy balancing account may become effective only if “implemented at the conclusion of a general rate case.” Because RMP’s proposed ECAM was not and could

not have been implemented at the conclusion of the last general rate case, the statute requires that it be implemented only at the conclusion of the next general rate case. Any other interpretation of the statutory language would render meaningless the express statutory wording.

In contrast, the case for customer refunds of Deferred REC Revenues is very strong. Beginning in the Fall of 2009, REC values soared to unprecedented levels.⁸ The magnitude of change in the amount of REC revenues was certainly extraordinary and the change was not foreseeable to others. On November 12, 2009, RMP's rebuttal testimony in Docket No. 09-035-23 claimed that \$18.5 million represented a reasonable level of its system-wide REC revenues for the test period ending June 2010.⁹ The Commission's Report and Order in that docket, dated February 18, 2010, utilized that value in setting Utah rates. However, 2009 actual system-wide REC revenues had turned out to be \$50.8 million.¹⁰ And by March 18, 2010, RMP had stipulated in Wyoming to system-wide REC sales of \$84.4 million for Calendar Year 2010, with a provision for a true-up. Projections in excess of \$80 million had been proposed a full month earlier by parties to the Wyoming case.¹¹ In a matter of weeks, the Company's projections for REC sales grew by orders of magnitude as the Utah rate case was being concluded.

Unlike RMP's case for retroactive NPC recovery, the case for retroactive customer recovery of incremental REC Revenues is extremely compelling. Like the Deferred NPC, however, this is not the docket in which the proper ratemaking treatment of Deferred REC Revenue should be resolved.

UAE, the party that requested deferred accounting treatment of REC Revenues, did not fully present its evidence in support of retroactive recovery of REC Revenues in this docket,

⁸ UAE Cross-Exhibits 1, 2.

⁹ UAE Exhibit 1D, Higgins Rebuttal, at 36; Rebuttal testimony of Steven R. McDougal, at 5-6.

¹⁰ UAE Exhibit 1D, Higgins Rebuttal, at 36; Attachment 2.12.b to RMP Response to UAE 2.12.b.

¹¹ UAE Exhibit 1D, Higgins Rebuttal, at 36; Wyoming Docket No. 20000-352-ER-09. "Stipulation and Agreement," filed March 18, 2009.

because this it not a ratemaking docket or the most appropriate context for a resolution of that issue. Nor did other parties have sufficient opportunity to investigate and take informed positions on the issue. The proper ratemaking treatment of REC Revenues for any periods prior the effective date of the next general rate case order should be resolved in the near future in an appropriate proceeding, which UAE intends to file.

VI. Adoption of an ECAM Reduces RMP’s Risk and Must be Accompanied by a Reduction in Authorized ROE.

Adoption of an ECAM would reduce RMP shareholder risk. Consequently, it should result in a lower authorized return on equity than would otherwise obtain. Although the Commission need not decide in this docket how that reduction should be reflected or how much it should be, UAE respectfully submits that, as in the Questar decoupling docket, the Commission should expressly state that reduced risk should result in reduced authorized ROE, and invite all parties to address how that reduction should best be measured and reflected in the next ratemaking proceeding.

VII. Other Design Issues

Effective Date. Utah Code § 54-7-13.5(2)(b)(iii) expressly requires that an energy balancing account may become effective only if “implemented at the conclusion of a general rate case.” Because RMP’s proposed ECAM was not and could not be implemented at the conclusion of the last general rate case, the statute requires that it be implemented only at the conclusion of the next general rate case. Any other interpretation would render meaningless the express statutory wording.

Measurement Period. UAE agrees with RMP’s proposal to utilize an annual measurement period for the purpose of establishing the ECAM adjustor amount. Because deviations from NPC are likely to fluctuate during the course of the year, if an ECAM is adopted

it should be set on an annual basis. Administratively, it makes little sense to set a positive adjustor charge to recover positive NPC deviations for one part of a year, only to follow it with a negative adjustor charge for a subsequent part of the year if the deviations were to reverse for that subsequent portion of the year.

Rate Design. UAE also agrees with RMP's rate design proposal to differentiate the ECAM adjustor charge by voltage and time-of-day, as applicable. UAE agrees that the ECAM adjustor charge should be shaped by time-of-day to reflect the shape of the base energy charge for time-of-day-billed rate schedules, as it is consistent with maintaining the underlying price signals in the rate design. UAE also strongly supports differentiating the charge based on voltage of service. An ECAM adjustor charge should be differentiated by voltage for the same reasons that base rates reflect voltage differences: customers taking service at higher voltages incur fewer line losses. Consequently, higher voltage customers require fewer kilowatt-hours of generation at input to meet a given level of energy consumption delivered to their meters. The ECAM adjustment charges for customers should be designed to reflect these line loss differences. RMP's ECAM adjustor charge in Idaho is also differentiated by voltage. The same design concept should be used in Utah if an ECAM is adopted.

Respectfully submitted this 16th day of December, 2010.

/s/ _____
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**CERTI
FICATE OF SERVICE**

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