
Application of Rocky Mountain Power for
Approval of its Proposed Energy Cost
Adjustment Mechanism

DOCKET NO. 09-035-15
ORDER DENYING APPLICATION

ISSUED: February 24, 2022

SYNOPSIS

The Public Service Commission (PSC) denies Rocky Mountain Power's (RMP) application to establish an interim rate process in the energy balancing account (EBA) mechanism tariff Schedule 94 ("Tariff Schedule 94").

1. BACKGROUND AND PROCEDURAL HISTORY

On December 10, 2021, RMP filed an Application to Establish Interim Rate Process in the EBA ("Application"). The Division of Public Utilities (DPU) filed comments on January 19, 2022. No other party submitted comments in this proceeding.

2. RMP'S APPLICATION

In the Application, RMP requests a modification to its EBA Tariff Schedule 94 to provide for an interim rate process as part of its EBA. Additionally, RMP requests an order from the PSC directing RMP to make an attendant tariff compliance filing. For the requested tariff compliance filing, RMP seeks an effective date of March 1, 2022, as RMP expects to initiate its 2020 EBA filing around March 15, 2022.

Attachment 1 to the Application demonstrates the modifications RMP proposes to Tariff Sheet No. 94.3 in order to effect its proposed EBA interim rate process. The proposed EBA Procedural Schedule under Tariff Schedule 94 is as follows:

EBA PROCEDURAL SCHEDULE

- 1) RMP will file its EBA application on or about March 15;
- 2) On or before May 1, the PSC will determine whether to approve interim rates with an amortization period through April of the following year, effective May 1;
- 3) DPU will complete its audit and file its report and supporting testimony by November 7;
- 4) the PSC will hold a hearing on or about January 21 of the following year;
- 5) the PSC will issue an order on or about February 21 of the following year before the next EBA filing is made, after which a true up of rates could be ordered;
- 6) Any true-up to interim rates will go into effect May 1, and be amortized through April 30 of the year following the year the application is filed unless otherwise determined by PSC order.

The Application also indicates the proposed EBA procedural schedule includes only one annual rate change, which is consistent with past PSC determinations.¹

3. DPU COMMENTS AND RECOMMENDATIONS

DPU states RMP's proposed modifications providing for interim rates are permissible and recommends the PSC approve the proposed modifications to establish the interim rate process.² Notwithstanding its recommendation for approval, DPU argues that assuming an EBA application filing date of March 15 under the proposed EBA Procedural Schedule, Utah Code Ann. § 54-7-13.5(2)(1)(ii)³ requires the EBA Procedural Schedule to undergo further review and potential modification to be in compliance with the 300-day limitation. DPU's comments indicate "[RMP] and [DPU] are reviewing and discussing options to overcome the challenges

¹ Application at ¶ 5.

² DPU Comments at 2.

³ Utah Code Ann. § 54-7-13.5(2)(1)(ii) states that "The commission may issue a final order...before the expiration of 300 days after the day on which the electrical corporation files a complete filing."

that this legislated time limitation imposes. The results of these discussions will be presented in future correspondence and filing.”⁴

4. DISCUSSION, FINDINGS OF FACT, AND CONCLUSIONS OF LAW

Under Utah Code Ann. § 54-7-13.5(2)(k), the PSC “may consider an interim rate request made as a part of an electrical corporation's filing an energy balancing account,” and, after holding a hearing on such request, the PSC “may allow any rate increase or decrease, or a reasonable part of the rate increase or decrease, to take effect on an interim basis, subject to the [PSC]’s right to order a refund or surcharge” so long as “[t]he electrical corporation or the other party [makes] an adequate prima facie showing that ... the proposed interim rate appears consistent with prior years’ filings; and ... the interim rate requested is more likely to reflect actual power costs than the current base rates.”⁵

In the Application, RMP explains that under its current tariff, the EBA process is set to true-up costs incurred in excess of two years before they are reflected in Tariff Schedule 94 rates.⁶ RMP states that “[t]he use of interim rates is in the interest of customers because it more closely aligns the timing of when the costs are incurred to provide electric service to customers to the costs being recovered in [customers’] rates, mitigating concerns about intergenerational inequities and regulatory lag.”⁷ RMP asserts the use of interim rates reduces the lag, and that under the procedural schedule reflected in Attachment 1, DPU and other parties will continue to have adequate time to audit and review the energy balancing account.⁸

⁴ DPU Comments at 2.

⁵ Utah Code Ann. § 54-7-13.5(2)(k).

⁶ Application at ¶ 9.

⁷ *Id.* at ¶ 8.

⁸ *Id.* at ¶ 9.

DPU notes the procedural schedule proposed in the Application does not allow for compliance with the statutory requirement that the PSC issue a final order within 300 days after RMP's complete filing.⁹ Nevertheless, DPU recommends the PSC approve the Tariff Schedule 94 modifications as filed and represents it and RMP are reviewing and discussing options "to overcome the challenges that this legislated time limitation imposes," and that the "results of these discussions will be presented in future correspondence and filing."

5. ORDER

In principle, we find RMP's Application, and DPU's recommendation for its approval, reasonable and in the public interest. However, we cannot approve a process that is, on its face, contrary to law. As DPU noted, the Application contemplates an EBA filing on or about March 15 and an order on or about February 21 of the following year. This timeframe exceeds the period the law requires the PSC to issue a final order. Based on the DPU's representation that it is working with RMP to revise the schedule to comply with the statute, we anticipate a revised filing soon. The PSC will expedite its consideration of such filing as much as is practicable.

As filed, the PSC must deny the Application.

⁹ See Utah Code Ann. § 54-7-13.5(2)(i)(ii).

DOCKET NO. 09-035-15

- 5 -

DATED at Salt Lake City, Utah, February 24, 2022.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Gary L. Widerburg
PSC Secretary
DW#322464

Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this written order by filing a request for review or rehearing with the PSC within 30 days after the issuance of the 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 fails to grant a request for review or rehearing within 30 days after the filing of a request for review or rehearing, 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 Utah Code Ann. §§ 63G4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on February 24, 2022, a true and correct copy of the foregoing was delivered upon the following as indicated below:

By Email:

Data Request Response Center (datareq@pacificorp.com), (utahdockets@pacificorp.com)
PacifiCorp

Jana Saba (jana.saba@pacificorp.com)
Emily Wegener (emily.wegener@pacificorp.com)
Rocky Mountain Power

F. Robert Reeder (frreeder@parsonsbehle.com)
William J. Evans (bevans@parsonsbehle.com)
Vicki M. Baldwin (vbaldwin@parsonsbehle.com)
Parsons Behle & Latimer

Peter J. Richardson (peter@richardsonanddoleary.com)
Richardson & O'Leary, PLLC

Jeffrey Barrett (jhbarrett@utah.gov)
Utah Office of Energy Development

Gary A. Dodge (gdodge@jdrslaw.com)
Phillip J. Russell (prussell@jdrslaw.com)
James, Dodge, Russell & Stephens, P.C.

Kevin Higgins (khiggins@energystrat.com)
Neal Townsend (ntownsend@energystrat.com)
Energy Strategies

Holly Rachel Smith (holly@raysmithlaw.com)
Excelon Business Services Company

Ryan L. Kelly (ryan@kellybramwell.com)
Kelly & Bramwell, P.C.

Steve W. Chriss (stephen.chriss@wal-mart.com)
Wal-Mart Stores, Inc.

Steven S. Michel (smichel@westernresources.org)
Nancy Kelly (nancy.kelly@westernresources.org)
Western Resource Advocates

Peter J. Mathis (pjm@smxblaw.com)
Eric J. Lacey (ejl@smxblaw.com)
Brickfield, Burchette, Ritts & Stone, P.C.

Jeremy R. Cook (jrc@pkhlawyers.com)
Parsons Kinghorn Harris, P.C.

Hunter Holman (hunter@utahcleanenergy.com)
Sarah Wright (sarah@utahcleanenergy.com)
Utah Clean Energy

Patricia Schmid (pschmid@agutah.gov)
Justin Jetter (jjetter@agutah.gov)
Robert Moore (rmoore@agutah.gov)
Assistant Utah Attorneys General

Madison Galt (mgalt@utah.gov)
Division of Public Utilities

Alyson Anderson (akanderson@utah.gov)
Bela Vastag (bvastag@utah.gov)
Alex Ware (aware@utah.gov)
(ocs@utah.gov)
Office of Consumer Services

Administrative Assistant