

Gary A. Dodge, #0897
HATCH, JAMES & DODGE
10 West Broadway, Suite 400
Salt Lake City, UT 84101
Telephone: 801-363-6363
Facsimile: 801-363-6666
Email: gdodge@hjdllaw.com
Attorneys for UAE

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

<p>In the Matter of In compliance with the September 13, 2011 Order approving the Settlement Stipulation in Docket Nos. 10-035-124, 09-035-15, 10-035-14, 11-035-46, and 11-035-47, Rocky Mountain Power is filing the proposed Schedule 94, Energy Balancing Account (EBA) Pilot Program.</p>	<p>Docket No. 11-035-T10</p> <p>UAE’S PETITION TO INTERVENE AND PRELIMINARY COMMENTS ON ISSUES TO BE ADDRESSED</p>
--	--

Pursuant to Utah Code Ann. § 63G-4-207 and Rule R746-100-7, the Utah Association of Energy Users (UAE) hereby petitions for leave to intervene in this docket.

In support of this petition, Petitioners state as follows:

1. Petitioner is an organization consisting of large Utah electric consumers who are customers of PacifiCorp or whose rates are affected by PacifiCorp’s resource procurement practices.
2. The legal rights and interests of Petitioner and its members may be substantially affected by this proceeding.
3. Petitioner has not fully determined the specific positions it will take or the relief it will seek. Petitioner seeks to intervene for purposes of protecting its interests as they may appear, particularly on issues of relevance to large electric consumers.

4. The interests of justice and the orderly and prompt conduct of this proceeding will not be materially impaired by allowing Petitioner to intervene.

5. Notices in this proceeding should be sent to the following:

Gary A. Dodge
HATCH, JAMES & DODGE
10 West Broadway, Suite 400
Salt Lake City, Utah 84101
Telephone: 801-363-6363
Facsimile: 801-363-6666
Email: gdodge@hjdllaw.com

Kevin Higgins
Neal Townsend
ENERGY STRATEGIES
215 S. State Street, #200
Salt Lake City, UT 84111
Telephone: 801-355-4365
Facsimile: 801-521-9142
E-mail: khiggins@energystrat.com
ntownsend@energystrat.com

Preliminary Comments on Issues to be Addressed

UAE views this docket as a tariff compliance filing and believes the proper purpose of the docket is to ensure conformity of the Company's tariff filing with prior Commission orders. This docket is not an appropriate forum for requesting rehearing or clarification on past Commission orders; any such requests must be filed in compliance with State statutes and Commission regulations.

One matter that is clearly not properly at issue in this Docket is the spread of EBA balances to various rate schedules. The Commission's March 3, 2011 Report and Order in Docket 09-035-15 strongly rejected a "proposal to allocate the [EBA] balance to customers based only on energy use and indiscriminately to all schedules," because it "fails to fully consider our cost-

of-service or revenue spread decisions and therefore would be unfair to customers” (at 75). The Order unambiguously held that the EBA must use the “most recent general rate case *revenue spread and rate design decisions* for the spread of the deferred balance to rate schedules and to rate elements” (at 76-77; emphasis added). There is no ambiguity in these rulings, which are properly reflected in the Company’s tariff filing. Any attempt to re-open or re-litigate spread issues in this tariff compliance docket would be highly inappropriate and prejudicial.

Moreover, any effort to change the collection of EBA balances from customer schedules based on the revenue spread of the most recent rate case would violate a stipulation among the parties and a Commission order approving the same. The spread of any EBA balance based on the rate case spread was expressly used in, and relied upon by parties in accepting, the comprehensive Stipulation dated July 28, 2011, in Dockets 10-035-124, 09-035-15, 10-035-14, 11-035-46 and 11-035-47 (“Comprehensive Stipulation”), and the Commission Order approving the same. The Comprehensive Stipulation permits the Company to collect \$60 million over three years through the EBA, with the surcharge “*allocated to rate schedules relying on the Cost of Service Stipulation* consistent with the EBA order” (at 17; emphasis added). The referenced July 14, 2011 “Cost of Service Stipulation” is actually a stipulation on rate spread and rate design (“Spread Stipulation”). The rate spread stemming from the Spread Stipulation was directly used in, and relied upon by the parties in approving, the Comprehensive Stipulation. The Company’s EBA tariff properly reflects the agreed-upon spread. Any attempt to change the EBA spread from the one agreed to in the Spread Stipulation would violate the Comprehensive Stipulation and the Commission Order approving the same.

Issues can legitimately be raised in this docket only to the limited extent that prior Commission orders are silent as to a matter that must be included in the EBA tariff. Any such issues should properly be raised in the context of a request for Commission determination of

appropriate tariff language. In reaching any such determination, the Commission should rely upon the extensive record in the EBA docket. Sworn testimony should not be required or permitted, except to the limited extent the Commission determines that it needs additional factual evidence or expert opinions in order to evaluate and approve appropriate tariff language.

WHEREFORE, Petitioner hereby requests leave to intervene in this proceeding to protect its interests as they may appear, and submits its preliminary comments on issues to be addressed in this docket.

DATED this 16th day of December, 2011.

HATCH, JAMES & DODGE

/s/ _____
Gary A. Dodge
Attorneys for UAE

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by email this 16th day of December, 2011, to the following:

Mark C. Moench
Yvonne R. Hogle
Daniel E. Solander
Rocky Mountain Power
201 South Main Street, Suite 2300
Salt Lake City, Utah 84111
mark.moench@pacificorp.com
yvonne.hogle@pacificorp.com
daniel.solander@pacificorp.com

Patricia Schmid
Dahnelle Burton-Lee
Assistant Attorney General
500 Heber M. Wells Building
160 East 300 South
Salt Lake City, UT 84111
pschmid@utah.gov
dburton-lee@utah.gov

Paul Proctor
Assistant Attorney General
160 East 300 South, 5th Floor
Salt Lake City, UT 84111
pproctor@utah.gov

F. Robert Reeder
William J. Evans
Vicki M. Baldwin
Parsons Behle & Latimer
One Utah Center, Suite 1800
201 S Main St.
Salt Lake City, UT 84111
BobReeder@pblutah.com
BEvans@pblutah.com
VBaldwin@pblutah.com

/s/ _____