

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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)	DOCKET NO. 09-035-15
In the Matter of the Application)	Exhibit No. DPU 6.0 DIR
of Rocky Mountain Power for)	
Approval of its Proposed Energy)	Direct Testimony of
Cost Adjustment Mechanism)	David Thomson
)	
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**THE DIVISION OF PUBLIC UTILITIES
DEPARTMENT OF COMMERCE
STATE OF UTAH**

**Direct Testimony of
David Thomson**

September 21, 2016

**Confidential exhibit included with this testimony is provided subject to Utah PSC
Rule 746-100-16.**

1 **Q. Please state your name, business address and title.**

2 A. My name is David Thomson. My business address is 160 East 300 South, Salt Lake City,
3 Utah 84114. I am a Technical Consultant in the Utah Division of Public Utilities (Division,
4 or DPU).

5 **Q. On whose behalf are you testifying?**

6 A. The Division.

7 **Q. Please describe your education and work experience.**

8 A. I graduated from Brigham Young University with a Bachelor of Science degree in
9 Accounting. I am a Certified Public Accountant, licensed in the state of Utah. I began
10 working for the Division in July of 2004.

11 **Q. Have you testified before the Commission previously?**

12 A. Yes. I have testified in many rate case proceedings and other matters before the Commission.

13 **Q. Have you previously testified in this docket?**

14 A. No I have not.

15 **Q. What is the purpose of your testimony?**

16 A. I will review and comment on certain matters that the Division believes should be discussed
17 and addressed as part of the final evaluation of the EBA Pilot Program. These are in addition
18 to the matters and recommendations Mr. Charles Peterson addresses in his testimony and
19 report. First, I will discuss the Division's position that benefits and/or costs from prior
20 periods where the deferral amount has, by Commission order, been closed or made final,
21 should not be allowed in future deferral periods, even if the benefit or cost is according to
22 GAAP correctly accounted for in that future period. Not allowing benefits/costs from prior

23 periods will not prevent Rocky Mountain Power putting on its books and records prudent Net
24 Power Costs (NPC) booked according to GAAP. The current proceeding is at a point in the
25 Pilot Program intended for parties to review accounting methods, cost and EBA filing
26 matters. Even outside of a pilot program the Division always has the responsibility to raise
27 matters that may not be just and reasonable and in the public interest. Second, I discuss the
28 Division's criteria for determining when plant outages and replacement power costs are the
29 responsibility of the Company. In support of this position, Exhibit (Exhibit 6.1 Dir) is a
30 memo from the Division's EBA consultants, Daymark Inc., describing the criteria the
31 Division used to determine imprudent outages and the methodology for calculating
32 disallowed replacement costs for such outages. The Commission should clarify that Rocky
33 Mountain Power generally may not recover amounts in the EBA that it expends as a result of
34 its own or agent's imprudent or negligent actions.

35 **Q. Would you please explain how cost or benefits from prior periods arise in current or**
36 **future deferral periods?**

37 A. The Company files its EBA application seeking recovery of the accrued EBA deferrals
38 annually on or before March 15th. By Commission order, the Division conducts a review or
39 audit of the Company's application and files its audit report on or about July 15th.
40 Thereafter, on a Commission approved schedule, the Company and other parties respond to
41 the Company's application and the Division's report. The recoverable deferral amount and
42 the rates necessary to amortize that amount are made final by Commission order and become
43 effective November 1st of each year.

44

45 In reporting its EBA accounting, the Company has made accounting entries in some of its
46 annual applications and requests for recovery of the accruals that pertain to benefits/costs
47 from prior but closed EBA periods. Suppose, for example, in calculating its actual net power
48 costs, the Company includes an estimate of a credit for a rate payer or other entity and
49 calculates the deferrals for the period. The Commission's order finalizes the deferral and sets
50 the EBA recovery rates. Sometime after the Commission's order, the Company learns that it
51 either over or under estimated the credit and makes the corresponding GAAP entries on its
52 books and seeks to recover an incremental amount that trues up the credit from the prior
53 closed EBA period.

54 **Q. Should the Commission allow retro-active ratemaking adjustments to the EBA?**

55 A. No. All EBA periods for years 2011-2014 have had a Commission report and order
56 establishing a deferral amount for rate recovery during a specific time period. The order
57 establishes the actual Utah NPC and sets final rates.

58 In its very first EBA order the Commission stated:

59 "we commend the parties, and especially the Division, for accommodating the
60 change in the regulatory review process necessitated by our decision to vacate the
61 interim rate process initially adopted. We understand the time-frame for
62 completion of the Division's audit was tighter than it hoped for. We acknowledge
63 the diligence with which the Division undertook this task and the effort of all
64 parties in evaluating the Company's Application in a timely manner so that we
65 may determine **final** EBA rates that are in the public interest." (Emphasis added).¹
66

67 Thus, in each docket, the Commission establishes final costs and/or benefits and sets a time
68 frame for their recovery. The final rates set by the Commission are just and reasonable and

¹ Order at p. 12, Docket 12-035-67 issued February 27, 2013. The order approved an uncontested settlement stipulation to recover the October to December 2011 deferred balance from customers.

69 in the public interest. Corrections of such final costs should not flow through to future
70 periods to be recovered through the EBA process. To do so would constitute impermissible
71 retroactive rate making.

72 **Q. Do you have any more reasons prior period adjustments for costs and/or benefits**
73 **should not be allowed in EBA filings?**

74 A. Yes. First, as I previously pointed out, the tariff provides four months for the Division to
75 complete its audit and file its report. Two months after the report, hearings on the filing are
76 to be completed. Rates become effective on or before November 1. This procedural schedule
77 in the tariff clearly points to the Commission's desire for timeliness, rate stability and finality
78 for EBA rate setting. The flowing through of costs or benefits from prior periods runs counter
79 to timeliness, rate stability and finality and should be not be allowed by the Commission.

80
81 Second, per the EBA Tariff, the Company is required to do an annual EBA filing on or about
82 March 15 of each year. The Tariff clearly sets out that the EBA mechanism is a yearly filing
83 and accounting. The EBA Deferral Period is the calendar year prior to the EBA filing date.

84 This is so that a year deferral can be calculated, examined, and a report submitted and
85 eventually approved by the Commission for amortization into rates. If costs and/or benefits
86 flow between years, the yearly rate setting mechanism of the EBA is violated; the deferral
87 period in essence starts at inception and never ends. For illustrative purposes, assume that
88 the EBA ends in 2025. If corrections and updated information are allowed to flow through
89 the EBA, it is possible that an adjustment from 2012 could flow to 2025. Clearly this

90 flowing through of costs in the EBA is in violation of the Tariff's final yearly setting of
91 deferral costs and is retroactive ratemaking.

92

93 Third, the EBA Tariff has a definition of Actual EBAC:

94 **“Actual Energy Balancing Account costs (Actual EBAC):** The actual Utah
95 NPC and Wheeling Revenues. Adjustments shall be made to Actual EBAC that
96 are consistent with applicable Commission accepted or ordered adjustments, or
97 adjustments called out in a stipulation or settlement agreement, as ordered in the
98 most recent general rate case, major pant additions case or other case where Base
99 EBAC are approved.”²

100

101 Retroactive adjustments are not Commission accepted or ordered adjustments and thus are
102 not to be included in period Actual EBAC. The use of out of period adjustments violates the
103 tariff's definition of Actual EBAC and should not be made to determine Actual EBAC.

104

105 Finally, given the EBA time frame, resources, and expertise, the Division and its consultants
106 conduct a limited or targeted audit of the Company's EBA application and recovery request.

107 Thousands of entries upon which the EBA accruals are based are not reviewed by the
108 Division. Some of those entries may contain offsetting adjustments to the Company's prior
109 period adjustments that were not made during the audit. To allow the Company, who is the
110 arbiter of the relevant information, to make adjusting entries from prior periods without
111 allowing a reasonable opportunity for other parties to do likewise would, in addition to
112 violating the finality of rates, create the opportunity for the Company to selectively include
113 prior period adjustments with knowledge that it will be difficult for regulators to ensure

² Rocky Mountain Power Electric Service Schedule No. 94 State of Utah. Energy Balancing Account (EBA) Pilot Program Filed September 5, 2014. Definitions section. Original Sheet No. 94.2

114 consistent application of such adjustments. While there is no indication Rocky Mountain
115 Power has attempted such selective accounting, regulators must guard against the opportunity
116 for mischief, not just react to it.

117 **Q. Does the Division's position inappropriately require the Company to deviate from**
118 **GAAP?**

119 A. No. The Company's GAAP accounting is already adjusted by the Company before it is put
120 into the EBA filing. The filing calls this adjusted GAAP Actual NPC. In many of its reports,
121 the Division has asked the Company to reconcile Actual NPC back to SEC filings, which are
122 on a GAAP basis and also FERC Form 1 accounting. Finally, in the Company's filings,
123 Actual NPC are adjusted to arrive at Adjusted Actual NPC. The total Company Adjusted
124 Actual NPC is allocated to determine Utah allocated costs and then to determine the Actual
125 Utah \$/MWh figure.

126
127 If, after review of the Actual NPC, one determines that it contains benefits and/or costs from
128 prior periods, those costs can be adjusted out of Actual NPC to determine Adjusted Actual
129 NPC. This can be done through the adjustment tab mechanism provided in all EBA filings to
130 date by the Company. By using this existing mechanism, only non-allowable costs are taken
131 out of the appropriately booked NPC according to GAAP. This mechanism is used by the
132 Company itself to adjust its Actual NPC to derive Adjusted NPC. Thus, the Division's
133 recommendation uses the Company's existing adjustment mechanism to GAAP to ensure the
134 finality of past rate orders.

135

136 For example, AFR 15 outlines six net power adjustments the Company made to its 2015
137 filing. In adjustment 3 of AFR 15, the Company removes Special Contract Curtailment Buy-
138 Through from Actual NPC using the adjustment tab. The effect of the Buy-Through is in
139 actual net power costs produced by the Company's GAAP accounting prior to the
140 adjustment. The Company's adjustment in the EBA application leading to Adjusted NPC,
141 does not violate GAAP accounting, rather, it simply removes certain costs in the EBA
142 accounting. Through this same methodology, unallowable retroactive adjustments can, and
143 should, be removed from Company booked actual net power costs. Similar to the
144 Company's Buy-Through adjustment, removing these costs does not violate GAAP
145 accounting.

146 **Q. Is it appropriate during any period of EBA Pilot Program for parties to review**
147 **accounting methods, cost and/or benefits, and EBA filing matters and propose**
148 **adjustments if the Division or parties to the EBA filing deem they are necessary?**

149 A. Yes. In its current status the EBA is a pilot program. The Free Dictionary defines Pilot
150 Program as:

151 "an activity planned as a test or trial - act of testing something".³

152 In Docket No. 09-035-15 dated March 2, 2011 under Section G. "Pilot Program and Filing
153 Requirements" item four, the Commission ordered the Division to file a "final evaluation of
154 the pilot program".

155

³ The Free Dictionary by Farlex. www.thefreedictionary.com/pilot+program

156 The Division was given certain years to evaluate the EBA through the pilot program process.
157 This was not by accident. Pilot program evaluation reports filed with the Commission by the
158 Division have consistently emphasized the complexity of the EBA. In its yearly audit reports
159 the Division has also emphasized the complexity of the EBA. The Division has had to
160 allocate its resources and efforts in the audit process to areas of highest priority.

161
162 Though prior period adjustments of the type cautioned against here have been largely ignored
163 in past cases, the current evaluation proceed is an appropriate time to address this issue. Just
164 because some or all costs, accounting and filing methodologies were not looked at earlier in
165 the process for evaluation and adjustment, it does not mean those items cannot be looked at
166 later on in the EBA Pilot Program period. If something is not evaluated until later in the
167 Pilot Program, its earlier absence does not equate to specific approval of the method. Testing
168 and evaluation takes place during the terms of the Pilot Program from beginning to end, and
169 item tested may vary depending upon experience gained.

170 **Q. What does the Division believe is the Company's responsibility for imprudent outages?**

171 A. The Division believes that the Company's responsibility to its customers includes liability for
172 its actions, and the actions of joint generation partners and their contractors, particularly
173 when the Company's, its generation partners', and their contractor's performance in one form
174 or another leads directly to ratepayers incurring unnecessary and avoidable replacement
175 power costs. This is explained in greater detail in the Daymark Inc. memo, which is included
176 as DPU Exhibit 6.1 Dir. In short, the Company is responsible for providing service. Between
177 its customers and the Company, the Company is best-positioned to ensure adequate and

178 prudent performance by its commercial agents and partners. The risk of those business
179 relationships is the Company's risk, not ratepayers' risk.

180 **Q. What are your conclusions and recommendations?**

181 A. First, the Division recommends that retroactive ratemaking not be permitted in EBA filings
182 through accounting adjustments made for EBA years that have already been finalized.

183 Second, the Commission should specifically clarify that ratepayers should not pay outage-
184 related expenses for imprudent outages, whether the imprudence is due to the Company's
185 direct actions or the actions of its agents or contractors.

186 **Q. Does that complete your testimony?**

187 A. Yes.

Daymark Energy Advisors' Memorandum to the Utah

Division of Public Utilities

Prudence Review and Treatment of Forced Outages in the EBA

Confidential exhibit is provided subject to Utah PSC Rule 746-100-16.