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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
In the Matter of the Application of the Utah Association of Energy Users for a Deferred Accounting Order Directing Rocky Mountain Power to Defer Incremental REC Revenue for Later Ratemaking Treatment	Docket No. 10-035-14
In the Matter of the Application of Rocky Mountain Power for Authority to Increase Its Retail Electric Utility Service Rates in Utah and for Approval of Its Proposed Electric Service Schedules and Electric Service Regulations	Docket No. 10-035-124

REPLY OF ROCKY MOUNTAIN POWER TO RESPONSES TO MOTION FOR DETERMINATION OF RATEMAKING TREATMENT OF DEFERRED ACCOUNTS

Rocky Mountain Power, a division of PacifiCorp ("Rocky Mountain Power" or "Company"), hereby replies to the following pleadings: (1) Opposition of UIEC to the Motion

of Rocky Mountain Power for Determination of Ratemaking Treatment of Deferred Accounts ("UIEC Response") dated June 16, 2011; (2) Response of UAE Intervention Group to Motion of Rocky Mountain Power for Determination of Ratemaking Treatment of Deferred Accounts ("UAE Response") dated June 17, 2011; (3) Utah Office of Consumer Services' Response to Motion for Determination of Ratemaking Treatment of Deferred Accounts ("OCS Response") dated June 17, 2011; and (4) Reply of the Division of Public Utilities to Rocky Mountain Power's Motion for Determination of Ratemaking Treatment of Deferred Accounts ("DPU Response") dated June 20, 2011, (collectively, "Responses").

I. INTRODUCTION

The Company filed its Motion of Rocky Mountain Power for Determination of Ratemaking Treatment of Deferred Accounts ("Motion") on June 2, 2011. The Motion was principally a procedural motion, requesting the Commission to determine the ratemaking treatment of two deferred accounts, one for incremental net power costs ("NPC") incurred from February 18, 2010 ("Deferred NPC Account") and the other for incremental renewable energy credit ("REC") revenues received from February 22, 2010 ("Deferred REC Account") in Docket No. 10-035-124 ("2011 General Rate Case"). The Motion also requested that the Commission order amortization of the estimated balances in both accounts as of September 20, 2011 over a 24-month period with a true up to actuals through the Company's Energy Balancing Account ("EBA") for the Deferred NPC Account true up and a balancing account or tracker to be established for REC revenues for the Deferred REC Account true up. This portion of the Motion simply suggested an approach to amortization and was not intended to foreclose the presentation of evidence and argument on the ratemaking treatment of the deferred accounts. Alternatively, the Motion requested the Commission to remove the issue of the ratemaking treatment of the Deferred REC Account from the 2011 General Rate Case and determine the ratemaking

treatment of the Deferred NPC Account and Deferred REC Account in consolidated proceedings in Docket Nos. 09-035-15 ("ECAM Docket") and 10-035-14 ("REC Docket").

As discussed in the Motion, the UAE Intervention Group ("UAE") and the Office of Consumer Services ("OCS") filed testimony in the 2011 General Rate Case on May 26, 2011, only one week prior to the filing of the Motion, requesting that the Commission determine the ratemaking treatment of the Deferred REC Account in that case. The Motion argued that the ratemaking treatment of both deferred accounts should be determined in the same proceeding because they were implemented at the same time, they have accrued during the same period, they were both based on the inability of the Commission or the parties to accurately predict NPC or REC revenues in Docket No. 09-035-23 ("2009 General Rate Case") and, most importantly, because they were both relatively large amounts that went in opposite directions. Therefore, the Company argued, "To the extent possible, it would be in the customers' best interest to net the sur-credit associated with deferred REC revenue against the surcharge associated with the deferred NPC to minimize the impact on customers." Motion at ¶ 15.

From June 16 through June 20, 2011, the Utah Industrial Energy Consumers ("UIEC"), UAE, OCS and the Division of Public Utilities ("DPU") filed the Responses opposing the Motion. Although the Responses vary somewhat in their approach, they share the argument that the Motion should be denied because the Company is not entitled to rate recovery of the Deferred NPC Account. The Responses, thus, go beyond the principal procedural issue raised by the Motion and invite the Commission to rule on the merits of ratemaking treatment of the Deferred NPC Account as a matter of law.

As detailed in this Reply, the other parties' arguments should be rejected by the Commission for the following reasons:

- The delay in adoption of the EBA beyond the conclusion of the 2009 General Rate case was engendered by all participants and was inconsistent with the parties' prior agreement to Commitment U 23 in Docket No. 05-035-and the language of section 54-7-13.5(2)(b)(iii).
- This delay equitably justifies a finding that recovery of the Deferred NPC Account is not barred as a matter of law.
- The 2011 General Rate Case (or an alternative proceeding, and not this Motion) is the appropriate forum for presentation of arguments for and against recovery of the deferred accounts.
- Administrative efficiency and the interests of the public and customers require that ratemaking treatment of both deferred accounts be addressed and resolved in the same proceeding.

The Company anticipated argument in response to the Motion that the parties were too busy to deal with the issue in the 2011 General Rate Case. The Company also anticipated arguments on the merits at a subsequent time that not all aspects of the Deferred NPC Account should be recovered. The Company did not, however, anticipate that the parties would ignore their roles in extending the EBA proceeding through two rate cases—an extension that created the need for the Deferred NPC Account. The Commission should reject those arguments and do the right and fair thing by granting the Motion and either determine the ratemaking treatment of both deferred accounts in the 2011 General Rate Case or, if there really is insufficient time to do so in the 2011 General Rate Case,[1] in consolidated proceedings in the ECAM and REC Dockets.

[1] It is ironic that the parties have time to deal with ratemaking treatment of the Deferred REC Account that will reduce rates, but claim they do not have enough time to deal with ratemaking treatment of the Deferred NPC Account that will increase rates.

II. ARGUMENT

A. Deferred Accounting Is Not Implementation of the EBA or Retroactive Ratemaking.

The fundamental flaw in the arguments of the Responses is a failure to distinguish between deferred accounting and implementation of the EBA or retroactive ratemaking. The Responses confirm that there is a serious misunderstanding of deferred accounting among parties to regulatory proceedings in this state. This misunderstanding is illustrated by the arguments in the Responses that the Company is not entitled to rate recovery of the Deferred NPC Account because the EBA will not be effective until October 1, 2011 and because it would constitute improper retroactive ratemaking.

Rate recovery of the Deferred NPC Account is neither implementation of the EBA nor retroactive ratemaking. It is a separate and distinct ratemaking mechanism.

The purpose of deferred accounting—the establishment of a regulatory asset or liability—is to defer recognition of expenses or revenues in a current period for ratemaking treatment in a subsequent period. 18 C.F.R. Part 1, Account 182.3 and Part 101, Definition 31; Accounting Standards Codification Topic 980 Regulated Operations (fka Statement of Financial Accounting Standards No. 71); Report and Order, Docket Nos. 06-035-163, 07-035-04 and 07-035-14 (Utah PSC Jan. 3, 2008) ("*Deferred Accounting Order*") at 16. It is a ratemaking mechanism that is applied in circumstances where a utility would be denied recovery of significantly increased costs or decreased revenues or customers would be denied rate reductions associated with significant reductions in costs or increases in revenues through the normal general rate case process. Once deferred accounting is granted, there is no need for an exception to the rule against retroactive ratemaking because prospective costs or revenues have been

deferred for later ratemaking treatment. It is well established that deferred accounting does not involve retroactive ratemaking.[2]

The EBA is a balancing account. A balancing account "is a ratemaking technique used in this and other jurisdictions to adjust rates outside the general rate case process."[3] Under the EBA, the Company is required to refund or surcharge the difference between net energy costs included in setting rates and prudently-incurred net energy costs incurred during the period rates are in effect. Utah Code Ann. § 54-7-13.5(2)(g) & (h). The goal of an EBA is to deal with fluctuations in energy costs through a pass-through of those costs without interfering with general rate making requirements.[4] An EBA does not involve retroactive ratemaking and is not an exception to the rule against retroactive ratemaking.[5]

Retroactive ratemaking involves an adjustment in rates either through a surcharge or refund to compensate for failure of rates set in the past to properly reflect costs or revenues during the rate-effective period. As noted by the Commission, "utilities . . . are generally not permitted to adjust their rates retroactively to compensate for unanticipated costs or unrealized revenues. This process places both the utility and the consumers at risk that the rate-making procedures have not accurately predicted costs and revenues." *Deferred Accounting Order* at 14-15 (quoting *EBA Case*, 720 P.2d at 420). Exceptions to the rule against retroactive ratemaking

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[2] *See, e.g., Bus. and Prof'l People for the Pub. Interest v. Illinois Commerce Comm'n*, 563 N.E.2d 1032, 1062 (Ill. App. 1990) ("Nor does the order [for deferred accounting] constitute a backdoor approach to single issue or retroactive ratemaking.").

[3] Corrected Report and Order on Rocky Mountain Power Energy Balancing Account, Docket No. 09-035-15 (Utah PSC Mar. 3, 2011) ("EBA Order") at 4.

[4] *Utah Dep't of Bus. Regulation v. Public Service Comm'n*, 720 P.2d 420, 422 (Utah 1986) ("*EBA Case*").

[5] *See e.g.*, Stefan H. Krieger, *The Ghost of Regulation Past: Current Applications of the Rule against Retroactive Ratemaking in Public Utility Proceedings*, 1991 U. Ill. L.Rev. 983, 1017-18 ("Most courts, however, have found no retroactivity problem with [energy cost adjustment clauses]." and 1020 ("Most courts, however, have held that [fuel adjustment] reconciliation proceedings do not violate the retroactivity rule . . . .").

have been recognized in certain extraordinary circumstances.[6] While there may be similarity to the circumstances that justify retroactive ratemaking and those that justify granting deferred accounting, deferred accounting, as discussed above, is not retroactive ratemaking.[7]

The Company's Motion is a request for the Commission to make a determination of ratemaking treatment for costs and revenues that have been deferred for later ratemaking treatment. The Motion is not a request for retroactive ratemaking or a request for implementation of an EBA. The failure of the parties opposing the Motion to recognize this important distinction results in arguments that do not apply to the Motion.

There is another problem with the opposing parties' arguments that the Commission cannot grant rate recovery of the Deferred NPC Account because the EBA cannot be effective until after conclusion of the 2011 General Rate Case. This argument assumes that the Commission did not have authority to grant deferred accounting for NPC before section 54-7-13.5 was enacted in 2009 and that rate recovery for the deferred account can only be as specifically provided in the statute. If specific statutory authority is required for deferral and recovery of NPC, it is also required for deferral and recovery of REC revenues. But because the Commission has determined that REC revenues do not fall within the EBA, there is no statute that addresses deferral or a balancing account for REC revenues. Therefore, under the opposing parties' logic, the Commission had no authority to grant deferral of REC revenues and has no authority to allow rate recovery of them. Of course, the Commission has authority to grant deferral of any revenue or cost that it determines should be deferred for later ratemaking treatment. The opposing parties' arguments are inconsistent and illogical.

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[6] *MCI Telecomm. Corp. v. Utah Public Service Comm'n*, 840 P.2d 765, 770 (Utah 1992).

[7] *See, e.g., Bus. and Prof'l People*, 563 N.E.2d at 1062 ("Nor does the order [for deferred accounting] constitute a backdoor approach to single-issue or retroactive ratemaking.").

B. Recovery of the Deferred NPC Account Is Appropriate.

The Responses fail to differentiate the standards for granting a request for deferred accounting from the standards for determining whether the amount deferred should be recovered in rates. The standards are different. The Commission's *Deferred Accounting Order* addressed the standards for granting deferred accounting. The Responses address issues associated with that standard, rather than the standard for rate recovery of a deferred account.

Even though the Responses address the wrong standard, the *Deferred Accounting Order* undermines much of their argument. In the *Deferred Accounting Order*, the Commission stated that a decision whether to grant deferred accounting is a case-by-case determination of whether: (1) there is a likelihood of recovery of the costs incurred; and (2) the timing of when the utility became aware of the circumstances that would give rise to the need for deferred accounting.[8] Granting a deferred accounting order, while not a preapproval that all the costs will necessarily be allowed, is an indication by the Commission that those costs are likely to be included in later revenue requirement determinations.[9] Further, while unforeseeable events generally allow for deferred accounting, deferred accounting is also allowed for known events when the impacts of those events are difficult to ascertain or quantify.[10]

Here, the Commission approved a stipulation among all the parties and granted an order for deferred accounting for incremental NPC. Under the *Deferred Accounting Order*, the Commission could not grant deferred accounting if there were no possibility of recovery of the Company's deferred NPC. Yet the Responses argue that there can be no recovery because the EBA could not be effective until after conclusion of the 2011 General Rate Case. If that is true

[8] *Deferred Accounting Order* at 16-18.

[9] *Id.* at 16-17.

[10] *Id.* at 19.

now, it was true when the Motion for Deferred Accounting Order was made in the ECAM Docket and when the Commission granted the motion in that docket a few months later. Obviously, it is not true now and it was not true then. By stipulating to deferred accounting for NPC, the parties have already acknowledged that there was a possibility of rate recovery of the deferred amount in the future. They should not be allowed to argue otherwise.[11]

The correct standard for determining whether a deferred amount may be recovered in future rates is the same standard applied to any cost in any rate case—is the recovery of the cost just and reasonable. [12] The determination of whether a cost is just and reasonable includes consideration of whether it was reasonable in amount and prudently incurred. Once the Commission has determined to allow deferred accounting for a cost or revenue, the issue is no longer whether it was unforeseen or extraordinary. That issue is considered when deciding whether to allow deferral, not in deciding whether to allow rate recovery of a deferred amount. This was explained by the Commission in the *Deferred Accounting Order*:

> The rule against retroactive ratemaking, exceptions to the rule and their underlying rationales *have application in considering whether an accounting order should be issued*. Authorizing certain expenses to be accounted for through an accounting order does not "preapprove" them for inclusion in the determination of a utility's revenue requirement in some future ratemaking proceeding. *They are still subject to analysis and adjustment at the time a revenue requirement determination is to be made*.

[11] The Company recognizes that the parties reserved their rights in the stipulation to oppose rate recovery in the future. However, that opposition cannot rationally be based on a claim that there was never any possibility of rate recovery or their stipulation was disingenuous and misleading.

[12] *See Office of Consumer Counsel v. Dep't of Public Utility Control*, 905 A.2d 1, 12 (Conn. 2006) ("There is, it has been held, 'a fundamental difference between a decision to record deferred charges and a decision to recover deferred charges . . . .'") (quoting *Bus. and Prof'l People*, 563 N.E.2d at 1062).

Deferred Accounting Order at 16 (emphasis added). A decision regarding when amortization of a deferred account should be allowed in rates and the length of the period during which it should be amortized is left to the sound discretion of the Commission.[13]

The Deferred NPC Account clearly meets this standard. The incremental NPC were incurred in meeting the power requirements of customers. The Company acted prudently in incurring these costs. Indeed, the Company could have no motive to incur imprudent or excessive NPC because at best it can only recover its actual costs. Therefore, while the Company welcomes a prudence review of these deferred costs, it is confident that the review will demonstrate that the costs were reasonable in light of the circumstances existing at the time they were incurred.

C. The Purpose of the Deferred NPC Account Was to Allow the Commission and Parties as Much Time as They Believed They Needed to Address EBA Issues Without Prejudicing the Company's Right to Commence True Up of NPC at Conclusion of the 2009 General Rate Case.

As part of the stipulation supporting approval of the acquisition of the Company by MidAmerican Energy Holdings Company, the Company agreed that if it sought approval of an EBA, it would do so in conjunction with a general rate case. In Commitment U 23 in Docket No. 05-035-54, the Company agreed that it would file its application for an EBA at least three months in advance of its application for a general rate case. The other parties agreed to file their testimony on the EBA application on the same schedule as testimony was due during the rate case. It was clearly contemplated that the Commission would determine whether to approve an EBA contemporaneously with its decision in the rate case so that the EBA could go into effect based on the NPC found just and reasonable in setting rates in the rate case.

[13] *See Office of Consumer Counsel v. Dep't of Pub. Util. Control*, 279 Conn. 584, 601-02 (Conn. 2006).

UIEC had resisted approval of an EBA on the ground that the Commission did not have authority to approve an EBA.[14] Although the Company never agreed that UIEC's objection that an EBA was beyond the authority of the Commission had merit, that issue was resolved when the parties agreed to legislation in 2009 specifically authorizing the Commission to approve an EBA. As part of that legislation, the parties agreed to language that was consistent with the understanding underlying Commitment U 23. Section 54-7-13.5(2)(b)(iii) provided that an EBA would be "implemented at the conclusion of a general rate case."

Consistent with these understandings and provisions, the Company filed its request for approval of an EBA in the ECAM Docket on March 19, 2009, over three months in advance of its filing of the 2009 General Rate Case. However, rather than dealing with the request for an EBA contemporaneously with the proceedings in the general rate case as contemplated in Commitment U 23 and the statute, the parties used the workload of the rate case as one of the bases for asking for delayed and bifurcated proceedings in the ECAM Docket. The Company initially resisted these attempts on the ground that they were inconsistent with Commitment U 23 and section 54-7-13.5(2)(b)(iii). However, in reliance on the Commission's Scheduling Order in the 2009 General Rate Case that the Commission was adopting the schedule it was in the ECAM Docket and in the 2009 General Rate Case in a manner that "can accommodate parties' interests in both dockets,"[15] the Company ceased its protests against an elongated schedule in the ECAM Docket. The Company's only interest in scheduling the ECAM Docket, which the Commission

[14] Utah Industrial Energy Consumers' Motion to Dismiss PacifiCorp's Application for Approval of Its Proposed Power Cost Adjustment Mechanism, Docket No. 05-035-102 (Utah PSC May 9, 2006) at 4-17.

[15] Scheduling Order, Docket No. 09-035-15 (Utah PSC Aug. 4, 2009) at 1.

accommodated in scheduling both dockets, was that it be allowed to implement the EBA, if approved, at or near the conclusion of the 2009 General Rate Case.[16]

Furthermore, to make sure that it would have that opportunity, the Company filed its Motion for Deferred Accounting Order in the ECAM Docket immediately after the Commission issued its Report and Order on Phase I in the docket. As discussed above, by obtaining deferred accounting for incremental NPC following issuance of the Commission's Report and Order on Revenue Requirement, Cost of Service and Spread of Rates in the 2009 General Rate Case, the Company was assured that it would be allowed recovery of prudent incremental NPC consistent with the Commission's final order in the ECAM Docket.

Given these developments, it was not necessary for the Company to continue to insist that the ECAM Docket be concluded expeditiously as contemplated in Commitment U 23 and section 54-7-13.5(2)(b)(iii). Instead, the Company essentially accepted that the parties could take as much time as they wished to develop the record in the ECAM Docket and that the Commission could take as much time as it wished to issue its order following submission of briefs. Although the parties reserved the right to contest rate recovery of the deferred amounts, the Company understood that such challenges would be on the basis of prudence, that the amounts were not within the EBA eventually approved by the Commission or that an adjustment needed to be made based on interjurisdictional allocation issues, and not based on inaccurate claims that the recovery constituted retroactive ratemaking or were barred because the EBA would not be effective until October 1, 2011.

If the Commission accepts the position of the Responses, it will deny the Company recovery of up to $152 million of incremental NPC simply because the parties were successful in

[16] *See* Motion of Rocky Mountain Power for Ruling on Implementation of ECAM, Docket No. 09-035-15 (Utah PSC Aug. 3, 2009); Response of Rocky Mountain Power to UIEC Motion to

prolonging the ECAM Docket.[17] Furthermore, it will be inconsistent with the agreement of the parties to Commitment U 23 and section 54-7-13.5(2)(b)(iii). The Commission should not condone such practices and positions.

D. The Commission Did Not Reject the Motion in the EBA Order.

The Responses argue that the Commission already rejected the Motion in the EBA Order. In support of this argument, the Responses cite a difference in language in the EBA Order in referring to how the deferred accounts would be addressed and the fact that the Commission concluded that the EBA would commence on October 1, 2011. These arguments ignore the straightforward language of the EBA Order.

After deciding that REC revenues would not be included in the EBA, the Commission stated:

> We conclude REC revenues are better addressed in a general rate proceeding or other appropriate filing. Consequently, we will treat the deferred REC revenues accruing pursuant to any future decision in Docket No. 10-035-14 in a separate proceeding.

EBA Order at 72. With respect to the Deferred NPC Account, the Commission stated:

> ***Stipulation on Deferred Net Power Cost:*** We will address the ratemaking issues associated with the stipulation on deferred net power cost separately from this order. We will also consider the balancing account treatment for the one percent premium above Utah's rolled in share of total system costs approved in the last general rate case in the course of the pending general rate case or other appropriate proceeding on the deferred net power cost balance. As to any deferred net power cost balance prior to the conclusion of the next general rate case, we will require use of the rolled-in allocation factors and appropriate treatment of the MSP stipulation mechanisms, unless the Company can demonstrate continued use of the MSP stipulation mechanisms is in the public interest. We directed parties in Docket No. 09-035-23 to address the propriety of using the MSP stipulation mechanisms approved in Docket No. 02-035-04

Bifurcate, Docket No. 09-035-23 (Utah PSC July 23, 2009) at 3-4.

[17] In fact, if the OCS had its way, the EBA would not even be implemented following the 2011 General Rate Case. As the Commission will recall, the OCS argued for further study of issues prior to implementation of the EBA for indeterminate periods in all three phases of the ECAM Docket.

> for setting rates in Utah prior to any further rate changes. The request for recovery of any deferred net power cost balance requires this showing.

Id. at 77-78.

Far from supporting the argument in the Responses, the Commission's statements support the conclusion that the Commission would decide the ratemaking treatment of both deferred accounts separately from the EBA Order in a general rate case or other appropriate proceeding. In fact, with respect to the Deferred NPC Account, the Commission specifically referred to the currently pending 2011 General Rate Case. It did not do so in discussing the Deferred REC Account. Thus, if anything, a better case can be made for determining the ratemaking treatment of the Deferred NPC Account than for determining the ratemaking treatment of the Deferred REC Account in the 2011 General Rate Case based on the language in the EBA Order.

Furthermore, the Commission's discussion of potential use of rolled-in allocation factors for potential recovery of the Deferred NPC Account completely undercuts the argument that the EBA Order has already denied recovery of the Deferred NPC Account because it ruled that the EBA would not be effective until October 1, 2011. If the arguments in the Responses were correct, there would have been no need for the Commission to discuss possible application of the rolled-in allocation method to recovery of the Deferred NPC Account balance at all. Obviously, the Commission did not intend to eliminate the possibility of recovery of the Deferred NPC Account when it ordered that the EBA would be effective on October 1, 2011.

E. There Is Sufficient Time in the 2011 General Rate Case to Deal with Appropriate Issues.

The Responses also argue that there is insufficient time to deal with the ratemaking treatment of the Deferred NPC Account in the 2011 General Rate Case and that any attempt to do so would deny them due process of law. As already noted in the Motion, the Company filed the 2011 General Rate Case nearly six weeks before the EBA Order was issued. Therefore, there

was no basis at the time the application was filed for the Company to anticipate that it would need to request a determination of the ratemaking treatment of the Deferred NPC Account in the 2011 General Rate Case. Had the Commission accepted the Company's recommendation in the ECAM Docket, it would either have adopted the EBA effective as of February 18, 2010 or it would have simply ruled that the Company was entitled to roll the balance in the Deferred NPC Account as of the effective date of the EBA into the EBA, adjusted for differences between the components of the deferred account and the EBA as contemplated in the Company's Motion for Deferred Accounting in the ECAM Docket. Thus, until the Commission issued the EBA Order, there was no reason for the Company to make the Motion.

Within one week of the date two parties in the 2011 General Rate Case requested the Commission to determine the ratemaking treatment of the Deferred REC Account, the Company filed the Motion and filed its supplemental direct testimony supporting ratemaking treatment of the Deferred NPC Account in the 2011 General Rate Case. Thus, parties have had only one week less to deal with the Company's request than the request of the OCS and UAE to consider ratemaking treatment of the Deferred REC Account in the case. In this context, UIEC's and UAE's arguments regarding lateness of the issue being raised are unpersuasive.

UIEC and UAE argue that there are substantial complex issues in dealing with the Deferred NPC Account that are not present with the Deferred REC Account. Their argument exaggerates the issue and ignores the fact that the same issues are already being addressed in the case in any event. For example, UIEC argues that the Deferred NPC Account may include financial swap hedging costs and that such costs must be excluded. UIEC Response at 17. This argument ignores the distinction between implementation of the EBA and ratemaking treatment of the Deferred NPC Account. The only issue on ratemaking treatment of the Deferred NPC Account is whether the costs incurred are reasonable and prudent. UIEC and other parties have

made that an issue in the 2011 General Rate Case that the Commission must address in any event. It will be no more work to address it with respect to actual results than it will be to address it with respect to estimates for the test period. In fact, the evidence submitted to date is focused on actual results. Likewise, the prudence of all of the Company's NPC is an issue in the general rate case. It will be no more difficult to address the prudence of the deferred balances than to address the prudence of the forecasts for the test period.

UIEC also argues that it is unknown whether the Deferred NPC Account includes incremental revenue for load growth or wind integration costs, both of which must be included. *Id.* In making this argument, UIEC again confuses ratemaking treatment of the Deferred NPC Account with implementation of the EBA. In granting deferred accounting for incremental NPC, the Commission has already concluded that they may be treated differently than all of the other elements of cost and revenue that were considered in setting rates in the 2009 General Rate Case. All elements of costs and revenues have varied from the amounts on which rates were set, but other revenues and costs, except for the Deferred REC Account, have not been approved for deferred accounting. Furthermore, with respect to wind integration costs, the Commission noted in the EBA Order that they are included in the calculation of both base and actual NPC and that excluding them from actual NPC would be difficult and controversial. EBA Order at 73-74. Thus, it is apparent that they are already included in the Deferred NPC Account as UIEC suggests they should be.

Finally, UIEC argues that there are issues regarding allocations that must be resolved. UIEC Response at 17. These allocation issues are already being addressed in the case, so their resolution will not burden the case. Once they are resolved, they can easily be applied in determining the ratemaking treatment of the Deferred NPC Account.

UAE raises essentially the same issues, but suggests that the prudence review will need to examine every transaction and will be the equivalent of a brand new rate case for the period from February 2010 to September 2011. UAE Response at 7-8.[18] This argument is similar to the sensational argument regarding prudence audits made in the ECAM Docket and is no more valid here than it was there. A prudence audit after the fact does not require the review of every transaction anymore than a determination of just and reasonable NPC in the course of a rate case does. The issue may be dealt with just like any other cost in a rate case except that the parties have the benefit of examining a sample of actual costs and revenues when looking at a historic period. Based on the position of the parties on appropriate test periods, one would assume that they would argue that such an audit would be simpler than dealing with forecasts.

It is apparent that the Commission is already going to hear evidence on most of the same issues in the 2011 General Rate Case whether it considers the ratemaking treatment of the Deferred NPC Account in the case or not. However, if the Commission concludes that dealing with the issue in the case would be too difficult to accomplish under the current schedule, the Company has no objection to the Commission determining the ratemaking treatment of both the Deferred NPC and REC Accounts in a separate docket. The Company has no objection to offsetting the amount the Commission determines is reasonably recoverable from the Deferred NPC Account with the amount the Commission determines should be refunded from the Deferred REC Account.

III. CONCLUSION

The arguments of UIEC, UAE, the OCS and the DPU in opposition to the Motion are unpersuasive. They address the merits of ratemaking treatment of the Deferred NPC Account

[18] UAE does not claim any need for a prudence audit of the Deferred REC Account. Rate recovery for either account should not be authorized until the Commission is satisfied that the amounts included in the accounts are prudent and reasonable.

rather than the procedural issue of the appropriate forum for consideration of deferred accounting for both incremental NPC and REC revenue. They confuse recovery of the Deferred NPC Account with implementation of the EBA and retroactive ratemaking. They also confuse the standard for granting deferred accounting with the standard for ratemaking treatment of a deferred account. The arguments of these parties ignore the fact that delays in the ECAM Docket equitably justify a finding that recovery of the Deferred NPC Account is not barred as a matter of law. The Commission should reject these arguments and grant the Motion.

DATED: June 27, 2011.

RESPECTFULLY SUBMITTED,

ROCKY MOUNTAIN POWER

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CERTIFICATE OF SERVICE

I hereby certify that on June 27, 2011, a true copy of the foregoing **REPLY OF ROCKY MOUNTAIN POWER TO RESPONSES TO MOTION FOR DETERMINATION OF RATEMAKING TREATMENT OF DEFERRED ACCOUNTS** was served by email on the following:

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