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**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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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	<b>Docket No. 11-035-T10</b>
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**PREFILED DIRECT TESTIMONY OF KEVIN C. HIGGINS**

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The Utah Association of Energy Users (“UAE”) hereby submits the Prefiled Direct Testimony of Kevin C. Higgins in this docket.

DATED this 23<sup>rd</sup> day of February, 2012.

/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 23<sup>rd</sup> day of February, 2012, on the following:

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**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF UTAH**

**Direct Testimony of Kevin C. Higgins**

**on behalf of**

**UAE**

**Docket No. 11-035-T10**

**February 23, 2012**

1                                   **DIRECT TESTIMONY OF KEVIN C. HIGGINS**

2

3    **Introduction**

4    **Q.    Please state your name and business address.**

5    A.            My name is Kevin C. Higgins. My business address is 215 South State  
6                Street, Suite 200, Salt Lake City, Utah, 84111.

7    **Q.    By whom are you employed and in what capacity?**

8    A.            I am a Principal in the firm of Energy Strategies, LLC. Energy Strategies  
9                is a private consulting firm specializing in economic and policy analysis  
10              applicable to energy production, transportation, and consumption.

11   **Q.    On whose behalf are you testifying in this proceeding?**

12   A.            My testimony is being sponsored by the Utah Association of Energy Users  
13              ("UAE").

14   **Q.    Are you the same Kevin C. Higgins who testified on behalf of UAE in Docket**  
15              **No. 09-035-15?**

16   A.            Yes, I am.

17   **Q.    Please describe your professional experience and qualifications.**

18   A.            My academic background is in economics, and I have completed all  
19              coursework and field examinations toward a Ph.D. in Economics at the University  
20              of Utah. In addition, I have served on the adjunct faculties of both the University  
21              of Utah and Westminster College, where I taught undergraduate and graduate  
22              courses in economics. I joined Energy Strategies in 1995, where I assist private

23 and public sector clients in the areas of energy-related economic and policy  
24 analysis, including evaluation of electric and gas utility rate matters.

25 Prior to joining Energy Strategies, I held policy positions in state and local  
26 government. From 1983 to 1990, I was economist, then assistant director, for the  
27 Utah Energy Office, where I helped develop and implement state energy policy.  
28 From 1991 to 1994, I was chief of staff to the chairman of the Salt Lake County  
29 Commission, where I was responsible for development and implementation of a  
30 broad spectrum of public policy at the local government level.

31 **Q. Have you previously testified before this Commission?**

32 A. Yes. Since 1984, I have testified in twenty-seven dockets before the Utah  
33 Public Service Commission on electricity and natural gas matters.

34 **Q. Have you testified previously before any other state utility regulatory  
35 commissions?**

36 A. Yes. I have testified in approximately 115 other proceedings on the  
37 subjects of utility rates and regulatory policy before state utility regulators in  
38 Alaska, Arkansas, Arizona, Colorado, Georgia, Idaho, Illinois, Indiana, Kansas,  
39 Kentucky, Michigan, Minnesota, Missouri, Montana, Nevada, New Mexico, New  
40 York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina,  
41 Texas, Virginia, Washington, West Virginia, and Wyoming. I have also filed  
42 affidavits in proceedings at the Federal Energy Regulatory Commission.

43

44 **Overview and Conclusions**

45 **Q. What is the purpose of your testimony in this proceeding?**

46 A. In its Prehearing Order issued January 20, 2012 in this docket, the  
47 Commission invited parties to file testimony addressing two general topics: (1)  
48 whether the Schedule 94 proposed by RMP complies with statutes and prior  
49 Commission orders; and (2) whether there are aspects of the EBA mechanism that  
50 are necessary for its implementation on which statutes and prior Commission  
51 orders are silent.

52 My testimony addresses whether the proposed Schedule 94 complies with  
53 statutes and prior Commission orders regarding rate spread.

54 **Q. Please summarize your primary conclusions and recommendations.**

55 A. RMP's proposed treatment of rate spread included in its proposed Tariff  
56 Sheet 94.5 complies with the Commission's Phase II EBA Order on this subject.  
57 In that Order, the Commission stated that it would rely on its most recent general  
58 rate case revenue spread and rate design decisions for the spread of the deferred  
59 balance to rate schedules and to rate elements. Consistent with this requirement,  
60 proposed Tariff Sheet 94.5 states that the EBA Deferral Account Balance as of  
61 December 31 shall be allocated to all retail tariff rate schedules and applicable  
62 special contracts based on the rate spread approved by the Commission in the  
63 most recent general rate case.

64                   Moreover, the Commission has already approved the spread of the \$20  
65 million per year in deferred net power costs that were included as part of the  
66 Settlement Stipulation in Docket No. 10-035-124; this agreement spreads the  
67 approved deferred net power costs using the same proportions used to spread the  
68 general rate increase. For consistency, it may be best to use this same approach to  
69 spread any additional EBA deferral attributable to the October 1 to December 31,  
70 2011 EBA measurement period. In the alternative, for future EBA measurement  
71 periods, the *revenue apportionment* that results from the rate spread approved in  
72 the most recent general rate case can also be used to spread EBA costs, as  
73 discussed further in my testimony.

74

75    **Compliance of Proposed Schedule 94 Regarding Rate Spread**

76    **Q.     What has RMP proposed in Schedule 94 regarding rate spread applicable to**  
77    **the Energy Balancing Account (“EBA”) Tariff?**

78    A.           On Tariff Sheet 94.5 in the Company’s December 12, 2011 filing of  
79 proposed Schedule 94, RMP proposed the following language pertaining to rate  
80 spread for the EBA Tariff:

81    **EBA RATE DETERMINATION:** Annually, on the EBA Filing Date, Rocky  
82 Mountain Power shall file with the Commission an application for establishment  
83 of an EBA rate to become effective on the EBA Rate Effective Date of that year.  
84 The EBA Deferral Account Balance as of December 31 shall be allocated to all  
85 retail tariff rate schedules and applicable special contracts based on the rate spread  
86 approved by the Commission in the most recent general rate case. The new EBA  
87 rate will be determined by dividing the EBA Deferral Account Balance allocated  
88 to each rate schedule and applicable contract by the schedule or contract  
89 forecasted Power Charge and Energy Charge revenues for the EBA Rate Effective  
90 Period. The EBA rate will be a percentage increase or decrease applied to the



91 monthly Power Charges and Energy Charges of the Customer's applicable  
92 schedule or contract as set forth in the schedule. The EBA rate shall be  
93 implemented on an interim basis and shall remain in effect for the EBA Rate  
94 Effective Period. The interim rate shall become permanent upon a final order  
95 issued by the Commission.  
96

97 **Q. In your opinion, does this tariff language comply with statutes and prior**  
98 **Commission orders?**

99 A. Yes, it does.

100 In RMP's initial application for an EBA, the Company proposed that any  
101 EBA charges or credits be recovered through a uniform kilowatt-hour charge,  
102 differentiated only by voltage and proportionate shaping for time-of-use rate  
103 schedules. The Company's proposal was summarized in the Commission's Phase  
104 II Order as follows:

105 On an annual basis, the cumulative deferred balance in the balancing account will  
106 be converted to a rate identified in a new Schedule 94, "Energy Cost  
107 Adjustment," and expressed on a cents per kilowatt-hour ("kWh") basis for  
108 projected Utah sales for the twelve months of the proposed ECAM recovery  
109 period. The Company proposes the Schedule 94 rate will collect from, or credit to,  
110 customers the accumulated balance over the subsequent year. Schedule 94 rates  
111 will be zero initially, until a deferred balance is accumulated in the account and  
112 the Company is authorized to collect this balance. The Company proposes  
113 applying Schedule 94 as an equal cents per kilowatt-hour rate, after adjusting for  
114 voltage level losses, for all tariff schedules except time-of-day Schedules 6A, 8, 9  
115 and 9A.

116  
117 For Schedules 6A, 8, 9 and 9A, the Company proposes to adjust the equal cents  
118 per kWh applicable to other non-time-of-day tariff schedules for voltage level  
119 losses and proportionately shape the rate to mirror the structure of the time-of-day  
120 base energy charges for these schedules. [Phase II Order, 13-14.]  
121

122 This approach was clearly rejected by the Commission in its Phase II Order;  
123 otherwise, the Commission would have simply approved or modified RMP's  
124 proposal. Instead, the Commission ordered as follows:

125 As noted earlier, collection or refund of any EBA balance must also be based on  
126 cost of service. Therefore, we will rely on our most recent general rate case  
127 revenue spread and rate design decisions for the spread of the deferred balance to  
128 rate schedules and to rate elements. [Phase II Order, 76-77.]  
129

130 The core statement in RMP's proposed Schedule 94 rate spread language  
131 – “[t]he EBA Deferral Account Balance as of December 31 shall be allocated to  
132 all retail tariff rate schedules and applicable special contracts based on the rate  
133 spread approved by the Commission in the most recent general rate case,” –  
134 derives directly from this cited passage in the Commission's Phase II Order.  
135 Therefore, it is abundantly clear that RMP's proposed rate spread language  
136 complies with the Commission's Phase II EBA Order on this subject.

137 **Q. What rate spread was used for the deferred net power costs that were**  
138 **approved as part of the Settlement Stipulation submitted July 28, 2011 in**  
139 **RMP's last general rate case, Docket No. 10-035-124?**

140 A. The Parties to the Settlement Stipulation agreed that the deferred net  
141 power costs in question would be included in the forthcoming EBA surcharge and  
142 spread to customers based on the rate spread presented in the Stipulation on Cost  
143 of Service, Rate Spread and Rate Design filed in that general rate case docket on  
144 July 12, 2011. Paragraph 59 of the Settlement Stipulation states, in relevant part:  
145 The Parties agree that this \$60.0 million amount should be recovered through an  
146 annual \$20.0 million surcharge over three years without a carrying charge applied

147 as a line item in the EBA surcharge commencing June 1, 2012. The surcharge  
148 shall be allocated to rate schedules relying on the Cost of Service Stipulation  
149 consistent with the EBA Order.  
150

151 Paragraph 5 of the Stipulation on Cost of Service, Rate Spread and Rate Design  
152 governs rate spread. It states:

153 Rate Spread. For purposes of this Docket only, the Parties agree that any rate  
154 increase granted to the Company in this docket should be spread in accordance  
155 with the percentages of the revenue requirement increase reflected in the column  
156 labeled “Stipulated Percentage of Revenue Requirement Increase” of the attached  
157 Exhibit A. Rates for each special contract customer shall continue to be governed  
158 by the terms of the applicable contract.  
159

160 The referenced Exhibit A identifies each rate schedule’s percentage share of the  
161 revenue requirement increase in the rate case. In using Exhibit A to spread the  
162 deferred net power cost, the Parties proposed and the Commission approved the  
163 spreading of deferred net power costs using the same proportions used to spread  
164 the general rate increase. This approach ties directly to the Commission’s  
165 statement in its Phase II EBA Order that the Commission would “rely on our most  
166 recent general rate case revenue spread and rate design decisions for the spread of  
167 the deferred balance to rate schedules and to rate elements.”

168 Consequently, not only is RMP’s proposed rate spread language in  
169 Schedule 94 consistent with the Commission’s prior EBA Order, this very  
170 approach has already been approved for the spreading of the deferred net power  
171 costs that were approved as part of the last general rate case.

172 **Q. Have you reviewed the Commission’s discussion of rate spread in its**  
173 **Prehearing Order issued January 20, 2012 in this docket?**

174 A. Yes. On page 4 of that Order the Commission referred to its statement in  
175 the Phase II Order that “the collection or refund of any EBA balance must also be  
176 based on cost of service,” and the immediately-following statement: “Therefore,  
177 we will rely on our most recent general rate case revenue spread and rate design  
178 decisions for the spread of the deferred balance to rate schedules and to rate  
179 elements.”

180 In the Prehearing Order, the Commission expanded upon this statement:

181 By this statement we mean we will rely on the revenue requirement spread  
182 approved in the general rate case decision, consistent with cost of service  
183 principles. Rate case cost of service analysis identifies cost causation by function.  
184 Thus, the spread of deferred EBA amounts to rate schedules must be consistent  
185 with the approved spread of the base EBA costs to rate schedules in the general  
186 rate case. [Prehearing Order at 5]  
187

188 The Commission then went on to invite parties to provide testimony in this docket  
189 “on the appropriate factors to apply in achieving a cost-based spread of EBA costs  
190 to rate schedules.”

191 **Q. What is your response to the Commission’s invitation?**

192 A. I simply reiterate that RMP’s rate spread language in Schedule 94 is  
193 consistent with the Commission’s orders, both the Phase II Order and the  
194 expanded discussion in the Prehearing Order, because the Company’s proposal  
195 expressly relies on the revenue requirement spread approved in the general rate  
196 case decision, consistent with the Prehearing Order.

197 The Commission’s phrase “consistent with cost of service principles” is a  
198 description of what hopefully happens with an approved rate spread – namely,

199 that it bears some reasonable nexus to cost of service principles. However,  
200 besides being consistent with cost of service principles, rate spread must also take  
201 into account various other factors and ratemaking principles: gradualism,  
202 economic consequences, and rate stability are chief among these. In specifically  
203 calling out the most-recently approved revenue requirement *spread* as the basis  
204 for spreading any EBA costs, the Commission can only mean to invoke these  
205 other ratemaking principles. Otherwise, there would have been no reason to refer  
206 to the approved spread in the first instance.

207 Because these various non-cost factors contribute to rate spread, any rate  
208 spread approved by a utility commission contains two components: the portion of  
209 revenue requirements assigned to a class that is *coincident* with the costs assigned  
210 to that class by the approved cost-of-service study (if there is one) and the portion  
211 of revenue requirements assigned to a class that *diverges* from the costs assigned  
212 to that class by the approved cost-of-service study. To be consistent with the  
213 Commission's order to rely on the revenue requirements spread, the EBA spread  
214 must reflect both of these components.

215 **Q. How can this be accomplished?**

216 A. This can be accomplished by using the approved rate spread as a guide to  
217 the EBA rate spread. In the Settlement Stipulation in the last general rate case,  
218 this was accomplished by using each rate schedule's percentage share of the  
219 revenue requirement increase in the rate case to spread deferred net power cost.  
220 In light of the parties' stipulation and the Commission's approval of that

221 stipulation, this spread is mandatory for the \$20 million in annual deferred net  
222 power costs to be collected over three years beginning June 1, 2012. For  
223 consistency, it may be best to use this same approach to spread any additional  
224 EBA deferral attributable to the October 1 to December 31, 2011 EBA  
225 measurement period.

226 In the alternative, for future EBA measurement periods, the *revenue*  
227 *apportionment* that results from the rate spread approved in the most recent  
228 general rate case can also be used to spread EBA costs. By “revenue  
229 apportionment” I am referring to each rate schedule’s percentage share of *total*  
230 revenue requirement that results from the approved spread (adjusted for  
231 differential load growth across classes since the last rate case), as distinct from  
232 each class’s share of any revenue requirement *increase*. In short, it is each rate  
233 schedule’s share of the *total*, rather than share of the *change*. Each rate  
234 schedule’s percentage share of total revenue requirement approved in the last rate  
235 case, of course, reflects the approved rate spread. I note that a revenue  
236 apportionment approach has the practical effect of assigning each rate schedule an  
237 equal percentage increase.

238 **Q. What is your response to the Commission’s statement that the spread of**  
239 **deferred EBA amounts to rate schedules must be consistent with the**  
240 **approved spread of the base EBA costs to rate schedules in the general rate**  
241 **case?**

242 A. Up to this juncture, I am not aware of any explicitly-approved spread of  
243 base EBA costs to rate schedules that has occurred in any RMP case in Utah, as  
244 distinct from the spread of total revenue requirements to rate schedules. While, of  
245 course, base EBA costs are presumed to be included in each class's revenue  
246 requirement, the *spread* of these costs, i.e., the combined statement of cost-based  
247 and non-cost-based revenue requirements, as I discussed above, is not called out  
248 at this level of detail. That is not to say it could not be done – but it would require  
249 separately identifying the non-cost-based component of the approved revenue  
250 requirement.

251 **Q. Couldn't the non-cost-based component of the approved revenue**  
252 **requirement for base EBA costs be set to zero?**

253 A. Yes, but that would contravene the Commission's Phase II EBA Order to  
254 base the EBA spread on the most recently-approved revenue requirements *spread*.  
255 The most recently-approved revenue requirements spread necessarily includes  
256 non-cost-based components.

257 **Q. Couldn't each rate schedule simply be assigned the base EBA costs identified**  
258 **in the general rate case?**

259 A. Not without violating the Commission's Phase II Order. Assigning each  
260 rate schedule the base EBA costs identified in the general rate case is  
261 indistinguishable from the proposal RMP made in its initial EBA filing,  
262 summarized earlier in my testimony, that the Commission rejected in favor of  
263 basing the EBA spread on the most recently-approved revenue requirements

264 spread. In its Prehearing Order, the Commission made it clear that its “inquiry in  
265 this docket is limited to questions regarding the proposed tariff’s compliance with  
266 pertinent statutes and our prior orders.” The Commission emphasized that “this  
267 docket is not a forum for re-litigating positions presented (or that should have  
268 been presented) in the prior proceedings which produced the EBA and determined  
269 the EBA-related costs that are currently in rates.” [Prehearing Order at 2] Any  
270 proposal to assign each rate schedule the base EBA costs identified in the general  
271 rate case would simply be re-litigating this previously advanced – and rejected –  
272 position.

273 **Q. Does this conclude your direct testimony?**

274 A. Yes, it does.