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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

**THE DIVISION OF PUBLIC UTILITIES’
RESPONSE TO UIEC’S PETITION FOR
RECONSIDERATION OF COMMISSION
ORDER ISSUED FEBRUARY 16, 2017, OR
IN THE ALTERNATIVE, REQUEST FOR
CLARIFICATION**

Pursuant to Utah Code Ann. §§ 54-7-15 and 63G-4-301 and administrative rule R746-100-4, the Utah Division of Public Utilities (Division) files this response to the “UIEC Petition for Reconsideration of Commission Order Issued February 16, 2017, or In the Alternative, Request for Clarification (Petition and Order respectively).”¹ The Petition seeks “reconsideration of that portion of the Commission Order of any findings and conclusions on whether the EBA [Energy Balancing Account], as amended by SF 115, is in the public interest

¹ Concurrent with this Petition, UIEC joined in the filing of the “Petition of UIEC, Office of Consumer Services and UAE for Reconsideration and Rehearing of Commission Order Issued February 16, 2017.”

and will produce just and reasonable rates during the extended prior period.”² Alternatively, the Petition requests clarification of certain provisions of the Order.³

The EBA has a long and complex history that will not be repeated here.⁴ Intermixed in this series of events was the passage of Senate Bill 115, effective May 10, 2016 (SB 115). Among other things, SB 115 removed the Commission’s ordered 70-30 risk sharing band (with ratepayers bearing the biggest burden and Company shareholders bearing the smaller burden) from the EBA pertaining to certain fuel and purchased power costs.⁵ SB 115 mandated that, beginning June 1, 2016, the Company has the opportunity to recover 100 percent of “actual and prudently incurred” fuel and purchased power costs.⁶ In addition, SB 115 required the Commission to submit reports 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under Subsection (2)(4) [which eliminated the sharing band] is reasonable and in the public interest.”⁷ SB 115 also repealed its elimination of the sharing band effective December 31, 2019.⁸

UIEC claims that the Order is “contrary to the Administrative Procedure Act [APA]” because it lacks “findings and conclusions on whether the EBA, as mandated by SB 115, is in the public interest,”⁹ it [did] not explain why it “declin[ed] to address the public interest issue”,¹⁰ and did not explain “any explanation for departing from the Commission’s prior decision

² Petition at p. 2.

³ Petition at p. 2.

⁴ See Order generally and at pp. 19-23.

⁵ See Utah Code Ann. § 54-7-13.5(2)(d),

⁶ See Utah Code Ann. § 54-7-13.5.

⁷ Utah Code Ann. § 54-7-13.5(6).

⁸ See Utah Code Ann. § 63I-1-254(2).

⁹ Petition at p. 5.

¹⁰ Petition at p. 5.

requiring a sharing of risk between RMP and rate payers.”¹¹ For the reasons set forth below, the issues raised in the Petition are without merit.

The Commission is not required at this point to grant the relief requested in the Petition. The APA only requires answers to issues “requiring resolution.”¹² In this instance, the issues raised by the Petition are premature. Similar issues were raised in the “Petition of UIEC, Office of Consumer Services and UAE for Reconsideration and Rehearing of Commission Order issue February 16, 2017.” The Division incorporates by reference its response to that joint petition.

More specifically, the Petition’s requests regarding the 2017 and 2019 report, the continuation of the EBA after 2019, and related procedures are premature and the Commission has set forth the place and manner in which these issues will be resolved. The Commission has stated in the Order that it will allow participation, and that participation will be determined during the report information gathering and assessment phase.¹³ Participation can include addressing the issue of legal briefing. Exactly how these things will happen, and when, should not be predetermined here. Similarly, in what docket the 2017 and 2018 reports and the 2019 review will be addressed need not be specified at this time. These and similar issues may be specifically addressed in scheduling orders and other prehearing orders. However, the Commission may choose to provide such information now on a voluntary basis. If the Commission provides further guidance, it should take care to avoid unnecessary rigidity in order to allow future processes to reflect then-current conditions.

¹¹ Petition at p. 5.

¹² See Utah Code Ann. § 63G-4-403(4)(c).

¹³ See Order at p. 6, addressing the 2017 and 2018 reports and the 2018 review.

The Petition raises no issues upon which reconsideration or rehearing must be granted. The Commission has indicated that these issues will be addressed in future proceedings. Of course the Commission may, as always, choose to voluntarily provide further information.

Respectfully submitted this 4th day of April, 2017.

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CERTIFICATE OF SERVICE

Docket No. 09-035-15

I hereby certify that on this 4th day of April, 2017, I caused to be emailed, a true and correct copy of the foregoing **THE DIVISION OF PUBLIC UTILITIES' RESPONSE TO UIEC'S PETITION FOR RECONSIDERATION OF COMMISSION ORDER ISSUED FEBRUARY 16, 2017, OR IN THE ALTERNATIVE, REQUEST FOR CLARIFICATION** to:

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