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**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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In the Matter of the Application of Rocky Mountain Power for Approval of its Proposed Energy Cost Adjustment Mechanism	Docket No. 09-035-15
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**UAE COMMENTS ON PROCEDURAL SCHEDULE**

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Pursuant to the Commission's November 14, 2019 Order in this docket, the Utah Association of Energy Users ("UAE") files these Comments regarding the procedural schedule for the Energy Balancing Account ("EBA").

As set forth below, UAE generally defers to the Division of Public Utilities ("Division") regarding the appropriate procedural schedule for EBA dockets going forward. The Division's annual audit of the Company's EBA filing is necessary public service that guides the process of reviewing RMP's actual net power costs. As set forth below, the Division has previously raised concerns when it does not have sufficient time to conduct those audits. UAE defers to the Division's judgment on the amount of time it believes it needs to conduct the audit.

For context, and to determine an appropriate schedule going forward, it is useful to consider the two previous EBA procedural schedules the Commission has approved. Prior to the 2017 EBA

docket, the Commission approved schedules in various EBA dockets with deadlines similar to those in the column labeled “Pre-2017 Order” in the table below. In 2017, this Commission issued an order setting a new procedural schedule for EBA matters with dates set forth in the column labeled “2017 Order” in the table below. Those schedules are as follows:

	<b><u>Pre-2017 Order</u></b> <sup>1</sup>	<b><u>2017 Order</u></b> <sup>2</sup>
RMP EBA Filing	March 15	March 15
Interim Rates	---	May 1
DPU Audit Filing	July 15	November 15
Hearing	October 1	February 1
Commission Order	November 1	March 1
Rates Implemented	November 1	March 1

As shown above, the Pre-2017 Order allowed approximately 122 days between RMP’s EBA filing and DPU’s Audit Filing. The 2017 Order doubled the time between those two deadlines, permitting approximately 245 days for DPU to complete its audit after RMP’s EBA filing. The 2017 Order also imposed interim rates beginning May 1.

The Commission issued the 2017 Order in response to numerous events, including the Division of Public Utility’s (“DPU”) filing of the Final Evaluation Report of PacifiCorp’s Energy Balancing Account Pilot Program on May 26, 2016 (“Report”) and legislation passed during the 2016 legislative session that eliminated the 70-30 sharing band previously approved by the Commission.<sup>3</sup>

In adopting the EBA Pilot Program, this Commission noted the concerns of various parties about an audit process that was required “to account for approximately one-half of a million

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<sup>1</sup> The schedule set forth in this column corresponds with approximate dates set in various EBA dockets prior to the issuance of the 2017 Order.

<sup>2</sup> See Docket No. 09-035-15, Order issued February 16, 2017 (“2017 Order”) at 28.

<sup>3</sup> See generally 2017 Order.

transactions” and to make a recommendation regarding the prudence of those transactions.<sup>4</sup> The burden of preparing this audit has fallen to the Division, who in its Report expressed concerns that the 122 days between RMP’s EBA filing on March 15 and the July 15 deadline for DPU’s Audit filing was “insufficient time” to complete the audit.<sup>5</sup> As this Commission noted in the 2017 Order, in expressing its concerns about the insufficient time to complete the audit, the Division characterized the audits as “limited in scope and not attestations of the material correctness of the Company’s EBA filings, but rather representations that [DPU] staff and consultants looked at a few items and did not make an imprudence determination on any of those items not specifically questioned.”<sup>6</sup> As a result of these concerns and others, the Division proposed to expand the time between RMP’s EBA filing on March 15 and the deadline for the Division to file its audit to 245 days. In so doing, the Division also proposed that the Commission adopt interim rates to be imposed on May 1 of each year, identifying various “policy and practical benefits of interim rates.”<sup>7</sup>

The Commission ultimately adopted the Division’s proposed procedural schedule for EBA dockets, including the proposed mechanism to impose interim rates beginning May 1 of each year.

UAE understands that the Commission is interested in the thoughts of the parties regarding a procedural schedule now that interim rates are no longer permitted within the EBA mechanism. This issue is largely driven by how much time is required for the Division to complete its audit. UAE notes that the concerns raised by the Division in its Report about the schedule adopted in the

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<sup>4</sup> See Docket No. 09-035-15, Corrected Report and Order issued March 3, 2011 (“2011 Order”) at 33.

<sup>5</sup> 2017 Order at 4.

<sup>6</sup> *Id.* (quoting from DPU’s Report (internal quotation marks omitted)).

<sup>7</sup> *Id.* at 17.

Pre-2017 Order EBA dockets providing insufficient time for the Division to complete the audit did not go away as a result of the Utah Supreme Court’s order that interim rates cannot be imposed in the EBA process. Those concerns remain and any effort to balance the quality of the audit, on the one hand, and the timing of rates that result from the audit, on the other hand, should err in favor of ensuring that the Division has sufficient time to conduct the audit. UAE believes that ensuring the correct EBA rate is more important than imposing a potentially flawed rate a few weeks earlier.

UAE has reviewed the comments filed February 24 in this docket by RMP proposing a new EBA schedule. A table comparing RMP’s proposed schedule with the current schedule is set forth below:

	<u>2017 Order</u>	<u>RMP Proposed Schedule</u>
RMP EBA Filing	March 15	March 15
DPU Audit Filing	November 15	August 15
Hearing	February 1	October 15
Commission Order	March 1	November 15
Rates Implemented	March 1	December 1

RMP’s proposed schedule would provide DPU 153 days after RMP’s EBA filing to complete and file its audit. Based on prior filings in this docket and on prior discussions between the parties, UAE does not believe this provides the Division with sufficient time to adequately perform the tasks required to complete the audit properly. When comparing RMP proposed schedule to the current schedule, RMP proposes to reduce the Division’s time to audit the EBA filing by approximately 90 days, which would result in EBA rates being imposed approximately 120 days earlier than in the current schedule. UAE is concerned that RMP’s proposed schedule would result in an abbreviated audit process that does not thoroughly examine RMP’s claim of

actual NPC costs, only to achieve an earlier implementation date for the rates based on this insufficient audit process.<sup>8</sup>

For the reasons set forth above, UAE does not propose a specific schedule but, rather, supports a schedule that the Division believes provides it sufficient time to conduct the audit. UAE also notes that any schedule should provide sufficient time for the parties to prepare and file testimony in support of their positions, just as prior iterations of the procedural schedule in EBA dockets have provided.

DATED this 2nd day of March, 2020.

Respectfully submitted



By:

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<sup>8</sup> UAE acknowledges that it in its September 16, 2019 comments in this docket it expressed optimism that the parties to this docket could reach a stipulation on a proposed procedural schedule going forward. That statement reflected discussions with the Company and other stakeholders about proposed dates that differ from those that the Company proposed in its February 24 comments. UAE raises this issue not to criticize the Company; the Company was not bound by any discussions between the parties in September of 2019 and is free to propose any schedule it deems appropriate. Rather, UAE raises this issue simply to note for the Commission that the schedule now proposed by RMP is not the same proposed schedule that UAE expressed confidence in September could result in an agreement between the parties.

Certificate of Service  
Docket No. 09-035-15

I hereby certify that a true and correct copy of the foregoing was served by email this day 2nd day of March 2020, on the following:

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