**Witness OCS – R1**

**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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| **In the Matter of the Rocky Mountain Proposed Schedule 94, Energy Balancing Account (EBA) Pilot Program Tariff** | ) ) ) ) ) | **Docket No. 11-035-T10 Rebuttal Testimony of Daniel E. Gimble For the Office of Consumer Services** |

**March 15, 2012**

## I. INTRODUCTION

Q. PLEASE STATE YOUR NAME, POSITION AND YOUR BUSINESS ADDRESS.

A. My name is Daniel E. Gimble. I am a special projects manager with the Office of Consumer Services. My business address is 160 E. 300 S. Rm. 201, Salt Lake City, Utah.

Q. DID YOU PRE-FILE DIRECT TESTIMONY EARLIER IN THIS PROCEEDING?

A. Yes.

Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY IN THIS CASE?

A. My rebuttal testimony responds to direct testimony of witnesses for the Company, Division, UIEC, and UAE on the following issues:

- EBA Rate Spread;
- Contract Customers;
- Frequency of Billing;
- Costs Recorded in the EBA; and
- Finality of EBA Rates.

## II. EBA IMPLEMENTATION ISSUES

***EBA Rate Spread***

Q. PLEASE SUMMARIZE THE TESTIMONY OF THE WITNESSES FOR OTHER PARTIES ON THE ISSUE OF EBA RATE SPREAD.

A. Witnesses Griffith (Company), Brubacker (UIEC) and Higgins (UAE) state that the class spread percentages from the COS Stipulation in last GRC (10-035-124) should be the method used to spread the approved EBA costs in the Company's initial March 2012 EBA filing.[1] Mr. Griffith and Mr. Higgins also reference the $60 million settlement of deferred NPC as support for their spread recommendation for the initial EBA period.[2] Regarding a method for spreading EBA costs in

[1]The EBA costs included in the March 2012 EBA filing will be for the period of October 1, 2011 – December 31, 2011.
[2]Griffith Direct, pg. 3, lines 62-70. Higgins Direct, pg. 4, lines 64-70.

future EBA periods[3], all three witnesses agree that this is an open issue for resolution by Commission and Mr. Griffith and Mr. Higgins present alternatives.

Q. WHAT IS THE OFFICE'S OVERALL RESPONSE TO THESE EBA SPREAD PROPOSALS?

A. The primary objective of this proceeding is to properly define the terms of the EBA tariff so that it will result in just and reasonable rates when implemented. The rate spread in the Commission's March 3, 2011 EBA Order was clarified by the Commission in its January 20, 2012 Pre-hearing Order to reference the way base EBA costs were functionally allocated in the last GRC. The Composite NPC Allocator recommended by the Office best complies with the recent guidance provided by the Commission on the spread of EBA costs for the initial and future EBA periods. The Composite NPC Allocator represents a fair and cost-based method for spreading EBA costs and will result in just and reasonable rates for customers.

In addition, the references made by certain parties to the spread of the $60 million settlement of deferred NPC as support for spreading EBA costs are completely inappropriate for this tariff proceeding. The very nature of a settlement agreement specifies that it will not serve as a precedent for future cases. This settlement has no connection to the forward-looking EBA spread issues that are in play in this tariff proceeding. Any proposed application of this stipulated spread method to EBA costs from October 1, 2011 forward should be disregarded by the Commission.

Q. WHAT IS THE OFFICE'S RESPONSE TO THE PROPOSAL BY UAE, UIEC, AND THE COMPANY TO USE THE SPREAD FROM THE COS STIPULATION IN THE LAST GRC TO SPREAD EBA COSTS INCURRED FROM OCTOBER 1, 2011 TO DECEMBER 31, 2011?

A. The proposed method is contrary to the public interest and should be rejected by the Commission. The class rate spread from the COS stipulation was generally

[3]Future EBA periods refer to calendar year periods beginning January 1, 2012 – December 31, 2012.

applied to all cost components of general rates (generation, transmission, distribution investment, maintenance expense, etc.) and does not represent an appropriate, cost-based allocator for EBA purposes. In the last GRC, base EBA costs were spread to rate schedules in the Company's COS model using the Composite NPC Allocator. From a cost causation standpoint, the Composite NPC Allocator is a superior method for spreading the EBA costs accrued from October 1, 2011 to December 31, 2011.

Q. AS SUPPORT FOR ITS SPREAD RECOMMENDATION FOR THE INTIAL EBA PERIOD, THE COMPANY NOTES THAT THE COMMISSION DID NOT ISSUE FINDINGS REGARDING THE COST OF SERVICE ALLOCATORS USED TO SPREAD THE BASE NPC IN THE LAST GRC. WHAT IS YOUR RESPONSE?

A. I acknowledged in my direct testimony that this type of finding would need to be made by the Commission in future GRCs. Since specific findings from the most recent rate case are unavailable, the Commission must use a proxy method to spread EBA costs in this initial, three-month accrual period. The Composite NPC Allocator is the best proxy to use because it appropriately reflects the distinct set of NPC cost and revenue accounts included in the EBA.

Q. WHAT IS THE OFFICE'S RESPONSE TO THE PROPOSALS OF THE COMPANY AND UAE ON THE ISSUE OF EBA RATE SPREAD FOR FUTURE EBA PERIODS, BEGINNING JANUARY 1, 2012 - DECEMBER 31, 2012?

A. The Company and the Office share the view that EBA costs in future periods should be spread in way consistent with the allocation of base EBA (NPC) costs in a cost-of-service study approved by the Commission. The Office has referred to this method as the Composite NPC Allocator. In response to UAE's proposal, any type of Total Revenue Requirement Method lacks the necessary precision to spread future EBA balances in a fair and cost-based way to customers. These types of methods are broadly conceived to allocate a wide range of cost elements, including the fixed costs of generation, transmission and distribution investment, maintenance expense, customer service expense, and so forth.

Consequently, they are poorly aligned with the distinct set of NPC accounts that will be reconciled in EBA proceedings. If used for EBA spread purposes, a Total Revenue Requirement Method would unfairly over-allocate costs to the residential and small commercial rate schedules.

Q. DID THE DIVISION RECOMMEND A METHOD FOR SPREADING EBA COSTS?

A. No. However, Division witness Peterson states the Division finds merit with the Office's expected rate spread proposal and that implementation could possibly take place concurrent with the Company's March 2012 EBA Filing.[4] The Office looks forward to the Division's discussion of support for our proposal and responses to other proposals.

Q. IS THERE AN ADDITIONAL MATTER RAISED BY THE COMPANY THAT REQUIRES A RESPONSE?

A. Yes. In instances where a COS study is approved but specific base EBA costs are not established by the Commission in a future GRC, the Company proposes that EBA costs should be spread on an "equal percent of functionalized generation costs to each rate schedule."[5]

Q. DID THE COMPANY EXPLAIN THE BASIS FOR THIS PROPOSED "DEFAULT" ALLOCATOR?

A. The Company neither explained nor provided any evidence in support of this proposal. Mr. Griffith's testimony simply ends after recommending a functionalized generation allocator as the default method.

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[4]Peterson Direct, pg. 21-22, lines 461-463.
[5]Griffith Direct, pg. 4, lines 89-93.

Q. DOES THE OFFICE HAVE ANY CONCERNS WITH THE COMPANY'S PROPOSAL?

A. Yes. A functionalized generation allocator would normally include fixed cost components (return, depreciation, taxes, etc.) of generation plant that have little relationship to NPC elements. Including these fixed costs in an allocator designed for EBA purposes would distort the allocation of EBA costs. Thus, a functionalized generation allocator does not have the necessary qualities to properly serve as a method for spreading EBA costs.

Q. PLEASE SUMMARIZE THE OFFICE'S RECOMMENDATIONS ON EBA RATE SPREAD.

A. The Office's primary recommendations are unchanged. The Office continues to recommend the following:

- The Composite NPC Allocator should be used to spread EBA costs to rate schedules and affected special contracts beginning with the Company's March 2012 EBA filing. The Composite NPC Allocator better reflects cost causation than a method using the class revenue spread percentages from the last GRC or using some variation of a Total Revenue Requirement Allocator.
- The Composite NPC Allocator should be determined in each GRC, which normally will require the use of a Compliance NPC Study. The Commission should also establish a review process to verify the accuracy of the Compliance NPC Study and Composite NPC Allocator.

In response to the Company's proposal that a functionalized generation allocator serve as the default method for spreading EBA costs, the Office adds a third recommendation:

- The functionalized generation allocator should not be used as a default allocator for spreading EBA costs. This allocator includes fixed cost components of generation, which inappropriately distorts the spread of NPC elements among rate schedules.

***Contract Customers***

Q. PLEASE DESCRIBE THE SPECIAL CONTRACT ISSUE.

A. In direct testimony, UIEC witness Brubaker claims that the “Application” paragraph related to the Original EBA Tariff Sheet 94.1 is confusing and any language referencing retail contract customers should be removed. He cites Utah Public Utilities Statute, UCA § 54-7-13.5(2)(f) as support for his recommendation that tariff language be changed in Sheets 94.1, 94.4 and 94.5.[6]

Q. WHAT DOES THE APPLICATION PARAGRAPH IN EBA TARIFF SHEET 94.1 STATE?

A. The Application paragraph in Tariff Sheet 94.1 reads as follows:

“This Schedule shall be applicable to all retail tariff Customers taking service under the terms contained in the Tariff and to retail contract customers taking service under the terms of a contract to the extent authorized by, and according to the terms of, the governing contract.”

Q. WHAT DOES UCA § 54-7-13.5(2)(f), THE STATUTE REFERENCED BY MR. BRUBAKER, INDICATE?

A. The referenced statute has the following language:

“The collection of costs related to an energy balancing account from customers paying contract rates shall be governed by the terms of the contract.”

Q. WHAT IS THE OFFICE’S POSITION ON THIS MATTER?

A. The Office believes it is important that the EBA Tariff Sheets accurately communicate applicability to both tariffed and special contract customers. With this objective in mind, the language referencing contract customers in the Application portion of EBA Tariff Sheets 94.1, 94.4 and 94.5 should be changed to exactly match the referenced statute, which clearly indicates that collection of

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[6]Brubaker Direct, pg. 10, lines 220-231.

EBA costs from contract customers is to be governed by the terms of individual contracts.

***Frequency of Billing***

Q. PLEASE DESCRIBE THE FREQUENCY OF BILLING ISSUE.

A. In direct testimony, UIEC witness Brubaker proposes that estimates of EBA costs be billed monthly to customers on a transmission voltage level rate schedule (Schedule 9).[7] Mr. Brubaker states that monthly bill estimates can be reconciled once a final evaluation of the EBA has occurred. He also indicates that UIEC has no objection to applying this billing approach to other rate schedules. According to Mr. Brubaker, more frequent billing would provide better price signals to customers and reduce the burden imposed by carrying charges.

Q. WHAT IS THE OFFICE'S RESPONSE TO UIEC'S PROPOSAL?

A. UIEC'S billing proposal is plagued by at least three related problems: administrative complexity, customer acceptance and mixed price signals. From an administrative standpoint, the proposal requires that customer bills be estimated monthly and then reconciled much later based on a Commission final EBA Order. This reconciliation would presumably involve interest charges. This proposal adds a layer of administrative complexity, the cost of which would need to be directly assigned to customers receiving the estimated bills. These customers may also receive confusing EBA price signals when monthly billing estimates are trued-up at a much later time. This could raise customer concerns relating to billing accuracy, rate stability and acceptance of the program format.

Q. HAS THE COMMISSION ALREADY RULED ON THE ISSUE OF BILLING FREQUENCY?

A. While the Commission invited parties to identify issues beyond those set forth in its January 20, 2012 Pre-hearing Implementation Order, it appears to have

[7]Brubaker Direct, pg. 15, lines 348-350.

already decided this issue in an earlier EBA Order. On Page 77 of its March 3, 2011 EBA Order the Commission stated:

"We accept the Company's proposal for annual reconciliation of the deferred account balance. Annual reconciliation will allow for rate stability and simplicity."

Therefore, the Commission noted the positive attributes of administrative simplicity and rate stability attendant to an annual reconciliation format.

Q. REGARDING UIEC'S BILLING PROPOSAL, WHAT IS THE OFFICE'S RECOMMENDATION?

A. UIEC's billing proposal conflicts with the Commission's prior EBA order, complicates the billing process, sends mixed price signals to customers, and is contrary to the "smoothing" of EBA costs over a 12-month accrual cycle. The proposal is not in the public interest and should not be adopted. If the Commission adopts UIEC's billing proposal for transmission-voltage customers, the Office recommends that all associated administrative costs be directly assigned to those customers receiving monthly estimated bills.

***Costs Recorded in EBA***

Q. PLEASE SUMMARIZE THE TESTIMONY OF UIEC WITNESS BRUBAKER AND DPU WITNESS CROFT ON THE ISSUE OF COSTS RECORDED IN THE EBA.

A. Mr. Brubaker raises concerns regarding the lack of transparency of costs and revenues included in the EBA. He asserts that many items lack specificity and provides a few examples.[8] He recommends that the items included in and excluded from all EBA accounts need to be defined and explicitly set forth in the EBA tariff sheets. Mr. Croft also recommends that more detailed descriptions of accounts (and account relationships) be provided in the EBA tariff sheets so that items included and excluded from the EBA are transparent.[9] He proposes that a

[8]Brubaker Direct, pg. 6, lines 128-136 and 143-145.
[9]Croft Direct, pg. 5, lines 90-93.

"medium" level of informational detail be required to ensure an adequate baseline upon which the Division and others can begin their review of EBA filings.[10]

Q. WHAT IS THE OFFICE'S RESPONSE TO THE RECOMMENDATIONS OF UIEC AND THE DIVISION ON THIS ISSUE?

A. In direct, the Office proposed developing an EBA Manual that would be associated with the EBA tariff sheets. After reviewing the direct testimony of UIEC and the Division on this issue, we agree that this information should be specified and included directly in the EBA tariff sheets. These tariff sheets can be regularly updated to reflect any changes to EBA-related accounts. Accordingly, the Office modifies our earlier recommendation regarding the EBA Manual and instead recommends the following information be included in the EBA tariff sheets at the Division's proposed "medium" level of detail:

- The NPC elements included in and excluded from the EBA;
- EBA costs and revenues at the account, sub-account and SAP levels; and
- Separate tracking of gas and electric swap transactions in Account 555;

The EBA tariff sheets should also clearly indicate:

- How each NPC element is defined for EBA purposes (e.g., incremental wheeling revenue, sales for resale, etc.);
- The procedures for transferring EBA costs into deferral accounts; and
- Requirements for prior period accounting entries.

Lastly, the Division's proposed medium level of informational detail should be evaluated after the first complete EBA cycle to determine whether it should be adjusted to a higher or lower level.

[10]Croft Direct, pgs. 6-7, lines 111-127.

Q. DOES THE OFFICE STILL SUPPORT A RULEMAKING PROCESS TO DEVELOP EBA FILING REQUIREMENTS?

A. Yes. As I indicated in my direct testimony, rules governing EBA filing requirements should be developed prior to the Company's March 2013 EBA Application. These rules should target completeness of information in EBA filings in order to minimize discovery and promote an efficient EBA review process.

***Finality of EBA Rates***

Q. WHAT GUIDANCE HAS BEEN PROVIDED BY THE COMMISSION ON THE ISSUE OF FINALITY OF EBA RATES?

A. On Page 77 of its March 3, 2011 EBA Order, the Commission stated:

We adopt a review process with hearing to set 'interim rates.' We direct the Company to file annually, on March 15, to collect or refund the calendar-year deferred balance. Following the Division's audit and prudence review, we will set final rates."

Q. HAS THE OFFICE PROVIDED ITS PERSPECTIVE ON THE GUIDANCE PROVIDED BY THE COMMISSION IN ITS EBA ORDER?

A. Yes. As I stated in my direct testimony, final EBA rates should not be established until the Commission holds a hearing to consider the Division's EBA Report and any issues regarding the accuracy or the prudence of costs raised by parties. The Company's new EBA is not a simple pass-through mechanism compared to Questar Gas Company's 191 Account. The EBA includes the costs (and associated risks) of significant wholesale market activities and hedging (swap) transactions that will impact EBA accruals. Thus, it is imperative that the Commission conduct a prudence review of EBA accruals to ensure the rates charged to customers are just and reasonable.

Q. IS THERE A RELATED ISSUE TO FINALITY OF EBA RATES THAT CERTAIN PARTIES RAISED IN DIRECT TESTIMONY?

A. Yes. The Office, UIEC and the Division provided recommendations on the EBA review process.

Q. PLEASE SUMMARIZE THE TESTIMONY OF UIEC WITNESS BRUBAKER AND DPU WITNESS CROFT PERTAINING TO THE ISSUE OF EBA REVIEW PROCESS.

A. Mr. Brubaker recommends 180 days be allowed for the Division's EBA audit and that interested parties either be included in the EBA evaluation process or afforded a minimum of 30 days to comment on the Division's EBA Report.[11] Mr. Croft recommends that no specific time period be established for completing the DPU's Audit Report.[12]

Q. WHAT IS THE OFFICE'S POSITION ON THIS ISSUE?

A. The Office shares the concern that parties have sufficient time to review the Company's EBA filing, submit discovery, analyze information and decide whether to challenge the accuracy or prudence of EBA costs. The Office also agrees with the Division's recommendation that it is too early to establish any specific time period for the EBA review process. We continue to recommend parties be allowed a minimum of 45 days from the time the Division submits its EBA Audit Report to identify any additional issues and file recommendations with the Commission.[13]

Q. PLEASE EXPLAIN THE REASONS FOR YOUR RECOMMENDATIONS.

A. Our recommendations are based on two important considerations. First, the 180 days proposed by UIEC may place unreasonable restrictions on the Division and other parties to thoroughly review the Company's EBA Application. Since the EBA constitutes a new regulatory mechanism in Utah, parties may require more

[11] Brubaker Direct, pg. 3, lines 59-64.
[12] Croft Direct, pg. 8, lines 152-155.
[13] Gimble Direct, pg. 14, lines 387-392.

than 180 days to complete evaluations of the EBA Application and file recommendations. Second, the 30 days proposed by UIEC to respond to the DPU's EBA Audit Report represents inadequate time for a party to conduct discovery and prepare independent recommendations. The Office's proposal of 45 days allows for a reasonable period to submit discovery, analyze responses and file recommendations to the Commission.

Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

A. Yes it does.