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# State of Utah Department of Commerce Division of Public Utilities

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## ACTION REQUEST RESPONSE

**To:** Utah Public Service Commission

**From:** Division of Public Utilities  
Chris Parker, Director  
Energy Section  
Artie Powell, Manager  
Abdinasir Abdulle, Utility Analyst

**Date:** May 2, 2016

**Re:** **Docket No. 16-035-T05**  
Compliance Filing. In the Matter of Rocky Mountain Power's Proposed Revisions to Electric Service Schedule No. 94, Energy Balancing Account (EBA)

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### RECOMMENDATION (Approval with Modified Language)

The Division of Public Utilities ("Division") has reviewed the proposed revisions by Rocky Mountain Power ("Company"). The Division proposes alternative language and revisions to the tariff and recommends the Public Service Commission ("Commission") approve these alternatives effective June 1, 2016. Otherwise, the Division recommends the Commission suspend the tariff and open a proceeding to investigate and evaluate whether other aspects of the tariff remain in the public interest.

### ISSUE

On April 14, 2016, the Company filed with the Commission its proposed revisions to Electric Service Schedule 94, Energy Balancing Account Pilot Program, (Schedule 94). On the same date, the Commission issued an Action Request for the Division to investigate the tariff filing for compliance and report its findings and recommendations to the Commission by April 29, 2016.

However, a Notice of Filing and Comment Period issued by the Commission on April 18, 2016, indicated that any interested party might submit comments on RMP's filing on or before Monday, May 2, 2016. This memorandum represents the Division's comments on this filing.

## **DISCUSSION**

In its filing the Company submits its proposed tariff revisions to make Schedule 94 consistent with the legislative changes contained in Senate Bill 115 enacted in the 2016 general session of the Utah State Legislature. Specifically, the proposed changes reflect Section 54-7-13.5(2)(d) and 54-7-13.5(6). Section 54-7-13.5(2)(d) states

Beginning June 1, 2016, for an electrical corporation with an energy balancing account established before January 1, 2016, the Commission shall allow an electrical corporation to recover 100% of the electrical corporation's prudently incurred costs as determined and approved by the Commission under this section.

To comply with this Section of the Code, the Company proposed two changes to the current Tariff. First, in the Application section of the current Tariff, it eliminated the language regarding the effective period of the EBA Pilot Program and the amount of the deferred net power cost to be collected using the current Tariff. Second, under the Definitions section, it modified the definition of the EBA (Energy Balancing Account) by referencing to the above-mentioned Section of the Code and by changing the collection or refund of 70% of the accumulated difference between Base EBA and Actual EBAC (sharing band) to 100%. It also dropped the sharing band, 70%, from the formula for EBA Deferral. Finally, in the title of the Tariff, the Company dropped the term "Pilot Program".

While the Division agrees that some change to the tariff is warranted to reflect the legislation, the Division does not believe that the Company's revisions adequately or completely reflect the legislation and its impact on the tariff going forward. Since the legislation does not modify the current sharing band before June 1, 2016, the Company's proposal to simply eliminate the reference to the 70% sharing band does not reflect the dual application to accrued deferrals that the Company will seek recovery of in its March

2017 filing. Specifically, with the 2017 filing, the Company will seek recovery of five months of accruals under the current 70 percent sharing band and seven months at 100 percent. Therefore we propose alternative language and revisions to better reflect the impact of SB 115. Additionally, we disagree with the Company's implied interpretation of the legislation that the EBA is no longer a Pilot Program and, therefore, recommend that such references be retained in the tariff.

### **Pilot Program**

By eliminating references to Pilot Program in the tariff, the Company seems to imply that the legislation contravened the Commission's orders establishing the EBA as a Pilot Program with periodic reporting and review requirements. The Division disagrees with this position. The Division understands that neither Section 54-7-13.5(2)(d) nor Section 54-7-13.5(6) indicate that the program is no longer Pilot. Section 54-7-13.5(2)(d) effectively drops the sharing band from the Pilot Program beginning June 1, 2016, whereas Section 54-7-13.5(6) directs the Commission to determine, through its 2017 and 2018 reports to Public Utilities and Technology Interim Committee, whether continued elimination of the sharing band is in the public interest. The Division interprets the language in Subsection (6) as effectively extending the Pilot Program at least through December 2018.

The commission shall report to the Public Utilities and Technology Interim Committee before December 1 in 2017 and 2018 regarding whether allowing an electrical corporation to continue to recover costs under Subsection (2)(d) is reasonable and in the public interest.

Based on the above discussion, the Division does not believe that SB 115 eliminates the pilot status of the program. Elimination of the Pilot Program in whole would eliminate all but the 100% sharing provision and necessitate a proceeding to evaluate costs to be included, methods of calculation, and the like. Therefore, the Division recommends the following modifications, or similar modifications, to, the Application Section of the Schedule 94:

**APPLICATION:** This Schedule shall be applicable to all retail tariff Customers taking service under the terms contained in this Tariff. The collection of costs related to an energy balancing account from customers paying contract rates shall be governed by the terms of the contract. ~~The EBA Pilot Program shall be for a period of approximately four years beginning October 1, 2011, and ending December 31, 2015. This Tariff will also be used to collect the \$20 million dollar of deferred net power cost approved in Docket Nos. 10-035-124 and 12-035-67.~~ Pursuant to Utah Code Section 54-7-13.5(6) amended in the 2016 general session of the Utah State Legislature, the EBA Pilot Program shall run until December 31, 2019.

#### **Elimination of the Sharing band**

Again, the Division does not agree that the Company's proposed modifications or references to the 70 percent sharing band adequately reflect the dual nature of the tariff as it relates to Schedule 94 going forward and the Company's 2017 EBA filing. The Division, therefore, proposes language to capture this duality. Specifically, the Division proposes changing the Definition of the EBA (Energy Balancing Account) as follows:

**EBA (Energy Balancing Account):** The mechanism to collect or refund ~~70%~~ a specified portion of the accumulated difference between Base EBAC and Actual EBAC. Through May 31, 2016, the specified portion is 70 percent (70%); starting June 1, 2016, the specified portion is 100 percent (100%). The use of the 100% specified portion shall remain in effect until December 31, 2019.

The Division also recommends that two formulas be used for the EBA Deferral reflecting the two periods:

**EBA DEFERRAL:** The monthly EBA Accrual (positive or negative) is determined by calculating the difference between Base NPC and Actual NPC as is described below.

Through May 31, 2016:

$$EBA\ Deferral_{Utah,Month} = \left[ \left( \frac{Actual\ EBAC_{month}}{MWh} - \frac{Base\ EBAC_{month}}{MWh} \right) \times Actual\ MWH_{Utah,month} \right] \times 70\%$$

Starting June 1, 2016 through December 31, 2019:

$$EBA\ Deferral_{Utah,Month} = \left[ \left( \frac{Actual\ EBAC_{month}}{MWh} - \frac{Base\ EBAC_{month}}{MWh} \right) \times Actual\ MWH_{Utah,month} \right] \times 100\%$$

## CONCLUSION

The Division reviewed the Company's proposed changes to Schedule 94. The Division believes that the proposed changes do not adequately reflect the legislation and its effects and could cause some confusion. The Division proposes language to better reflect SB 115, which retains references to the EBA as a Pilot Program and demarcates the sharing band as between the period before and after June 1, 2016. The Division recommends that the Commission approve the alternative, or similar, language effective June 1, 2016. Otherwise, the Division recommends the Commission suspend the tariff and open a proceeding to investigate and evaluate whether other aspects of the tariff remain in the public interest and how the EBA should be structured in light of SB 115 and the elimination of existing pilot program terms.

CC: Bob Lively, RMP  
Michele Beck, OCS