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**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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In the Matter of Rocky Mountain Power for  
Approval of its Energy Cost Adjustment  
Mechanism

**Docket No. 09-035-15**

**REPLY COMMENTS TO THE  
OFFICE OF CONSUMER  
SERVICES COMMENTS ON THE  
DIVISION OF PUBLIC UTILITIES  
PRELIMINARY EVALUATION OF  
PACIFICORP'S EBA PILOT  
PROGRAM**

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Pursuant to the Notice of Filing and Comment Period (Notice) issued by the Public Service Commission of Utah (Commission) May 29, 2014, Rocky Mountain Power (“Rocky Mountain Power” or “Company”) hereby files its reply comments responding to the Office of Consumer Services Comments (OCS Comments) filed with the Commission on September 18, 2014, responding to the Division of Public Utilities Preliminary Evaluation of PacificCorp’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> In accordance with the EBA Order, on May 22, 2014, the DPU filed the Preliminary Report with the Commission. On May 29, 2014, the Commission issued its Notice providing filing deadlines for comments on the Preliminary Report and reply comments to those comments. In accordance with the Notice, the OCS filed the OCS Comments on September 18, 2014.

The OCS, in its comments, does not recommend any changes to the Energy Balancing Account (EBA) at this time and generally agrees with the DPU’s evaluation and comments. However, the OCS comments on certain points of the DPU’s evaluation. The Company’s position is well documented in its Comments Responding to the DPU’s Preliminary Evaluation of PacifiCorp’s EBA Pilot Program, also filed on September 18, 2014. Though the Company’s response to the DPU is also relevant in responding to the OCS Comments, the Company responds to specific points in the OCS Comments, as follows:

## **REPLY COMMENTS**

### **A. Access to Information and Documentation Issues**

The Company is committed to cooperating with the DPU and providing all the necessary information needed for the DPU to complete its annual audit in a timely manner. This is evident in the recent settlement agreement in Docket No. 14-035-31 among the Company and all of the intervenors in that case including the OCS and DPU (2014 EBA), where the Company agreed to do the following:

- Implement a process to contemporaneously document a trade purpose for all hedging transactions.

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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, p 79.

- Seek to obtain permission to provide industrial customer billing information related to curtailment buy-through in advance of the EBA.
- Provide a contact at the Intercontinental Exchange (ICE) and to coordinate requests for ICE data.
- Allow the DPU to request trade information outside of a formal EBA request and provide the requested information if available.
- Continue to provide trade data on a quarterly basis and annually in advance of the filing.
- Establish a comprehensive list of documents, policies, and reports used or relied on by traders in trading activity, including a description of how the information is generally used.
- Answer all data requests timely and raise any potential issues with data requests as soon as practicable.
- Make Company personnel available in person or by phone to review relevant material with the DPU as needed.
- Meet in person with the DPU to discuss trades selected by the DPU as its sample for review along with any relevant data, documents, policies and reports concerning those trades.
- File a notice of the impending EBA application annually on January 15.
- Record the competitive price for non-brokered transactions beginning November 1, 2014.
- Inform the DPU of updates to policies affecting hedging and a detailed explanation of the reason(s) for the update.

The DPU also showed its commitment to working cooperatively in agreeing to:

- Allow the Company more time to respond to certain data requests if necessary.
- Raise any issues related to completeness or questions regarding Company responses with the Company as soon as practicable.

The agreed upon procedural and communication changes will continue to improve the audit process and help the DPU meet the timeline for completing its audit. The Company believes any concerns about access to information and documentation will be resolved.

#### **B. Sharing Mechanism**

The OCS argues that the fact that the Company's three EBA filings have all included positive accrual amounts and increases in EBA rates paid by customers is evidence that there has been a shift in net power cost (NPC) forecast risk from the Company to ratepayers. In reality, the increases resulting from the Company's EBA filings simply show that customers have benefited from forecasted NPC which have been lower than the actual costs to serve their load. In other words, customers have been receiving free power to satisfy a portion of their needs. The EBA, without a sharing mechanism, does not harm any party but provides a mechanism for customers to pay the true cost of providing electric service. The sharing mechanism does, however, create an arbitrary disallowance when the regulatory construct surrounding the NPC forecast artificially limits its applicability to the comparison period.

During a general rate case (GRC), forecast NPC are subject to a strenuous review by intervenors and the Commission. All parties are able to propose adjustments, most of which have served to reduce the forecasted NPC compared to the Company's filing. The EBA is used to compare the forecasted NPC to actual NPC post hoc, and customers either pay the variance between actual and forecasted NPC for the consumed energy or the Company refunds the over-

collection of forecast NPC subject to sharing bands. As cited by the DPU in its Preliminary Evaluation, the GRC test years used to determine forecast NPC do not align with the EBA comparison period. In a period of generally rising costs, this misalignment creates a chronic under-collection of NPC and an arbitrary disallowance of prudent NPC through the sharing mechanism.

If the sharing mechanism was effective at aligning parties' interests, the goal of all parties would be to forecast the most accurate NPC possible. However, there is no evidence showing this is true. In the most recent GRC, Docket No. 13-035-184, intervenors proposed 20 adjustments to the NPC forecast with 19 resulting in lower NPC despite the consistent under-forecasting of NPC in prior GRC test periods. Whether the sharing mechanism is the root cause of the misaligned interests of intervenors and the Company can be debated, but the evidence is clear that the sharing mechanism is ineffective at aligning parties' interests.

The OCS claims that EBA rate increases during a period of relatively stable electricity and natural gas prices are evidence of a shift in NPC forecast risk from the Company to ratepayers. While the Company generally agree with OCS' observation regarding the relative stability of market prices, we do not agree with their conclusion that the stability of market prices provides evidence of a shift in NPC forecast risk from the Company to ratepayers. Market prices are only one of many variable components that impact NPC. The EBA's impact on rates is also dependent upon factors such as the test period used to determine forecast NPC, the period of time that forecast is in rates, changes in customer loads, and changes in resource availability and output.

The Company documented the uncontrollable features of NPC in its Comments Responding to the DPU Preliminary Evaluation of PacifiCorp's EBA Pilot Program.<sup>2</sup> Despite the Company's best effort to control the volatility of NPC and to prudently operate its system,

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<sup>2</sup> Comments Responding to the DPU Preliminary Evaluation of PacifiCorp's EBA Pilot Program, Part B Controllable vs. Uncontrollable NPC, page 7

including participating in the energy imbalance market (EIM), 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. Weather causes variability in NPC each year because of the Company's growing reliance on intermittent energy (from qualifying facilities and other owned and contracted generation) to service its load which also varies as a result of weather. Company owned solar, wind, and hydro generation are all zero cost generating resources; however, in the event of unfavorable weather the lost generation must be replaced by either coal or gas generation and/or purchased power from the market. There is also an inverse relationship between wind and market prices resulting in lower wholesales sales revenue when there is excess capacity from favorable wind conditions.

The Company disagrees with the notion that a prudence review/DPU audit is insufficient in protecting customers. In the Company's experience, the DPU conducts a very thorough and detailed audit. In fact, the OCS compliments the DPU and relies on the DPU audit report in its own review. The DPU's audit allows for all costs to be questioned and should provide adequate assurance that actual NPC is prudent. Reliance on audits and opinions of qualified and independent professionals is not uncommon but rather the normal standard. Shareholders of public companies, the federal government, state governments (including Utah) all rely on audits to provide assurances and to regulate. There is no reason to have both a sharing mechanism and a prudence review; this is the equivalent to a taxpayer being assessed a penalty regardless of the outcome of the tax audit.

The OCS states, "short of disallowance for prudence in EBA cases, the 70-30 sharing is currently the only mechanism in place to protect ratepayer interest."<sup>3</sup> The Company would submit that the customers' interest is to purchase power at the lowest cost possible and that this does not

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<sup>3</sup> OCS Comments on DPU Preliminary EBA Evaluation, page 4.

align with the charge given to the Commission. Page 7 of the Utah Public Service Commission 2013 Annual Report states: “federal and state law obligates the Commission to promote and protect the public interest by ensuring that public utility service is adequate in quality and reliability, and is available to everyone at just and reasonable prices.” Customers should be protected from imprudent costs not from just and reasonable prices and the DPU audit is the best method to accomplish this.

**C. Market Reliance/Level of Front Office Transactions (FOT)**

The OCS raised concerns with the Company’s future reliance on FOTs in its Integrated Resource Plan (IRP). 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 IRPs, requests for proposals, and rate case processes which are all transparent proceedings that are subject to focused and rigorous scrutiny by parties and the Commission.

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.” 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 IRP and market reliance.

**D. Generation Plant Operation & Maintenance**

The OCS agrees with the DPU that the data is insufficient to make any findings on the Company’s plant operations and maintenance. 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.

**E. Energy Imbalance Market Costs**

The Company has suggested that EIM costs could be trued-up using the EBA while some

such costs were not included in base rates from a GRC. Under those circumstances, the EBA would be an effective vehicle to true-up EIM-related costs since EIM benefits will automatically flow through the EBA while all EIM costs will not. As explained by the OCS, 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. The Company continues to believe, however, that the possibility of including additional costs in the EBA mechanism should not be dismissed and that there are other costs, such as the costs of chemicals and reagents, that may merit similar treatment as NPC.

DATED this 23<sup>rd</sup> day of October, 2014.

Respectfully submitted,

ROCKY MOUNTAIN POWER



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## CERTIFICATE OF SERVICE

I hereby certify that on October 23, 2014, I caused to be emailed a true and correct copy of the foregoing Reply Comments to the following:

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