

In the Matter of the Application of Rocky Mountain Power for Approval of its Proposed Energy Cost Adjustment Mechanism	<u>DOCKET NO. 09-035-15</u> <u>ORDER</u>
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ISSUED: March 13, 2020

PROCEDURAL HISTORY AND BACKGROUND

On November 14, 2019, the Public Service Commission (PSC) issued an Order in this docket (“November Order”) approving Rocky Mountain Power’s (RMP) energy balancing account (EBA) as an ongoing program. With the implementation of the Utah Supreme Court’s decision restricting the use of interim rates in the EBA (“Opinion”),¹ and given parties’ comments in this docket, the November Order provided interested parties the opportunity to file comments on the EBA’s future procedural schedule by March 2, 2020.² The currently approved EBA procedural schedule identified in RMP’s Electric Service Schedule No. 94, EBA (“Schedule 94”) is:

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.³

On February 24, 2020, RMP filed comments. On March 2, 2020, the Division of Public Utilities (DPU) and the Office of Consumer Services (OCS) each filed comments. On March 3, 2020, the Utah Association of Energy Users (UAE) filed comments.

¹ See *Utah Office of Consumer Services v. Public Service Commission*, 2019 UT 26.

² November Order at 10.

³ See *Rocky Mountain Power’s Proposed Tariff Revisions to Electric Service Schedule No. 94, Energy Balancing Account Pilot Program - Compliance Filing* (December 17, 2019 Tariff Approval Letter); Docket No. 19-035-T17.

EBA SCHEDULE PROPOSALS

I. MAINTAIN CURRENT EBA SCHEDULE

DPU recommends the PSC retain the current EBA audit filing deadline of November 15 and the current schedule in Schedule 94 due to the increased complexity of the EBA. DPU asserts the November 15 audit filing date is essential for the DPU to reasonably evaluate the prudence of RMP's net power costs (NPC).

DPU maintains that since its inception, the EBA's scope has undergone, and will continue to undergo, dramatic changes, specifically: 1) the addition or modification of EBA costs; 2) RMP's entrance into the Energy Imbalance Market (EIM) resulting in a significant increase in the number of transactions under review; and 3) the proposed 2020 Multi-State Protocol⁴ that implements many changes to power costs, including the potential for reassignment of coal-fuel resources and the introduction of a nodal pricing model.

DPU claims that, with the exception of general rate cases, the EBA filings have required DPU's greatest collective time and resource commitment. In addition, due to the EBA's complexity, DPU must retain a consultant. DPU states "[t]he magnitude of the task and the lack of contemporaneous information for many expenses ensure [DPU]'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."⁵

⁴ See *Application of Rocky Mountain Power for Approval of the 2020 Inter-Jurisdictional Cost Allocation Agreement*; Docket No. 19-035-42.

⁵ DPU March 2, 2020 Comments at 3.

OCS recommends the PSC maintain the current EBA schedule. OCS cites Utah Code Ann. § 54-7-13.5(2)(e)(i) that states “[a]n energy balancing account may not alter the standard for cost recovery.” OCS asserts that, to the extent DPU’s audit is essential to meet this statutory requirement and ensure proper regulatory oversight, the EBA schedule must provide sufficient time for it. OCS would support a shorter audit period only if DPU agreed to one. OCS maintains RMP has not identified any harm under the current schedule given the carrying charge on the EBA.

UAE does not propose a specific schedule but, rather, supports a schedule that provides DPU sufficient time to conduct the audit and defers to DPU’s judgment on this matter. UAE states that, as with previous EBA dockets, any schedule should provide sufficient time for the parties to prepare and file testimony in support of their position.

II. MODIFY CURRENT SCHEDULE

To balance DPU’s audit with other aspects of the EBA proceeding, RMP proposes the following EBA procedural schedule (dates are on or about):

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|---------------|-------------------|
| • March 15 | RMP EBA Filing |
| • August 15 | DPU Audit Filing |
| • October 15 | Hearing |
| • November 15 | PSC Order |
| • December 1 | Rates Implemented |

RMP asserts that under the current schedule a disproportionate amount of time is allocated for DPU to complete its audit and the amount of time is five days longer than the PSC’s statutory period to process an entire rate case.⁶ Under its proposed schedule, RMP asserts DPU

⁶ See Utah Code Ann. § 54-7-12(3)(a).

will have 153 days, rather than the current 245 days, to complete its audit which RMP asserts “adequately acknowledges the importance of [DPU’s] statutory obligations.”⁷ According to RMP, its proposed schedule: 1) allows additional time between the EBA hearing date and the rate effective date to provide sufficient time for the PSC to issue an order and for RMP to file, gain approval of, and update its billing system to implement the new Schedule 94 rates; and 2) moves the rate effective date up from March 1 to December 1 of each year, so the deferral is collected closer in time to when the costs were deferred, thereby eliminating three months of carrying charges.

DPU asserts RMP’s request to shorten the audit period is inconsistent with the increased scope of the audit relating to the EIM’s impacts on the EBA. DPU claims RMP’s proposal is not in the public interest when considering the need for an accurate review of actual expenses, and in light of the carrying charges permitted. DPU suggests if RMP wishes a quicker recovery, it should seek legislation permitting interim rates for the EBA.

UAE asserts RMP’s proposed schedule does not provide DPU with sufficient time to complete the audit properly and would result in an abbreviated audit process that does not thoroughly examine RMP’s claim of actual NPC. UAE believes that ensuring the correct EBA rate is more important than imposing a potentially flawed rate a few weeks earlier.

DISCUSSION, FINDINGS AND CONCLUSIONS

In determining whether it is in the public interest to maintain or modify the current EBA procedural schedule, we have considered parties’ comments and the statutory requirements in

⁷ RMP’s February 24, 2020 Comments at 3.

Utah Code Ann. § 54-7-13.5. Energy Balancing Accounts.⁸ We have also considered: 1) DPU's statutory obligation to conduct audits;⁹ 2) the time required for discovery and to prepare and file EBA-related testimony; and 3) RMP's need for time to file, gain approval of, and update its billing system to implement the new Schedule 94 rates.

DPU's audit is an important feature of the EBA and provides a measure of assurance all EBA expenses that flow into rates are prudent. Carrying charges accrue on the EBA balance. The three-month difference between the length of the proposed schedules is relatively short, and RMP has not identified any specific harm from implementing rates on March 1 other than the ongoing, general concern with collecting the deferral closer in time to when the costs were deferred. We find the foregoing factors support the schedule we outline below as reasonable and appropriate. It will provide sufficient time for DPU to conduct its audit, for discovery and submission of testimony, and for the PSC to issue its order. The schedule also provides a reasonable length of time for RMP to calculate new rates and update tariff sheets, to modify its billing system with the new rates, and to obtain the necessary tariff approvals associated with our EBA decisions.

EBA Schedule

1. RMP will file its EBA application on or about March 15.
2. DPU will complete its audit and file its audit report and supporting testimony by November 7.
3. The PSC will hold a hearing on or about January 21 of the following year.

⁸ For example, those relating to prudently-incurred costs (Section (2)(b)(ii)), that “[a]n [EBA] may not alter the standard for cost recovery” (Section (2)(e)(i)), and that “[a]n [EBA] may not alter the electrical corporation’s burden of proof” (Section (2)(e)(ii)).

⁹ See Utah Code Ann. § 54-4a-1(1)(d). DPU conducts many audits including the following: 1) audits of RMP's EBA, Low-Income Program, Fuel Inventory Policies and Practices, and Demand Side Management Program; 2) audits of Dominion Energy Utah's Low-Income Program, Energy Efficiency Program, and 191 Pass-Through Account; and 3) annual audits associated with the disbursements from the Utah Universal Public Telecommunications Service Support Fund.

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4. The PSC will issue an order on or about February 21 of the following year.
5. The EBA rate effective date will be March 1 for a rate effective period of 12 months.

ORDER

Based on our findings and conclusions:

1. The EBA procedural schedule in Schedule 94 shall be:
 - a. RMP will file its EBA application on or about March 15.
 - b. DPU will complete its audit and file its audit report and supporting testimony by November 7.
 - c. The PSC will hold a hearing on or about January 21 of the following year.
 - d. The PSC will issue an order on or about February 21 of the following year before the next EBA filing is made.
 - e. The EBA rate effective date will be March 1 for a rate-effective period of 12 months.
2. RMP shall file tariff sheets reflecting the decisions in this order within 15 days.

DATED at Salt Lake City, Utah, March 13, 2020.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Attest:

/s/ Gary L. Widerburg
PSC Secretary
DW#312523

Notice of Opportunity for Agency Review or Rehearing

Pursuant to §§ 63G-4-301 and 54-7-15 of the Utah Code, an aggrieved party may request agency review or rehearing of this Order by filing a written request with the PSC within 30 days after the issuance of this Order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the PSC does not grant a request for review or rehearing within 20 days after the filing of the request, it is deemed denied. Judicial review of the PSC's final agency action may be obtained by filing a petition for review with the Utah Supreme Court within 30 days after final agency action. Any petition for review must comply with the requirements of §§ 63G-4-401 and 63G-4-403 of the Utah Code and Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on March 13, 2020, a true and correct copy of the foregoing was served upon the following as indicated below:

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