



GARY HERBERT  
*Governor*

SPENCER J. COX  
*Lieutenant Governor*

State of Utah  
Department of Commerce  
Division of Public Utilities

CHRIS PARKER  
*Interim Executive Director*

CHRIS PARKER  
*Director, Division of Public Utilities*

## Comments

**To:** Public Service Commission of Utah

**From:** Utah Division of Public Utilities

Chris Parker, Director

Artie Powell, Manager

Brenda Salter, Utility Technical Consultant Supervisor

David Thomson, Utility Technical Consultant

**Date:** March 2, 2020

**Re:** **Docket No. 09-035-15** - Future Procedural Schedule for the EBA

### Recommendation (No Action)

The Division of Public Utilities (Division) recommends the Public Service Commission (Commission) retain the Energy Balancing Account (EBA) schedule currently approved in Electric Service Schedule No. 94. The Division maintains the November 15 audit filing date is essential to give reasonable assurance of the prudence of Rocky Mountain Power's (Company) net power costs.

### Issue

This memorandum is in response to the Commission's Order in Docket No. 09-035-15, dated November 14, 2019, wherein the Commission invited interested parties to file comments on a future procedural schedule for the EBA by March 2, 2020.

## **Background**

The EBA was initiated by the Company in Docket No. 09-035-15. In order to give parties some assurance that the Company would prudently manage the EBA, the Division was tasked with an annual audit. At the request of intervening parties, a 70/30 sharing split was approved which gave some assurance, outside the audit, that the Company would act prudently. 2016 legislation removed the sharing band from the EBA.

While the Division generally supports the Company's energy balancing account, the Division has recently expressed concern that the EBA is no longer in the public interest and that, based on the elimination of the sharing band, the expertise and staff size needed to adequately complete an audit, and the added complications of the EIM and 2020 Protocol, even with the current schedule, the Division will be pressed to complete a proper review of the EBA.

## **Discussion**

The scope of the EBA, as originally presented and approved, has changed dramatically and will continue to change. Legislation has removed the 70/30 sharing band, the EBA is no longer considered a pilot program, additional costs have been added or modified, the Company entered the Energy Imbalance Market (EIM), and the Division anticipates additional complexity with the proposed 2020 Protocol. The EBA Procedural Schedule in Rocky Mountain Power's Electric Service Schedule No. 94 is as follows:

1. Rocky Mountain Power will file its EBA application on or about March 15.
2. The DPU will complete its audit report and supporting testimony by November 15.
3. The PSC will hold a hearing on or about February 1 of the following year.
4. The PSC will issue an order by March 1 of the following year before the next EBA filing is made.
5. The EBA rate effective date will be March 1 for a rate effective period of 12 months.

Since the inception, the EBA filings have required the greatest collective time and resource commitment of Division staff compared to any other project, with the exception of general rate cases. The complexity of the EBA has also required the Division to retain the services of its consultant Daymark Energy Advisors to assist in the audits. While ratepayers and other outside

parties may take some comfort that the Division is performing an audit, the Division's audit does not result in an attestation of the material correctness of the Company's net power costs. The magnitude of the task and the lack of contemporaneous information for many expenses ensure the Division's review of the EBA will not include specific prudence reviews of most of the NPC items. Reducing the time allotted to audit the EBA will only magnify this.

The Division continues to have concerns about determining transaction prudence. In various legislative and regulatory discussions, the Company has repeatedly ensured policy makers that EBA changes were warranted because the Commission process would adequately ensure that actual power costs were prudently incurred. The Division relied on the 70/30 sharing split to give it some confidence that the Company will generally act with prudence because of the potential for loss to the Company outside of the threat of a formal prudence disallowance by regulators. That Company incentive is now gone.

During any given year there are thousands of transactions affecting the EBA. The addition of the EIM (which did not exist at the EBA's inception) has significantly increased the number of transactions under review. Increasing the audit work and injecting a new learning curve to understand the impacts and functioning of the EIM in the EBA does not match the Company's request to shorten the audit period.

The Division is uncertain at this time what affect the 2020 Protocol will have on the EBA. The 2020 Protocol implements many changes to power costs, including the potential for reassignment of coal-fuel resources from states no longer using them to states who choose to continue using them and introduces a nodal pricing model.<sup>1</sup> The 2020 Protocol will take many years to refine and finalize and is anticipated it will add additional complications to the EBA audit process. Discussions surrounding regional energy markets, including an enhanced day-ahead market, continue to inject additional uncertainty into the Division's future EBA auditing requirements.

---

<sup>1</sup> Docket No 19-035-42, Application of Rocky Mountain Power for Approval of the 2020 Inter-Jurisdictional Cost Allocation Agreement

On November 21, 2019, the Company submitted a compliance filing modifying Electric Service Schedule No. 94 deleting reference to a “pilot program” and changing the carrying charge consistent with the ordered carrying charge. At that time, the Company proposed procedural changes eliminating interim rates but maintaining the Division’s eight-month audit period.

These changes were accepted by the Commission and are now part of the Schedule No. 94 tariff sheets. The Division is surprised that just three months ago the Company was okay with an eight-month audit period but now is looking to shorten the eight months to five months. This is almost a 40% reduction in audit time

The EBA is a true up of base net power costs to actual net power costs. If the actual costs are over or under the base costs, there is interest earned on the amount on a monthly basis until the over- or under-collected amount is put into rates. This insures that the Company or ratepayers are not harmed until actual costs are recovered. Under the current Tariff, rates are implemented on the first of March. The Company is proposing rates be implemented on the first of December, a time difference of three months. The speeding up of the audit time and the rate implementation of three months is insignificant to the overall EBA outcome. When weighed against the need for an accurate review of actual expenses, and in light of the carrying charges permitted, the Company’s proposal is not in the public interest. If the Company wishes a quicker recovery, it should seek legislation permitting interim rates for the energy balancing account.

## **Conclusion**

Due to the increased complexity of the EBA, the Division recommends the Commission retain the current EBA audit filing deadline of November 15. The Division recommends the Commission continue with the EBA schedule currently approved in Electric Service Schedule No. 94.

Cc: Michele Beck, Office of Consumer Services  
Jana Saba, Rocky Mountain Power  
Joelle Stewart, Rocky Mountain Power