BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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| In the Matter of: The Rocky Mountain Power Proposed Schedule 94, Energy Balancing Account (EBA) Pilot Program Tariff. | Docket No: 11-035-T10 |

TRANSCRIPT OF HEARING PROCEEDINGS

TAKEN AT: Public Service Commission
160 East 300 South
Salt Lake City, Utah

DATE: April 24, 2012

TIME: 9:05 a.m.

REPORTED BY: Kelly L. Wilburn, CSR, RPR

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Commissioners:

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**Ric Campbell**
**Ron Allen**

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WITNESSES

For the Company



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For the Division



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EXHIBITS, CONTINUED



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(The previous exhibits and related testimony were prefiled and are part of the PSC record and filed with the Commission.)

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APRIL 24, 2012 9:05 A.M.

P R O C E E D I N G S

CHAIRMAN BOYER: This is the time and place duly noticed for the hearing in Docket No. 11-035-T10, which is captioned: In the Matter of the Rocky Mountain Power Proposed Schedule 94, Energy Balancing Account (EBA) Pilot Program Tariff.

I guess what we'll do is we'll just go party by party then. We'll start out with the Company, move to the Division, the Office, UAE, and UIEC, in that order. Let's take appearances, starting with Rocky Mountain Power.

MS. HOGLE: Good morning Commissioners. Yvonne Hogle, counsel for Rocky Mountain Power. With me here today are Mr. Dave Taylor, Mr. Steve McDougal, and Mr. Bill Griffith for Rocky Mountain Power.

CHAIRMAN BOYER: Thank you and welcome.

Ms. Schmid?

MS. SCHMID: Good morning. Patricia E. Schmid, with the Attorney General's Office, for the Division. And with me also with the Attorney General's Office is Wesley Felix. The Division witnesses will be Dr. William (Artie) Powell, and Mr. Matt Croft.

CHAIRMAN BOYER: Okay, thank you. Welcome.

Mr. Proctor.

MR. PROCTOR: Paul Proctor on behalf of the Office. Mr. Gimble will be the witness today.

CHAIRMAN BOYER: Mr. Dodge?

MR. DODGE: Gary Dodge on behalf of UAE. And Kevin Higgins is our witness today. If he shows up.

CHAIRMAN BOYER: Okay.

MR. EVANS: And William Evans for the Utah Industrial Energy Consumers. Our witness, Maurice Brubaker, is here this morning.

CHAIRMAN BOYER: Okay. And I think all the witnesses are present. Shall we just swear all of the witnesses in one fell swoop? Get that out of the way.

Would you please stand and raise your right hand, those of you who are gonna testify today. Is Mr. Higgins not here yet?

MR. DODGE: No.

CHAIRMAN BOYER: Well, we'll swear him when he arrives.

(The witnesses were duly sworn.)

CHAIRMAN BOYER: All have indicated in the affirmative, so thank you.

Well with that then, Ms. Hogle, why don't we proceed with Rocky Mountain Power's witnesses.

MS. HOGLE: The Company would call Mr. Dave

Taylor to the stand.

DAVID L. TAYLOR,

called as a witness, having been duly sworn,
was examined and testified as follows:

DIRECT EXAMINATION

BY MS. HOGLE:

Q. Good morning Mr. Taylor.

A. Morning.

Q. Can you please state your name and place of employment for the record?

A. My name is David L. Taylor. I'm employed by Rocky Mountain Power as the manager of regulatory affairs for the State of Utah.

Q. And in that capacity did you prepare Rebuttal Testimony of Dave Taylor filed with the Commission March 15, 2012?

A. I did.

Q. And do you have any changes to that testimony?

A. I do not.

Q. So if I were to ask you the questions and the testimony here today would your answers be the same?

A. They would.

MS. HOGLE: I would like to move for the admission of Mr. -- the rebuttal testimony of David L.

Taylor's for the Commission here today.

CHAIRMAN BOYER: Are there any objections to the admission of Mr. Taylor's rebuttal testimony that's been prefiled, together with exhibits, if any?

MS. SCHMID: None.

CHAIRMAN BOYER: Very well, they are admitted. Thank you.

(Mr. Taylor's testimony was admitted.)

MS. HOGLE: Thank you Commissioner.

Q. (By Ms. Hogle) Mr. Taylor, have you prepared a summary for the Commission?

A. Yes, I have.

Q. Please proceed.

A. All right, thank you. First of all, I apologize. I have a bit of a cold today so if I break into a coughing fit it's, it's just gonna happen.

In addition to filing rebuttal testimony in this case I was also the principal author of the EBA Balancing Account Tariff Electric Service Schedule No. 94. And before I give a summary of my, my rebuttal testimony I'd like to just give a brief overview of how that tariff was developed and a little bit of the history that led us here today.

In its September 13, 2011, order in the 2011 general rate case and other dockets the Utah

Commission directed Rocky Mountain Power to file the EBA tariff within 30 days.

Prior to formally filing that tariff the Company circulated a draft of the tariff to -- among the parties in this case for their review, edits, and comments. And the Company incorporated many of those suggestions into the version of the tariff that was filed in October of last year.

After that tariff was filed two technical conferences were held where, among other issues, additional comments, and edits, and proposed changes to that tariff were further discussed and reviewed. And that led to a filing of a revised tariff on the 12th of December of last year that incorporated many of those proposed edits.

In each of these filings Rocky Mountain Power has tried to prepare this tariff so that it reflects the provisions of the Commission's order in its docket approving the EBA, and any subsequent dockets that may have had relevance to the EBA and the tariff.

We've worked with the parties to try to make the language as clear as possible and understandable as possible. Hopefully we've been able to do that. Clearly there are some disagreements among the parties about how much level of detail needs to be in that tariff, and I suspect that's one of the primary reasons that we're here today.

So that was just kind of the history that led to the tariff that's before the Commission. In my rebuttal testimony I address several issues that were raised by the parties in this case.

Let me initially say that the Company agrees with the position of the DPU in their testimony where they suggested that the process for approving the EBA and its policies should be kept as simple and -- as reasonably possible. And that complexity can be added later as we gain experience with the process.

And complexity should be added to the tariff in the process only if it can demonstrate that there is an improvement to the process by adding that additional complexity.

In response to the Office's recommendation that filing requirements be developed through a formal rulemaking process the Company responded that we're certainly agreeable that reasonable filing requirements can be developed. We believe they can be developed through a less-formal process than the rulemaking. And I believe the Office agreed that a less-formal process could work in subsequent versions of their testimony.

Also, that process for developing the filing requirements has already begun. The DPU has prepared a report with the recommended list of filing requirements. Rocky Mountain Power and other parties participated with the DPU in developing those requirements. And the first annual EBA filing that was made last month incorporated those filing requirements as recommended by the DPU.

In my testimony I also recommended that it would probably be more useful to look at clarifying or expanding those requirements after we'd gone through this first cycle of the EBA, when we have a better sense of what information would be most useful in determining and approving the EBA filings.

Now, several parties have proposed that the tariff contain more detail. Rocky Mountain Power is certainly not opposed to including more detail in the tariff, as long as it makes the tariff easier for our customers to use and understand. But the Company doesn't believe that the tariff needs to include all of the administrative details of the regulatory process that's laid out for setting a new rate.

On the topic of the rate spread of the EBA surcharge or credit, in my rebuttal testimony I reiterated the Company's view that spreading the EBA surcharge on the basis of how base EBA costs are allocated in the cost-of-service study, or the composite NPC factor as the Office has identified that, is conceptually correct and should be used in future cases.

However, as discussed by Mr. Griffith, that approach is probably not appropriate for this first change for a couple of reasons, and he addresses those in his testimony.

I disagreed with the UIEC witness, Mr. Maurice Brubaker, on his recommendation that costs be allocated monthly to rate schedules. And that after that, that then the transmission level customers should be billed based upon those things on a monthly basis. I believe that's inconsistent with the Commission's order in the EBA docket.

And I also disagreed with Mr. Brubaker that the EBA tariff should exclude special contract customers. I believe the language in the tariff as it relates to special contracts is both clear and necessary. That language does not preclude the EBA to be applied to special contract customers, but it makes it clear that it can only be applied to a special contract under the terms of that customer's current contract. And that concludes my summary.

MS. HOGLE: The witness is available for cross-examination.

CHAIRMAN BOYER: Okay, thank you.

Ms. Schmid, do you wish to cross-examine Mr. Taylor?

MS. SCHMID: No.

CHAIRMAN BOYER: Mr. Proctor?

MR. PROCTOR: No questions.

CHAIRMAN BOYER: Mr. Dodge?

MR. DODGE: No questions.

CHAIRMAN BOYER: No? Mr. Evans?

MR. EVANS: Yes.

CROSS-EXAMINATION

BY MR. EVANS:

Q. Almost got a clear pass on that, Mr. Taylor. Just a couple questions for you. Can you see me okay?

A. I can.

Q. I hate to make you wiggle around in that chair. In referring to your rebuttal testimony on page 2, I guess, and the summary that you just gave is dealing with the process of filing, and reviewing, and approving it.

And you say that initial policies and procedures should be kept as simple as reasonably possible. Complexity can be added later as we gain experience, right? At what, at what point have we gained enough experience to add complexity?

A. Well, I think certainly we've gone -- we go through a first cycle, we filed last month. That those interim rates will go into effect in June. And then there'll be a longer formal review by the Division. And at some point those rates will become final, perhaps with adjustments as proposed.

So I think once we've gone through that first cycle then we will have a better sense of what information is really useful in making that determination.

Q. So, so do you envision that there could be adjustments to the tariff next year after we -- when the Company files its 2013 reconciliation?

A. Either to the tariff or to the filing requirements associated with the tariff.

Q. Okay. But you're not seeing this as locked in for, forever in the Schedule 94s that you've proposed?

A. No.

Q. Okay. And then you respond to Mr. Brubaker's suggestion that costs should be allocated to rate schedules on a monthly basis, right?

A. Yes, I did.

Q. I understand that the Commission has indicated in their earlier order that they declined to accept that because -- for the sake of simplicity. Is that the way you understand it?

A. I believe they said for simplicity we would do it on an annual basis, not on a monthly basis, yes.

Q. Right. And is that one of those cases where we're sacrificing some accuracy for simplicity?

A. I don't know if we're sacrificing accuracy, because in the end you're going to take the annual level of costs and appropriate them to customer classes. So whether doing it monthly is more accurate or not I guess is subjective.

Q. Yes. But you understand that for my clients the -- their monthly usage varies widely. Some of them aren't even on the system during some summer months. You understand that, right?

A. I understand that, yes.

Q. And so for those customers do you agree it would make a significant difference to allocate these costs to classes monthly?

A. I don't know if it would make a significant difference. It may.

Q. Well, if you're -- okay.

A. Because their, their lower -- the usage

levels in those months would be reflected in the annual allocation.
Q. Yes, but they might not -- but the costs in those months may also be higher than any other months in which they're using?
A. The differences in those months could be either higher or lower than the base rates, yeah, that is correct.
Q. Right, but you in fact don't know how significant it would be?
A. I don't, no.
Q. Okay. Let me ask you about the reference in the tariff to special contract customers. This language isn't the language that's in the statute, is it?
A. I would defer to you to what the statute says.
Q. I will represent that this language is not the same language that's in the statute. And do you know whether, whether there's any legal significance in the difference between the language that's in Schedule 94 and the language that's in the statute?
MS. HOGLE: Objection, calls for a legal conclusion.
MR. EVANS: No, I --

MS. HOGLE: The witness is not an attorney.

MR. EVANS: I'm asking if he knows whether there's any legal significance. So then the answer.

CHAIRMAN BOYER: You may answer that. Overruled.

THE WITNESS: I don't know if there's any legal significance between the language in the statute and the -- and how we described how the EBA can be applied to special contracts within the tariff.

What I do know is that that language was reviewed by many more people than just me, including the attorney for UAE who also represents special contract customers. And that language was actually recommended by, by them, so they obviously are comfortable that it complies with the statute.

Q. But you understand that we filed testimony that we're not comfortable with it, correct?

A. I understand that you disagree with that, yes.

Q. And is the language meant to convey some different meaning than the language of the statute?

A. It's meant to convey that if a current contract allows for the -- for EBA or other surcharges, then it will be applied to that contract. If the contract specifically precludes it, then it

won't be.
Q. Well, that wasn't exactly my question. The question is whether this language is intended to have different meaning than the language in the statute.
A. No, I don't believe so.
Q. Then would you have any objection to substituting the language in Schedule 94 with the language from the statute directly?
A. I don't have a particular objection to that as long as it's clear that, that special contracts are not explicitly excluded from the EBA. If the contract allows it, then it will be applied.
Q. But even if it's not clear to you, the statute says what it says, doesn't it?
A. The statute says what it says.
Q. And does the statute override the tariff?
A. I don't know the answer to that question.
Q. Okay. We'll let it rest there, then. Do you have any objection to removing it altogether?
A. Yes, I do.
Q. Okay.
MR. EVANS: I have no more questions, thank you.
CHAIRMAN BOYER: Okay. Thank you, Mr. Evans.
Let's turn now to the Commissioners.

Commissioner Allen, have you any questions for Mr. Taylor?

COMMISSIONER ALLEN: Yes, Mr. Chairman. Yes, I have one question. It's kind of a 40,000-foot question, but as I reviewed the testimony I'm not sure I came across this explicitly.

At this point in the tariff then, Mr. Taylor, are you comfortable that the tariff has promoted and preserved principles of cost causation?

THE WITNESS: I do. It's -- we've tried, as I said, to reflect the Commission's orders as best we could in the tariff. So yes, I do.

COMMISSIONER ALLEN: Okay. Thank you.

CHAIRMAN BOYER: I just have one question, Mr. Taylor. It's -- and I admit that it's more appropriately directed at the Division and the Office, but I'd like to get your take on this as well.

In terms of the $60 million deferred net power costs in Docket 10-035-124 --

(The reporter asked the Chairman to speak up.)

CHAIRMAN BOYER: I said earlier this is probably more appropriately directed at the witnesses for the Office and DPU. But with respect to the $60 million in deferred net power costs approved in Docket 10-035-124 there seems to be some dispute as to how those should be spread, with the first 20 million spread according to the revenue requirement in that stipulated case and then the remaining 40 in some other fashion.

What's your take on that? Or are you -- do you understand that issue that the Division and the Office teed up?

THE WITNESS: Yes. I, I believe that the parties in that stipulation agreed to allocate each of the three installments on the 60 million according to the rate spread in that rate case. That's my understanding.

CHAIRMAN BOYER: Okay, thank you.

Ms. Hogle, any redirect for Mr. Taylor?

MS. HOGLE: I have none.

CHAIRMAN BOYER: Okay, thank you. You are excused, Mr. Taylor.

Your next witness, Ms. Hogle?

MS. HOGLE: We call Mr. Steve McDougal.

STEVEN R. McDOUGAL,

called as a witness, having been duly sworn,

was examined and testified as follows:

DIRECT EXAMINATION

BY MS. HOGLE:

Q. Good morning Mr. McDougal.

A. Good morning.
Q. Can you please state your name and place of employment for the record?
A. Yes. My name is Steven McDougal. I am employed by Rocky Mountain Power.
Q. And on behalf of Rocky Mountain Power did you prepare and file with the Commission Direct Testimony of Steve R. McDougal and Rebuttal Testimony of Steve R. McDougal on February 23, 2012, and February -- excuse me, and March 15, 2012, respectively?
A. Yes, I did.
Q. And do you have any changes to either of those pieces of testimony?
A. No, I do not.
Q. So if I were to ask you the questions in that testimony again today would your answers be the same?
A. Yes, they would.
MS. HOGLE: Rocky Mountain Power moves for the admission into the record of the Direct Testimony of Steven R. McDougal filed February 23, 2012, and the Rebuttal Testimony of Steven R. McDougal filed with the Commission March 15, 2012.
CHAIRMAN BOYER: Are there any objections to the admission of Mr. McDougal's prefiled direct and rebuttal testimony? Seeing none, they are admitted.

(Mr. McDougal's testimony was admitted.)

Q. (By Ms. Hogle) Mr. McDougal, do you have a summary that you would like to read to the Commission today?

A. Yes, I do.

Q. Please proceed.

A. My testimony addresses two main issues: One, that the carrying charge included in the tariff is correct and is consistent with the Commission's EBA order. And two, that the EBA tariff includes sufficient details regarding the accounts to be used in the EBA tariff.

First regarding the carrying charge. The Commission in its January 20, 2012, prehearing order in this docket stated that one of the items to be examined is whether the tariff's treatment of carrying charges is consistent with the carrying charge provisions of the EBA order.

As pointed out in my testimony, the formula included in the EBA order and the test -- and the formula included in the EBA tariff are identical. The only difference between the two tariffs is that in the tariff we broke out net power cost deferral into two components: The deferral, and the recovery of revenues. That is the only difference, therefore I think that the two formulas are definitely consistent.

There -- the only issue that I am aware of that's been raised regarding the carrying charge is Mr. Maurice Brubaker is raising the issue of trying to change the formula, rather than to address the issue as raised in the prehearing order about whether it's consistent with the tariff and the order.

The Company is opposed to making the changes to the formula for a few reasons, and I'd like to identify those reasons. First, the Commission has the formula correct in the EBA order and the Company is using the same formula in the tariff. There has been no evidence presented showing that the EBA tariff formula is inconsistent or is wrong. We don't see any reason to make a change.

Second reason is all other carrying charges I am aware of are calculated consistent with the formula as identified in both the EBA order and the EBA tariff. That's true of the way we're doing the REC sales, as far as deferring those in calculating a carrying charge, and any other items where we have had a separate carrying charge identified.

I believe the only thing that Mr. Brubaker's changes would accomplish would be making the carrying charge more complex and harder to administer. He proposing moving to cash collections. Cash collections impact both sides. When the Company incurs a payment we pay cash later. When we bill a customer the customers pay later. There is no reason to make the change. Everything should be based on the accounting deferrals.

The second issue I address is the level of detail in the EBA tariff regarding the accounts. In the order the Commission indicated that the level of account detail was to be consistent with that provided in the Questar order.

Mr. Croft states that the account list in the EBA tariff is similar with Questar and is consistent with the EBA order, other than not quoting the definitions from the Federal Code of Regulations. Instead, we elected in the tariff to just refer to the Federal Code of Regulations and state that the definitions to be used will be consistent with those as defined by the Federal Code of Regulations. Other than that, we have the same level of detail.

In addition, Mr. Croft pointed out in his direct testimony that, I quote:

"The Division will be monitoring the SAP account detail on a monthly basis and will easily be able to spot changes in accounts."

Because of this monthly review and because it will, in Mr. Croft's words, be easy to -- "for the Division to spot changes," I fail to see the necessity of adding additional accounts. The Company is not opposed to it, I just don't see the value that it would add. And I think all it will do is force us to change the tariff or the account definitions every year.

The additional level of account detail is not necessary and will not enhance the oversight of the EBA tariff. All of the information requested is already being provided in monthly information and in annual information so everybody can analyze that data.

In conclusion, the Company believes the carrying charges formu -- the carrying charge formula in the EBA tariff is correct and is consistent with the EBA order. In addition, we believe that the tariff contains sufficient account-level detail to administer the program. That ends my summary.

MS. HOGLE: The witness is available for cross-examination.

CHAIRMAN BOYER: Thank you Mr. McDougal.

Ms. Schmid, any cross-examination for Mr. McDougal?

MS. SCHMID: Yes, thank you.

CROSS-EXAMINATION

BY MS. SCHMID:

Q. Mr. McDougal, in your summary you referenced the EBA order and Questar Gas's balancing account tariff. Am I correct that you said that they needed to be -- that the Rocky Mountain Power balancing tariff and the Questar Gas Company balancing account tariff needed to be identical?

A. No.

Q. Could you explain then?

A. I believe in the order it said that they should be in similar levels of detail.

Q. Thank you very much.

CHAIRMAN BOYER: Mr. Proctor?

Mr. Dodge, any cross-examination?

MR. DODGE: No questions.

CHAIRMAN BOYER: Mr. Evans? Yes, I can tell by your smile that you do.

MR. EVANS: Just a couple. Thank you, Mr. Chairman.

CROSS-EXAMINATION

BY MR. EVANS:

Q. Mr. McDougal, sorry to make you turn around to see me this way.

A. That's okay.
Q. Is the calculation of carrying charges done every month? Is it a monthly calculation that this formula is meant to?
A. Yes, it is.
Q. And they begin to accrue in the first month of the period of the EBA, right?
A. Correct --
Q. When do they begin to accrue?
A. Every month we look at the actual energy costs, as defined in the EBA tariff, and we look at the EBA amount that's included in base rates. We take that difference and that amount is accrued into the balancing account.
Q. And when do you bill customers for that amount that's accrued?
A. We bill for it the next year. We -- so in other words we file the interim -- well, we made the EBA filing last month. We will have interim rates going into effect June 1st.
Q. And so you're carrying -- the customers are carrying that for a year if -- if the charges start to accrue in January, for a year and-a-half before you start cost recovery, right?
A. That is correct.

Q. And when does -- if the Company has fuel and purchased power expenditures in January when does the Company actually pay out for that? Is it January or is it -- are you on -- is it net 30 or 60 days, or when are those payments made?

A. Each of the contracts are different, but generally they're paid within 30 days.

Q. What are the long ones?

A. I really don't know.

Q. Okay, so 30 days. So it could be that the Company has made no payments in January and not billed customers in January, but it's still accruing the carrying charge for January's fuel and purchased power, right?

A. That's correct. Because some of the accounts and some of the invoices are paid within a week, some might go up to 30 days. They could be that -- so for January some of the charges from energy balancing and other things in the first week would have definitely been paid. But there's others that would be paid on a monthly basis.

Q. Okay. But the carrying charges could start accruing before the Company has paid for the fuel and purchased power and before customers have been billed for it, right?

A. Yes. Just, just like on the tail end, like I said --

Q. Well --

A. -- we are gonna -- you then record it when you bill customers. But customers don't pay the exact date they're billed.

Q. Right. No, I understand.

A. It happens on both sides.

Q. But if I, if I go make a purchase -- you're charging customers interest before the customers have purchased or before the Company has paid for it?

MS. HOGLE: Objection. The Commission has --

Q. (By Mr. Evans) I'm just trying to clarify. Isn't that how the interest is accruing?

A. Right. It's just --

CHAIRMAN BOYER: Well, let's hear, let's hear the objection.

MS. HOGLE: The objection is that the Commission has already decided how carrying charges are to be calculated. So Mr. Evans' line of questioning is irrelevant, and in my opinion beyond the scope of this proceeding.

MR. EVANS: Well.

CHAIRMAN BOYER: Well, I'm going to overrule, but we may not go too far down this path. But --

MR. EVANS: Okay.

CHAIRMAN BOYER: -- go ahead, Mr. Evans.

Q. (By Mr. Evans) I might have made the point already, but let me ask you one more question along this line. The principal amount upon which the carrying charge is assessed, say for the month of January, how do you come up with that?

A. The principal amount that we're coming up with is derived in the same way we're coming up with, an example would be the REC deferral amount. Where for both the RECs and the net power costs we are looking at what the Company, in effect, incurred that month. What was expensed or what was revenued in the sense of the REC revenues.

And we are starting the carrying charge on the net power cost mechanism, just like we are on the RECs, in that month. The net power cost mechanism it could be the cash is paid the next month. There is always some lead lag, and the lead lag is included in our general rate cases.

Likewise on the RECs we are including that money to customers. And we're starting to accrue interest to customers on the date that the revenue is recorded, even though we don't get revenue for our RECs on the same date.

And so we're using that exact same accounting principle in this formula as what we are using in the REC formula and for all other carrying charges I am aware of.

Q. But the question is, is it the principal amount upon which the carrying charge accrues is the amount of the EBA deferral?

A. Yes. It is the amount that is deferred each month.

Q. Okay. But you know what that is because you're gonna assess a carrying charge on it?

A. Yes.

Q. Would it be possible to bill customers the same estimated amount and then have them pay an estimated amount to avoid that carrying charge?

A. If the Commission wanted to change the EBA mechanism and have us collect amounts on a monthly basis, yes. The easiest way to do that and to administer that such that there is no carrying charge would be to build -- or to ensure that we build into base rates the appropriate level of net power costs. And --

Q. Well.

A. Because we are only incurring a carrying charge -- which can go both ways -- to the extent that the actual net power costs are different from the base. So to the extent the base is set correctly, there won't be anything. If there is, could there be a shortened billing cycle? Yes. Would it be complex? Yes. But we could change rates every month or every two months.

Q. And you could bill an estimated bill and have customers avoid that carrying charge entirely, right?

A. It would be very complex to change rates every month, but it, it could be done.

Q. Well --

A. I think it would be very confusing to customers. But theoretically, yes.

Q. But it's a small amount we're talking about. It's not a huge impact on anybody's bill compared to their power costs?

A. True.

Q. Okay.

A. It's true. And so we could put a, we could put a minor rider and we could try to change that every month.

Q. Okay. So let's go back to January. What we're doing, what the proposal is, is to commence accruing carrying charges in January. Not bill the customer. Let the Company accrue those for a year, through March, when they come in for a reconciliation case to ask the Commission to make rates effective on June 1, right?

A. Right.

Q. So by then we've been carrying those January excess-power costs for 18 months?

A. Correct. For the --

Q. And the customers have not had an opportunity to pay that bill or to avoid them, right?

A. Correct.

Q. And then --

A. And like I said, it could go either way. It all depends on how close the base rates are to what actuals are. So I think it can be corrected --

Q. No, I understand.

A. -- if we try to, you know. You're assuming here that base rates are always set lower than actual costs are going to be.

Q. Yes, I am. But regardless of which way it goes, either the Company's crediting or the customers are paying for 18 months when it seems unnecessary to me to have them carry for that long.

Let me ask you one more question. In June 1, when those rates are set to recover the EBA balance from that year, over what period of time are we paying carrying charges while we're amortizing those costs?

A. You're paying the carrying charge on any of the uncollected amount. So when we're collecting that amount if we collect it over 12 months there will be a carrying charge for the 12 months.

Q. So we add 12 to 18, I got 30 months now that we're paying carrying charges on January's net power costs instead of billing them on the estimated bill and paying them off in January, right?

A. Well, your 30 months seems quite overstated.

Q. That's just, that's just -- well, explain to me how it's not 30 months to amortize those.

A. What you're assuming is that the first month that we accrue is the last month to be paid. Because in effect you've got calendar year 20 --

Q. Right.

A. -- 10 that you're recovering over 12 months.

Q. Right. It's a rolling --

A. So on --

Q. It rolls, right?

A. Right. So on average it's closer to 17 months.

Q. Okay.

A. And so to say 30 you're making some assumptions.

Q. Right. But we're not out from under that for at least 17 or 18 months from January, right?
A. That's true, because the carrying charge and the deferral amount is being absorbed by the Company and it's going to be recorded on the Company's books for 17 months.
MR. EVANS: Thank you, no more questions.
CHAIRMAN BOYER: Thank you.
Commissioner Allen? Commissioner Campbell?
COMMISSIONER CAMPBELL: I noticed when you talked about carrying charges you didn't respond to Mr. Brubaker's objection with the 6 percent. And let me just ask this as a policy matter. Do you know -- and I realize the Commission has used I believe 6 percent as a carrying charge in about every tariff in the last couple decades that I'm aware of.
Do you -- are you aware of the basis of that 6 percent number in the tariffs? Or is it just based on tradition?
THE WITNESS: I really don't know. I know it's in the EBA order. I do not know how the Commission came up with that percentage. I know it's pretty close to our long-term costs of debt, but I don't know if there's a correlation or not.
CHAIRMAN BOYER: That's the -- actually the

question I was going to ask. During the period of deferral customers that -- customers are not paying for those excess energy costs. They've had the time value of money, correct?

THE WITNESS: That is correct.

CHAIRMAN BOYER: So -- yeah. My question was, what about the 6 percent? You say it's close to the cost of debt.

THE WITNESS: It is close to our long-term cost of debt. It's significantly less than what our weighted average cost of capital is. So I always took it as a nice compromise, you know.

CHAIRMAN BOYER: Okay, thank you.

Commissioner Campbell?

COMMISSIONER CAMPBELL: Maybe I'll ask this to the Division when you get up and maybe give you a chance to start thinking about it. But we --

DR. POWELL: Thank you.

COMMISSIONER CAMPBELL: -- we've always used 6 percent. And I think this issue was raised because of the cost of money, perhaps, for large customers who are significantly involved in this, this account is different than the cost of money for residential customers who many of the other accounts are related to.

And so it kind of raises an interesting policy question that maybe we need to consider during the pilot order next year.

CHAIRMAN BOYER: Any redirect, Ms. Hogle?

MS. HOGLE: I do have one question.

REDIRECT EXAMINATION

BY MS. HOGLE:

Q. Mr. McDougal, could the carrying charges also accrue to customers if actual net power costs are lower than base net power costs?

A. Yes. As I mentioned with Mr. Evans, this is meant to go both directions. And it all depends on how the base is set.

MS. HOGLE: I have no further questions.

CHAIRMAN BOYER: Okay. Thank you, Mr. McDougal, you are excused.

Your next witness, Ms. Hogle?

MS. HOGLE: The Company calls Mr. Bill Griffith.

WILLIAM R. GRIFFITH,

called as a witness, having been duly sworn,

was examined and testified as follows:

DIRECT EXAMINATION

BY MS. HOGLE:

Q. Mr. Griffith, can you please state your name and your place of employment for the record?

A. My name is William R. Griffith. My place of employment is PacifiCorp, 825 Northeast Multnomah, Portland, Oregon 97232.

Q. And on behalf of Rocky Mountain Power did you file Direct Testimony of William R. Griffith for the Commission February 23, 2012?

A. Yes, I did.

Q. And do you have any changes to that testimony?

A. No, I do not.

Q. So if I were to ask you the questions in the testimony again here today would your answers be the same?

A. Yes, they would.

MS. HOGLE: I move for the admission into the record of Mr. William R. Griffith's Direct Testimony, February 23, 2012. And in addition, since he is our last witness, I'll also move for the admission of the Proposed Schedule 94 filed with the Commission October 11, 2011, a Revised Proposed Electric Service Schedule 94 filed December 12, 2011, and the Company's Issues List.

CHAIRMAN BOYER: Is there any objection to the admission of Mr. Griffith's prefiled direct testimony, or the Proposed Schedule 94 the Revised Proposed Schedule 94, or the Issues List?

Seeing none, they are admitted into evidence.

(Mr. Griffith's testimony and Exhibit Nos. COMPL_RMP-5 through 7 were admitted.)

MS. HOGLE: Thank you Commissioner.

Q. (By Ms. Hogle) Mr. Griffith, do you have a summary for the Commission today?

A. Yes, I have a short summary. My testimony is -- addresses the revenue spread in this docket and responds to the Commission's prehearing order in the, in the Company in the -- in this docket.

We thought that the proposed revenue spread requirement was fairly clear. It indicated that the spread of deferred EBA amounts to rate schedules must be consistent with the approved spread of the base EBA cost to rate schedules in the general rate case.

And I think there's probably two parts to this question: One part is what should the revenue spread be for the June 1, 2012, EBA costs. And then the second question is, what should be the revenue spread going forward and beyond that time for the next -- for the following year.

As I indicated in my testimony, we believe that the EBA surcharge for June 1, 2012, should be allocated to rate schedules in the same manner that the revenue increase was allocated to rate schedules in the Company's last general rate case.

The spread in the June 1, 2012, is really made up of two parts: One is -- and Chairman Boyer, you asked Mr. Taylor about this. The $60 million amount which is going to be recovered annually through a $20 million surcharge, we thought that was very clear that that amount and that surcharge component would be allocated to rate schedules relying on the, the cost-of-service stipulation in the general rate case.

And so that part would be spread in the same way, for three years, as the revenue spread of the general rate case.

Then the additional amount, which is approximately $9.3 million this year, would be also spread in that way since there was no finding in the general rate case concerning the cost-of-service study and those components and there was no determination of what EBA costs were. So that same spread method would be utilized for that amount.

Then going forward, step two. In the future, EBA surcharges should be allocated based on the allocation of EBA costs as determined by the

Commission in a general rate case. If -- and Mr. Gimble has referenced his NPC allocator, which could be one, one way of determining those EBA costs going forward.

If those were not determined in a general rate case then the next -- then the Company proposed we would use functionalized generation costs, which come from the cost-of-service study, as a simple approach to allocate the spread of EBA costs in the following years.

And then if that were not -- if neither of those were determined in a general rate case, then my guess is at that point we'd use the same rate spread method as the general rate case.

MS. HOGLE: Does that conclude your summary?

THE WITNESS: Yes.

MS. HOGLE: The witness is available for cross-examination.

CHAIRMAN BOYER: Thank you, Mr. Griffith.

Ms. Schmid, any cross-examination for this witness?

MS. SCHMID: None.

CHAIRMAN BOYER: Mr. Proctor, questions for Mr. Griffith?

MR. PROCTOR: Yes, thank you.

CROSS-EXAMINATION

BY MR. PROCTOR:

Q. Mr. Griffith, first of all let's talk about the $9.3 million, which that is the EBA adjustment amount for what period of time?

A. It's for the amount that will go into effect on June 1, 2012. I believe it's through December 31, 2011.

Q. And that would have been beginning in approximately September through -- October 2011 through December 2011. So a period of three months, correct?

A. Okay, yes.

Q. Is -- do you agree with that, or?

A. Correct. I think so, yes.

Q. Okay. And your suggestion that the general rate case spread, based upon the cost-of-service stipulation in the last general rate case, should govern the spread of that $9.3 million, correct?

A. Yes, my interpretation is what -- that's what the Commission ordered.

Q. But in your summary you said that you're suggesting that the GRC spread apply because there was an absence of any findings with respect to the $9.3 million.

A. There was the absence of any findings with respect to the cost-of-service results in the last general rate case.

Q. And the $9.3 million was the EBA adjustment that occurred after the general rate case was final, correct?

A. Correct.

Q. You also stated that the NPC allocator, composite allocator, which the Office has recommended, would be appropriate, in the Company's view, if the components of that allocator were determined in a general rate case; is that correct?

A. Yes.

Q. So this Commission could readily order that in every general rate case, at least with respect to those NPC elements, there would always be a determination, correct?

A. Yes. The Commission could certainly make a determination in each general rate case. I'm just saying that it had not in the last general rate case.

Q. But it certainly could. And if it did then there would be no risk of the -- and I don't like this term personally, but the black box settlement, where no one knows really what the rate components are. That would be eliminated by such an order from the

Commission?

A. Yes. Clearly if the Commission made a determine, then those costs would be determined.

Q. So in every case in which there is a determination, whether as a result of the litigation or upon the Commission order, the Company believes that the Office's recommendation for the NPC composite allocator would be an appropriate way to apply the rate spread?

A. We believe that could be an appropriate way, yes.

MR. PROCTOR: Thank you Mr. Griffith.

CHAIRMAN BOYER: Mr. Dodge?

MR. DODGE: Thank you.

CROSS-EXAMINATION

BY MR. DODGE:

Q. Mr. Griffith, I just want to explore for a moment the difference between how net power costs were spread in the rate case and how the Company's cost-of-service study allocated net power costs in the rate case.

Focussing on those two items, which one do you understand the Commission to be saying net power cost deviation should be framed? Is it on the way net power costs were spread, or the way they were

identified in the Company's cost-of-service study?
A. It's on the way that they were spread.
Q. In your experience is there often disagreement on cost-of-service issues in rate cases?
A. Always.
Q. And in your experience is there often a settlement that may not get down to final approval of a formal cost-of-service study?
A. Yes.
Q. And is that what happened in the last general rate case?
A. Yes. There was, it was paragraph 6 in the settlement indicated that the parties agreed to withdraw and not contest any cost-of-service issues in the case.
Q. And going forward even if a formal cost-of-service resolution was made by the Commission, in other words if they said, We approve this cost-of-service approach, the Commission can, notwithstanding the official cost of service that it adopts, apply other principles to spread all costs or net power costs on a basis other than net cost of service then, can it not?
A. Certainly. The Commission has the ultimate determination.

Q. And in your view is it appropriate if factors cause the Commission to spread costs, including net power costs, on a basis other than a specific cost-of-service study? Is it appropriate that the net power costs going forward, the deviations from the projected net power costs also be spread taking into consideration those same factors?

A. Certainly.

MR. DODGE: Thank you. No further questions.

CHAIRMAN BOYER: Thank you Mr. Dodge.

Mr. Evans?

MR. EVANS: No questions, thank you. I think it's been covered.

CHAIRMAN BOYER: Commissioner Allen? And I have no questions.

Any redirect, Ms. Hogle?

MS. HOGLE: I have no redirect.

CHAIRMAN BOYER: Okay. Thank you, Mr. Griffith, you are excused.

Let's proceed now to the Division's first witness. Ms. Schmid, our intention will be to go till about 10:30, then we'll take a short 10-or-15-minute break to give our reporter a break.

MS. SCHMID: The Division would like to call Dr. William Powell as its witness.

DR. WILLIAM POWELL,
called as a witness, having been duly sworn,
was examined and testified as follows:

DIRECT EXAMINATION

BY MS. SCHMID:
Q. Good morning.
A. Good morning.
Q. Could you please state your full name, business address, for whom you work, and title?
A. My name is William, or Artie, Powell, A-r-t-i-e. My business address is here in the Heber Wells Building in Salt Lake City. And I am the manager of the energy section for the Division of Public Utilities.
Q. In your capacity as manager of the energy section have you participated on behalf of the Division in this docket?
A. Yes, I have.
Q. Did you participate in the review that culminated in the filing of the direct, rebuttal, surrebuttal with exhibits testimony of Mr. Charles Peterson?
A. Yes, I did.
Q. Are you appearing today as the Division's witness in lieu of Mr. Peterson?

A. Yes.
Q. Are you adopting his testimony?
A. Yes, I am.
Q. Do you have any changes or corrections to that testimony?
A. No.
Q. If I were to ask you the same questions today as are asked and answered in the testimonies would your responses be substantially the same?
A. Yes, they would.
MS. SCHMID: With that, the Division requests that the direct, rebuttal, and surrebuttal of Mr. Charles Peterson, along with accompanying exhibits, be admitted into evidence.
CHAIRMAN BOYER: Is there any objection to the admission of Mr. Peterson's direct, rebuttal, and surrebuttal testimony, together with exhibits, as adopted by Dr. Powell?
MS. HOGLE: No objection.
CHAIRMAN BOYER: Seeing none, they are admitted.
(Mr. Peterson's testimony was admitted.)
MS. SCHMID: Thank you.
Q. (By Ms. Schmid) Do you have a summary you would like to give today?

A. Yes, I do.

Q. Please proceed.

A. Okay. Let me just say good morning, and thank you for this opportunity to address just a few brief comments and summarize the Division's position on several issues.

Mr. Taylor talked a little bit about the Division's proposed changes to the tariff. I would say with one minor language change which the Company agreed to in its rebuttal testimony, and limited added details on the FERC accounts which you heard from Mr. McDougal they don't necessarily agree with but nevertheless the Division still believes that those changes need to be made in the tariff, the Division believes that the Company's proposed tariff substantially complies with the Commission's orders in this matter.

Division witness Mr. Croft will address the Division's recommendations regarding the FERC account detail to be listed in the tariff.

With regard to specific issues of the allocation of Utah's net power costs and the eventual spread of the EBA cost, the Division's overarching principle in its position is the importance of consistency between the last or the previous general rate case and the EBA case.

The Division recommends that the methodologies or procedures employed in the rate case in establishing the level of net power costs in base rates and the spreading of those costs to the various rate classes be the methodologies and procedures used in establishing the EBA monthly accruals, annual true ups, and the eventual class spread.

During the EBA actual period or accrual period, typically a calendar year, the available allocation factors, or factor values, will be those developed and approved by the Commission in the prior rate case.  For consistency these same values should be used to estimate both the monthly allocation of Utah's actual net power costs and the monthly EBA accruals.

For the Company's annual filing in order to determine Utah's actual net power costs the factor values used should be updated to reflect the actual conditions during the EBA accrual period.  These dynamic values can be used to true up any missed estimates that occurred in the monthly EBA accruals, including trueing up any interest or carrying charges.

The trued-up EBA accrual should then be spread to the various rate schedules in a manner consistent with the spread ordered by the Commission in the prior rate case. This may require updating billing determinants or other aspects of the Commission's approved rate spread from the prior rate case.

In order to implement these procedures the Division notes that it will be necessary to call out the respective procedures and methodologies employed in determining Utah's annual and monthly based net power costs and the class spread of those costs.

This can be done through the Commission's order, or in the -- as in the case for the last rate case, the settlement, this can be done in settlement documents. For example, in the most recent rate case, a settlement stipulation which was approved by the Commission, adopted what was known as the "scalar method" to establish the Utah monthly net power costs in base rates. And those rates were spread -- or those costs were spread based on a general revenue requirement allocation, as Mr. Griffith was discussing.

The Division believes, and will recommend for consistency, that these same methodologies should be used in the Company's request to recover the EBA costs in the current docket, Docket No. 12 -035-67.

Finally, to the extent that parties have advocated in this proceeding different timing of accruals, billings, carrying charges, calculations of those carrying charges, or the development of monthly jurisdictional or class-level allocation factors, the Division believes these issues are beyond the scope of this docket.

And that concludes my summary remarks. Thank you.

MS. SCHMID: Dr. Powell is available for cross-examination and questions from the Commission.

CHAIRMAN BOYER: Okay. Thank you, Dr. Powell.

Ms. Hogle, any cross-examination of this witness?

MS. HOGLE: I have none.

CHAIRMAN BOYER: Mr. Proctor?

MR. PROCTOR: Yes. Thank you, Commissioner.

CROSS-EXAMINATION

BY MR. PROCTOR:

Q. Dr. Powell, my question comes from Mr. Peterson's surrebuttal testimony. Page 2 it -- a question that is on line 42. And the answer on lines 43 and 44.

A. Okay, I'm there.

Q. He was -- the question was: Do you have comments on the rebuttal testimony from Mr. Gimble?

And the substance of the answer is: The Division agrees that the rate spread in the EBA should be done on the same basis as net power costs in the general rate case.

That answer is referring to the future EBA adjustments, correct?

A. No, I don't believe so.

Q. Do you believe that it refers to the $60 million that Mr. Griffith was talking about, and the $9.3 million that Mr. Griffith was talking about?

A. With respect to the 60 million, I believe that the stipulation specified that that would be spread over the next three years using the revenue spread from the rate case, Docket No. 124. So with, with respect to the 9.3 million that's the subject of the current request by the Company, what this is saying is is that also should be spread based on that revenue spread.

Q. The 124 docket?

A. The 124 docket, yes, sir.

Q. Now with respect to the rate spread for the EBA adjustment after this one, the one pending, the reference here is to -- that that rate spread should be on the same basis as net power costs in the general rate case?

A. It would be whatever the rate spread was on the rate case preceding that EBA docket. So for instance we have the 200 rate case currently open before the Commission. Whatever the outcome is on the spread from that particular docket then would govern the March 2013, I think it would be, the EBA case.

Q. Okay. So am I correct that by this statement on lines 43 and 44 the Division's position, as expressed by Mr. Peterson, was that the Division agrees to use the composite NPC allocator that Mr. Gimble described in his series of testimony?

A. No, that's not correct.

Q. What, then, is this suggesting as --

A. For the current, for the current rate case -- and I've tried to summarize this in my summary statement too -- was is that the rate spread from the prior rate case for any EBA case would govern the spread of the EBA costs.

Q. So the rate spread that occurs from the current 200 docket rate case, general rate case rate spread, would apply then to the EBA rate spread that would be in effect in June of 2013? Is that your testimony?

A. Correct.
Q. And if that rate spread was just a general even perc -- equal percentage across the board, that would then govern the two -- June 2013 adjustment?
A. If that's what the Commission ordered, then yes, that would be correct.
Q. Is that the position of the Division then, that it should always follow the general rate case?
A. Yes. For, for example, if I can elaborate on that.
Q. Let me ask one more question then.
A. Okay.
MS. SCHMID: Pardon the objection. Could the witness please finish his statement?
MR. PROCTOR: Let me ask my question please, Mr. Commissioner.
CHAIRMAN BOYER: Well --
THE WITNESS: I'll make --
MR. PROCTOR: I'm sure you'll have an opportunity at redirect to say.
CHAIRMAN BOYER: Okay.
Q. (By Mr. Proctor) Dr. Powell, now the general rate case, however, may or may not segregate the net power cost components in -- as to a different rate spread treatment, correct?

A. Yes, that's correct.
Q. So the rate spread may be based upon any number of other distribution, cost elements, a whole myriad of examples, correct?
A. And -- that, that is correct. And it may be also based on other principles other than just a simple cost-of-service study.
Q. And other principles other than the purpose of adjusting net power costs?
A. That may be correct.
Q. And it could also be subject to a general undefined or ill-defined stipulation settlement, if you will, adopted of course by the Commission, that contains no detailed guidance as to how the rate spread was calculated?
A. That, that is -- well.
Q. The black box?
A. It, it may be. I take objection to your terminology of "ill-defined." But casting that aside, yes, you're, you're correct.
Q. Well, it may be defined with respect to each particular party, but isn't the standard boilerplate in such a settlement that there is no agreement as to how it should be done, there's only agreement as to the conclusion?

A. That's, that is correct. And the last rate case stipulation is a very good example of that. The rate case stipulation in the last case actually settled, I think it was five dockets. The net power cost was only one component of that. But the Commission determined that that settlement would, would lead to just and reasonable rates.

And that's, that's the point that I think the Division is trying to make, is that the inconsistency of the spread going forward for the EBA costs is important because you preserve, then, the basis upon which those just and reasonable rates were determined.

Q. Could you turn to page 12 of Mr. Peterson's rebuttal testimony?

A. Sure.

Q. At line 278 is the question. Tell me when you have it.

A. Which line was it, 278 did you say?

Q. The question is 278.

A. Okay.

Q. And as you know, we sometimes have problems with the line numbers. "Does the Division have an opinion regarding the Office's proposed use of the CNA?" That's the question I'm looking for.

A. That -- I'm at the same spot, yes.

Q. Okay. And the CNA is defined up above, on line 270, as the composite NPC allocator that Mr. Gimble proposed, correct?

A. That's right.

Q. And in answer to the question does the Division have opinion, on line 279 Mr. Peterson said:

"Yes, the Division believes that his recommendation appears to be appropriate."

Correct?

A. That's what the testimony says, yes.

Q. And on line 281, the last sentence of that answer: The Division also believes that Mr. Gimble is correct that the CNA, or composite NPC allocator, would more closely match cost causation in the EBA than the general state allocation factor, correct?

A. Correct, that's what it says.

Q. And that is the description of the Division's opinion in this case, is it not?

A. As modified in our surrebuttal testimony, and as I just tried to explain in answer to your previous question. Let me just elaborate on this particular question and answer here. The Division does believe or agrees with the Office that the -- what Mr. Gimble causes -- calls the "composite net allocator" will closely align with cost causation.

But as I explained in my answers to your previous questions, that's not necessarily the only factor in setting rates in or determining a rate spread. Again, for example, in the last rate case the settlement stipulation that led to the spread in the cost-of-service stipulation was settling five -- I believe it was five dockets.

The stipulation of the parties testified that -- at least the Division testified that when you take the package as a whole, that will lead to just and reasonable rates. So while we may agree that the composite net allocator will reflect cost causation as determined in a cost-of-service study, that may not be the way the Commission orders the spread of net power costs in the rate case.

Q. So you believe it would be appropriate, as to the EBA, to compare the base rate and the actual rate -- or excuse me, NPC costs, and then spread those, because there was a compromise of five separate cases that may or may not be related to net power costs; is that your testimony?

A. If that's what the Commission orders, yes.

Q. Now, going back to surrebuttal -- strike that. Sorry.

So is it the Division's position that cost causation would be the primary determinant of how EBA adjustments should be spread across customer classes?

A. Not necessarily.

Q. So you would be -- pardon me. So you would be leaving that particular issue to be decided on a case-by-case basis now in perpetuity as long as the EBA exists?

A. The issue being?

Q. Of rate spread. It's gonna be done on a case-by-case basis?

A. Yes.

Q. Not only based upon the difference between base rate -- base net power costs and actual net power costs, but also based upon any other factor that may arise in a general rate case or related dockets?

A. I'm not sure. You'll have to explain the nexus between the spread and the calculation of the monthly accrual which you alluded to in your question.

Q. Well --

A. In other words, I don't understand the question. If you could restate it.

MR. PROCTOR: I have no further questions.

CHAIRMAN BOYER: Okay. Mr. Dodge, any cross-examination for this witness?

MR. DODGE: No, I have no questions. Thank you.

CHAIRMAN BOYER: Mr. Evans?

MR. EVANS: Yes, thank you Mr. Chairman.

CROSS-EXAMINATION

BY MR. EVANS:

Q. Good morning Dr. Powell.

A. Good morning.

Q. You've adopted all of Mr. Peterson's testimony in this docket?

A. Yes. Yes, that is correct.

Q. Let me ask you first about a question that I've asked other witnesses this morning, and that is the language addressing special contracts in the Proposed Schedule 94. Is the Division agreeable to substituting that language with the language directly out of the statute?

A. We wouldn't be opposed to that. I think in testimony in response to Mr. Brubaker we did indicate if there was some confusion that we were willing to consider editing that language.

Q. So you don't have any staunch objection to just substituting that straight out?

A. No, I don't.

Q. Thank you. I want to ask you a question from -- do you have a copy of Mr. Peterson's testimony in front of you?

A. Yes.

Q. I'm curious about a response on page 11 of Mr. Peterson's direct where at line 233 the question is posed:

"Could there be more accurate methods to estimate and adjust the estimated monthly Utah NPC?"

A. Hang on one second. What line did you indicate again?

Q. It's on page 11 of the direct. At line 233 is where the question is posed.

A. Okay, I'm there.

Q. Could there be -- the question is:

"Could there be more accurate methods to estimate and adjust the estimated monthly Utah NPC?"

And then could you read that response, please?

A. The answer:

"Possibly. The Commission held a series of technical conferences to discuss a suggestion by the Commission staff to establish the monthly Utah net power costs. This suggested method appears more -- much more complex than the stipulation scalar method and is difficult to explain to a layperson."

Q. Do you agree that this proposed method may have yielded a more accurate estimate of monthly Utah NPCs?

A. As the answer says here, it's possible. The -- paraphrasing the Commission's order from what my understanding is, is that going forward over the pilot program the Commission ordered the Division and the Company to keep track of both methods and, and compare -- and report on the comparisons of those two.

Q. So --

A. So at this point I don't know whether one is more accurate than the other. That's why we said "possibly" here.

Q. I see. Is the Division going to look at that or do the study to implement that method of estimating monthly Utah NPC? Not implementing, but are you gonna study it?

A. We will study what the Commission ordered us to study. And that was a comparison of using the scalar method and what is essentially using the system annual SG factor, SE factor, as applied to individual months. That's what the Commission asked the Division or ordered the Division to study. And we will do that.

Q. Okay. What relevance is it that it's difficult to explain to a layperson? I'm curious.

A. It -- the spreadsheet that the Commission staff developed is fairly complex, and I, I would be hard pressed to try to explain exactly all the details in there.

The, the spreadsheet broke out for net power costs. It broke the net power costs into both demand and energy components. And, like I was mentioning, applied the SG -- the annual SG and SE factors to system monthly numbers to come up with estimates of Utah's monthly net power costs.

And then, and then did some simulations in terms of comparing that on how the EBA costs or the EBA tariff would work.

Q. And is that a comparison that will be under consideration when the EBA comes around next year? What are you gonna do with this comparison?

A. I, I don't remember the details on the -- off the top of my head what the Commission said in terms of filing a report. But I'm assuming between now and next March, or March of 2013, that the Division will have some information and we will file a, a comparison. But the time -- I'm not sure of the timing on that.

Q. But if -- okay. All right, thank you. Let's look at rebuttal. At line 181 to 191 there's a series of questions there I'd like to ask you about.

A. Okay, I see line 181.

Q. It asks you about Mr. Brubaker's spread proposal. Do you see that?

A. Yes.

Q. And it says in the response at line 184 -- I'm sorry. Let me have you read that whole response, if you would, because I think there's some confusion about what the UIEC is proposing.

A. Okay.

Q. At line 182.

A. Do you want the question also?

Q. If you would.

A. Okay.

"Question: What does Mr. Brubaker have to say about rate spread?

"Answer: Mr. Brubaker recommends that the last GRC rate spread is followed." This is found in Item No. 7, page 2. "However, this agreement is just for this first EBA filing. Going forward on page 15, lines 327 through 335, he appears to want to implement what the Commission appears to have already rejected, that is, that there be specific rate spreads within the EBA itself."

Q. Do you understand Mr. Brubaker to be advocating implementation of that for this, this year?

A. Could you repeat that?

Q. Do you understand that Mr. -- do you understand Mr. Brubaker to be advocating implementation of that for this year?

A. No. I believe in his surrebuttal testimony he explained that he was not advocating any of those positions with regards to spread, but that he thought they should be things that should be studied or evaluated over the pilot program. That's kind of paraphrasing.

Q. Thank you, yes. And would you accept -- and I had this little exchange with I think Mr. Taylor this morning. Would you accept that there are transmission-level customers who have wide seasonal variations in their loads?

A. Yes, I heard that exchange.

Q. Would you accept that that is the case?
A. That you had the exchange, or that?
Q. No.
A. I'm not trying to be difficult, but I just.
Q. That it is the case that some transmission-level customers have wide seasonal variations in their loads?
A. Yes, I believe that's the case.
Q. All right. Would you also accept that it is the case that there may be wide variations in the seasonal price of power?
A. Yes.
Q. And that those seasonal variations are lost in the Proposed Schedule 94 because of the annual average allocation to classes?
A. Could you elaborate or explain what you mean by "lost"?
Q. I mean they're not picked up in the -- they are only picked up to the extent that they are collected by a percentage increase to the rate. They're not really looked at as to who causes the cost in the month that the excess power is used.
A. I believe, I believe the class annual allocation factors take into account the seasonal variation in a customer's load. Or a cus -- or a

class load, put it that way.

Q. And how is that done?

A. In the way the class allocation factors are calculated the seasonal variation in the loads are taken into account.

Q. Okay, we've --

A. In other words, that class is allocated a smaller share of whatever those costs are. Or larger share, I guess, depending on what their load shape reflects.

Q. It doesn't really follow cost causation to the actual month, though, does it?

A. No. The -- I would characterize the allocation factors both at the interjurisdictional level and at the class level as being composites or averages of what takes place over the course of the year.

Q. Okay. And you --

A. Or the test period.

Q. And you're aware, you are aware that since the beginning of the EBA these -- my clients have been complaining about that. That that does not adequately capture the seasonality in their loads. You're aware of that, aren't you?

A. Yes, I am.

Q. What, what would it -- and you're aware that the method proposed by Mr. Brubaker is to allocate monthly power costs to rate schedules, right?

A. Yes.

Q. Is that something that the Division intends to study over this next pilot period?

A. No.

Q. And why is that?

A. The -- there -- as I understand it, there are no monthly allocation factors to accomplish what Mr. Brubaker has proposed. In other words, the -- if we look at the interjurisdictional allocation factors, they're annual factors. They're based on a test period or a 12-month total of what loads, costs, *et cetera*, might be.

The stipulation in the last rate case used the scalar method. The scalar itself is an annual allocation factor that then was applied as an estimate on a month-by-month basis. I'm not aware of any way of disaggregating the -- either the class cost-of-service allocators or the interjurisdictional allocators to come up with a monthly allocator that then would be consistent over that 12 months with the annual allocation factor.

So no, the Division is not voluntarily gonna take on the development of monthly allocation factors to accomplish what Mr. Brubaker has proposed.

Q. And is the Division requesting information from the Company so that some other party can undertake that study?

A. No, we have not. And I'm not sure what information you would have to ask for.

Q. Well, you -- okay. Maybe we can have Mr. Brubaker explain that, but I think it has been.

So, so that you are not even requesting the information that would make it possible to do the study that Mr. Brubaker has proposed, right?

A. No. Since testimony has been filed in this docket I have been trying to figure out how you would go about developing a monthly allocator to accomplish a monthly allocation and billing to -- both to bring the net power costs from the interjurisdictional level to Utah, and also then to spread that to the rate classes on a monthly basis.

Q. And you --

A. And I have not been able to do that. I would remind the Commission of the struggle that takes place at the interjurisdictional level when it comes to defining even annual allocation factors. We would have a -- in a sense what we would develop or have to develop is an MSP-type instate process to develop those monthly allocators.

Q. Okay. But what you don't have is monthly load information, right?

A. No, I believe that we do have the monthly load information. It's the in -- it's the Utah monthly net power costs that we do not have.

Q. So that would have to be estimated?

A. Exactly. And that's exactly --

Q. But --

A. That's what the Commission staff has proposed in their spreadsheet is one way of doing that estimation. The stipulation adopted a different way of making that estimation on a monthly basis. But again, that was applying an annual allocator to the monthly system data or information.

Q. Right. But it's, but it's an estimate that could be trued up later as well?

A. And it will have to be trued up based on the annual numbers.

Q. But it could be done?

A. The true up?

Q. Yeah. The true up on the monthly allocation could be done on actual numbers later. Trued up. Estimated monthly, trued up at the end of the year?

A. You're assuming that the monthly allocation could take place on something other than an annual allocation factor. So no, I disagree with your question.

Q. No, that it would be estimated based on the annual allocation factor.

A. As is being done right now, yes. The, the -- using annual allocation factors you can estimate monthly allocations, and then that would be trued up once the actual annual numbers are known.

Q. All right. So it is possible, if you had that information, that you could allocate monthly excess net power costs to classes, right, inside the EBA?

A. At this point I don't know how that would be done.

Q. It's possible to do it?

A. And almost anything is possible.

MR. EVANS: All right. No more questions, thank you.

CHAIRMAN BOYER: Commissioner Allen? Commissioner Campbell? And I have no questions.

Ms. Schmid, any redirect?

MS. SCHMID: None.

CHAIRMAN BOYER: Okay. Thank you,

Dr. Powell, you are excused.

Let's take a 15-minute recess. I think this clock is a little bit fast, but we'll go off of it anyway and reconvene in about 15 minutes. Thank you.

(A recess was taken from 10:30 to 10:48 a.m.)

CHAIRMAN BOYER: Ms. Schmid, your next witness.

MS. SCHMID: Thank you. The Division would like to call Mr. Matthew Croft as its witness.

CHAIRMAN BOYER: And I'm sorry, I know your name is Schmid, but I always say "Schmidt" and I don't know why. I think it's because I called your dad that when I was in his real property classes. But I will try to do better.

MS. SCHMID: You are not alone in adding the "t."

MATTHEW A. CROFT,

called as a witness, having been duly sworn,
was examined and testified as follows:

DIRECT EXAMINATION

BY MS. SCHMID:

Q. Good morning Matt.

A. Morning.

Q. Could you please state your full name, business address, position, and employer for the record?

A. Yes. My name is Matthew Allen Croft. I'm employed as a utility analyst for the Division of Public Utilities. My business address is 300 South 160 East, Salt Lake City, 84111.

Q. Thank you. Have you participated on behalf of the Division in this docket?

A. Yes, I have.

Q. And did you prepare what has been filed as your direct, rebuttal, and surrebuttal testimony?

A. Yes.

Q. Do you have any changes or corrections to that testimony?

A. I do not.

MS. SCHMID: The Division would like to move the admission of Mr. Croft's direct, rebuttal, and surrebuttal, along with accompanying exhibits.

CHAIRMAN BOYER: Are there any objections to the admission of Mr. Croft's direct, rebuttal, and surrebuttal testimony that's been prefiled in this case?

There are none, so those are admitted into evidence.

(Mr. Croft's testimony was admitted.)

MS. SCHMID: Also at this time the Division would like to move for admission its Issues List filed in this docket.

CHAIRMAN BOYER: Is there any objection to the admission of the DPU admissions -- Issues List?

MR. PROCTOR: Yes, Commissioner. The Issues List is an issues list, it's not evidence.

CHAIRMAN BOYER: Right, but -- so there's no harm one way or another, so we'll let it in.

Q. (By Ms. Schmid) Mr. Croft, do you have a summary you would like to present today?

A. Yes, I do.

Q. Please proceed.

A. Good morning Commissioners, and thank you for this opportunity to summarize the Division's position with regards to the FERC account inclusions and exclusions associated with the EBA.

In my direct testimony I propose modifying the FERC account detail included in the Company's proposed tariff. The Division specifically favors the medium level of detail that I proposed, which can be seen in DPU Exhibit 2.6D.

Although I said that the Division in general is open to any of the levels I created, I believe the medium level to be the most appropriate. I feel the Company's proposed detail is not detailed enough to provide sufficient usefulness to the Division analyst or any other analyst wishing to evaluate whether or not the EBA includes the appropriate costs and revenues.

I believe the Commission also wanted the Company to specify adjustments that the Company intends to make to the actual book costs to the Commission-approved EBA FERC accounts. The medium level of detail provides meaningful detail concerning these adjustments and is recommended by the Division.

As I pointed out in my testimony -- in my surrebuttal testimony, the FERC accounts approved by the Commission are not, in and of themselves, net power cost or energy balancing account cost accounts. Net power costs and energy balancing account costs are, are actually a subset of those FERC accounts.

Thus, adequate guidelines need to be in place that show how the FERC accounts are adjusted to arrive at the costs that flow through to the EBA calculations.

The Company has raised concern that my medium detail may be difficult for customers to understand. I recognize that my detail does provide more for the customers to understand, and that's why in my surrebuttal testimony I propose that the Company can include their proposed detail as they filed it, but with a reference to the medium level of detail that I have proposed which would be included at the end of the tariff.

I believe that the medium level of detail that I have proposed and the solution that I proposed in my surrebuttal testimony will solve both the Company's concern over the understandability for customers, and my concern of usefulness for the analysts. And that concludes my summary.

MS. SCHMID: Mr. Croft is now available for cross-examination and questions from the Commission.

CHAIRMAN BOYER: Okay. Thank you, Mr. Croft.

Ms. Hogle, any questions for Mr. Croft?

MS. HOGLE: I just have a few.

CROSS-EXAMINATION

BY MS. HOGLE:

Q. Hi Mr. Croft. Would you agree with me that the Company will be providing and has already provided, as part of its first EBA filing, to the Division and/or to other parties hundreds of pages of information on a monthly basis, and with the annual filing application, as I said, and in response to discovery, and in response to filing requirements?

A. The Div -- or excuse me, the Company has provided that information, yes.

Q. And isn't it true that most of the information that you are proposing the Company to provide as part of its tariff will already be provided in some shape or form within the documents that I just mentioned?

A. It will be provided. The key is that the tariff needs to have a set of guidelines in which analysts can use to evaluate that information that is filed.

Q. But you just agreed with me that analysts, such as the Division and other parties, will already be provided that information as part of the filing, as part of the monthly information that the Company provides, in response to debtor requests, and in response to filing requirements, correct?

A. The information will be provided -- well, I guess I should be more clear. There's a lot of information that is provided. And the key is that we need something with which to evaluate what the Company has filed.

Yes, the Company will say in the information they've provided, This is included, this is excluded, and whatnot. Okay, we need something from which to evaluate that.

Q. So given that the Division will already have most of the information, if not all of the information, from a multitude of documents that the Company will already be providing, isn't the tariff then really for the group of people who will gain the most benefit from reading the tariff, and that is our customers?

Wouldn't that be the group of people who have not been included in all of the other information that everybody else -- the parties, the auditors, the analysts -- and wouldn't the tariff be mostly for the benefit of our customers?

A. Well, as I, as I said in my surrebuttal testimony, I believe the tariff is -- serves a dual purpose. It serves the customer, but it also serves the analysts and the regulators to determine whether the Company is compliant or not.

MS. HOGLE: Thank you Mr. Croft.

CHAIRMAN BOYER: None Mr. Proctor?

MR. PROCTOR: No.

CHAIRMAN BOYER: Okay. No cross-examination by Mr. Proctor. Mr. Dodge?

MR. DODGE: No questions.

CHAIRMAN BOYER: No questions. Mr. Evans?

MR. EVANS: Just one quick one.

CROSS-EXAMINATION

BY MR. EVANS:

Q. Good morning Mr. Croft. Are you getting the results of the Company's load research in the documents that are provided?

A. Are you referring to what's -- was filed in the March 15th filing?

Q. No, I'm referring to documents that you anticipate collecting from the Company to evaluate the EBA. Are you getting their load research data?

A. There is some load data provided in the Company's filing. I'm not sure which particular load data you're referring to, but.

Q. Is there, is there load data from which a monthly, a monthly Utah peak could be determined; do you know that?

A. I, I don't know. I can tell you that I know that there's data -- load data provided that show how allocation factors are calculated. I wouldn't be able to tell you to go into great detail.

Q. Allocation factors to determine the Utah jurisdiction of net power costs?

A. Yes.

Q. Okay. But you don't know whether you're getting load research data that would allow you to calculate a monthly peak?

A. I, I don't know if it's there, but I'm really not sure.

MR. EVANS: Thank you.

CHAIRMAN BOYER: Commissioner Allen?

COMMISSIONER ALLEN: Thank you Mr. Chair. One quick question.

Mr. Croft, when you're getting data in response to your requests, I'm curious, are you able to get information at the granular level? Are you able to see, for instance, out-of-period adjustments or inter-account corrections? How much information are you getting?

THE WITNESS: Yes, we are able to see adjustments to accounts that -- yeah, transfers that are made from one account to another, that is provided. And remind me of the other.

COMMISSIONER ALLEN: Such as if there were an out-of-period adjustment, would you see that in the data that you're getting?

THE WITNESS: Yes, we'll see that there -- in the data that we have received there is out-of-period adjustments there.

COMMISSIONER ALLEN: Okay, thank you.

CHAIRMAN BOYER: Commissioner Campbell?

Let me, Mr. Croft, just follow up on Ms. Hogle's line of questioning. You mentioned "guidance" and "guidelines" I think a couple of times in your testimony on the tariff.

Specifically what is it that you would like included in the tariff that is not there to make it come up to your medium level of detail? Are you asking for the identification of specific FERC accounts, or? I'm not clear on what it is you would like to see in the tariff.

THE WITNESS: Okay. The medium detail that I have provided is, is what I would like to see in the tariff. And what that document provides is it provides FERC accounts, FERC sub-accounts, sub-sub-accounts, which I refer to as "SAP" accounts.

And it refers to specific SAP accounts that are included and excluded from the EBA. And there's a lot of them, and so that's why I've included them there.

CHAIRMAN BOYER: And how did you come up with that list?

THE WITNESS: The -- I came up with that list based on information that the Company had provided in answers to, to a data request. Make a long story short, I basically started with what the Company had originally filed in some of their original tariffs.

Started with that, and then looked at the detail that they provided and saw that there was a big difference between the two. And so that's why I went about creating a medium level of detail that calls out all these adjustments to the actual booked costs to the FERC accounts.

CHAIRMAN BOYER: And do you have concerns that the tariff might become overly complicated, TMI for ratepayers like myself?

THE WITNESS: Well, I think that in my surrebuttal testimony I address this issue. If, if the Company believes what they filed is sufficient for customers, then they can certainly refer to that. But if there's a reference to the detail that I've provided at the end of the tariff that can be used by the analysts and other regulators, then I think that meets both purposes.

CHAIRMAN BOYER: Okay, thank you.

Ms. Schmid, any redirect?

MS. SCHMID: None.

CHAIRMAN BOYER: Okay. Thank you, Mr. Croft, you are excused.

Let's now hear from the Office witness, Mr. Gimble.

DANIEL E. GIMBLE,

called as a witness, having been duly sworn,
was examined and testified as follows:

DIRECT EXAMINATION

BY MR. PROCTOR:

Q. Mr. Gimble, you're appearing here today on behalf of the Office of Consumer Services. And in that same capacity you filed testimony consisting of direct, a direct errata, rebuttal, and surrebuttal; is that correct?

A. That's correct.

Q. Do you have any corrections in particular to the direct testimony?

A. I do. If you turn to page 6 of my direct, line 167. "Allocator" should have an "s" on it. Allo -- it should be "allocators."

Q. Do you have any other corrections to your testimony?

A. No, I don't.

Q. And does this testimony represent the Office of Consumer Services' position today as it did when the testimony was first filed?

A. It does.

MR. PROCTOR: The Office would move for the admission of the testimony as described on the exhibit list which has been provided to the Commission and for the record.

CHAIRMAN BOYER: Is there any objection to the admission of Mr. Gimble's prefiled direct testimony, the errata thereto, rebuttal, surrebuttal, as corrected today?

Seeing none, they are admitted.

(Mr. Gimble's testimony was admitted.)

Q. (By Mr. Proctor) Mr. Gimble, I understand you have a brief statement summarizing your testimony. Would you please provide that?

A. I'd like to start out with -- good morning -- the EBA rate spread. A prominent issue in this proceeding is: Determine a rate spread method that results in a fair and cost-based spread of EBA accruals to customers.

In terms of the Office's recommendation, we think the best method for meeting fairness and cost causation criteria is a composite NPC allocator which is used to spread NPC to the rate schedule in the Company's class cost-of-service model in general rate cases.

The Office proposes using the same allocator to spread EBA accruals, and submits it is in the public interest to do so. Just to talk about support for the allocator, this allocator best complies with the clarification provided in, in your most recent order in the EBA case, the January 20, 2012, implementation order. Where you stated:

"The spread of deferred EBA amounts to rate schedules must be consistent with the approved spread of the base EBA cost to rate schedules in a general rate case."

You said the base EBA cost to rate schedules in the general rate case. In general rate cases the composite NPC allocator is used to spread the base NPC to rate schedules. And that's why we're proposing it.

I want to touch on a couple other points related to why we support the composite NPC allocator. First the, this allocator properly reflects both energy and demand components. In NPC the energy demand weighting will change as the composition of base NPC components -- your fuel expense, your purchase power expense, *et cetera* -- varies from one general rate case to the next.

Next, this allocator specifically targets the distinct NPC components of rates that are included in the EBA. Whereas broad allocators proposed by some parties, for example a general rate case spread-type allocator -- which we've called a total revenue requirement allocator in my testimony -- these broad allocators relate to the spread of the entire revenue requirement and not the distinct cost element that's gonna be in the EBA, which is net power costs.

Next, compared to other proposed methods this allocator results in a more fair and reasonable outcome for customer classes, especially the residential class. And if you recall my Table 1 in errata direct, there's a 9.3 percentage point difference between the GRC rate spread in the last case and the composite NPC allocator in terms of impact on one class, the residential class.

And lastly, this allocator is supported by the Company as the long-term method for spreading EBA accruals.

To, to go to Commissioner Boyer -- Chairman Boyer's question on the spread of the 29.3 million. You had a question on the spread of the 20 million, which is the first installment of the $60 million deferred EBA?

The $20 million first installment of past EBA deferrals should be spread to rate schedules according to the settlement terms in Docket 09-035-15, which was settled as part of the, you know, comprehensive settlement in 10-035-124 that you referenced.

So, you know, I don't think there's any dispute among parties on the spread of, you know, the first $20 million installment, or the subsequent second and third installments.

Turning next to the current EBA filing and $9.3 million in current EBA deferral since October 1st -- it was October 1, 2011, through December 31, 2011, we believe those should be spread using the composite NPC allocator. That's consistent with how base NPC was spread to rate schedules in the Company's last general rate case.

Additional recommendations. We addressed a host of other issues. Our recommendations on some of these other issue are -- I'll just summarize them quickly. In terms of finality of EBA rates, final EBA rates should not be established until you hold a hearing to consider any issues raised by parties regarding the accuracy or prudence of EBA costs.

We have a little bit different recommendation than UIEC on how long parties should have to review the Division's EBA report. We think we should have 45 days to do disco -- you know, review the report, do our analysis, submit the discovery if we need to, and then submit recommendations to the Commission. I think UIEC proposes 30 days.

Turning to EBA filing requirements. EBA filing requirements should be developed for EBA filings to ensure complete -- completeness of information, minimize discovery, *et cetera*. The Commission could either use the process underway in Docket 09-035-15 to establish filing requirements, or it could open a rulemaking docket. So, you know, I think you have an option there.

These filing requirements should be completed prior to March 2013. And we believe they should be attached to the public -- or published EBA tariff for transparency.

In terms of costs recorded in the EBA, the Office supports the Division's proposal to set information requirements at a medium level of detail. These requirements should be evaluated after the first complete EBA cycle to determine if they should be adjusted upward or lowered.

And specific information that should be supplied by the Company, at least in the Office's view, is listed on -- in my testimony on lines 258 to 258 -- or 250 to 258 of my rebuttal testimony.

Turning to dynamic versus static allocation principles, that's had some discussion on that subject today by other witnesses already. We believe -- and I think the Commission supported a preference for that in your, your January 20th -- for dynamic principles, if you will, allocation principles in your January 20th EBA implementation order.

We support that. We think dynamic allocation principles should guide the allocation of total EBA costs in Utah.

And now to respond to a couple I guess UIEC issues. Contract customers, UIEC proposed to eliminate any reference in the EBA tariff sheets to special contract customers. We think that proposal should be rejected.

We simply think that the statutory language, I think it's UCA 54 -- well, it's UCA 54-7-13.5(2)(f), that should be used in the tariff sheets. And that states that the collection of EBA costs from contract customers is to be governed by the terms of the individual contracts.

So I think if you just use the tariff language -- or the statutory language for tariff purposes, that would be fine.

Terms of frequency of billing, there's been some discussion on that issue already. UIEC's billing proposal, it relates, as I understand it, to transmission voltage customers. We don't think it's a good idea to extend that, if you did adopt it, to residential, small commercial, and irrigation customers.

We think it would complicate the billing process and mix price -- possibly send mixed price signals to customers if there's a true up later on. And it's contrary to your initial order where you discussed a smoothing of EBA costs over a 12-month period.

If do you approve the billing proposal for the transmission voltage customers, which would be Schedule 9, the Office recommends that all associated administrative costs be directly assigned to those customers.

And that concludes my summary.

MR. PROCTOR: Mr. Gimble is available for cross.

CHAIRMAN BOYER: Thank you Mr. Gimble.

Ms. Hogle, any cross-examination of this witness?

MS. HOGLE: I have none.

CHAIRMAN BOYER: Ms. Schmid, any cross-examination of this witness?

MS. SCHMID: None.

CHAIRMAN BOYER: Mr. Dodge.

MR. DODGE: Thank you Mr. Chairman.

CROSS-EXAMINATION

BY MR. DODGE:

Q. Mr. Gimble, couple quick questions. You accept, do you not, that in the last general rate case the Commission did not approve any cost-of-service study?

A. That's correct.

Q. Nor did the Commission -- nor did the settlement or the Commission order adopting the settlement call out specifically how net power costs agreed to in that rate case were to be spread to customer classes?

A. Well, there, there's where maybe there's a difference. Because in terms of the Company's class cost-of-service study the base NPC, which was about, I think it was over $600 million on Utah basis, was spread by the composite NPC allocator.

Q. In the cost-of-service study.

A. Yes.

Q. I'm saying in the Commission order or in the stipulation was the spread of net power costs called out and identified?

A. Was the spread --

Q. Was the --

A. -- of NPC?

Q. Separate from all other costs. Was it called out and identified how net power costs would be spread, as opposed to total revenue requirements?

A. In terms of the delta, which was $15 million, it wasn't called out.

Q. In terms of any of the net power costs was it called out how rates would be spread, other than based upon the percentages agreed to in the cost-of-service stipulation?

A. It wasn't called out, but the Commission accepted the way that it was allo -- the base was allocated.

Q. You say they accepted. The base was allocated in some manner --

A. Right.

Q. -- but the Commission never determined that manner, did they? They didn't say what manner it was allocated in?

Well, let me back up -- I'll withdraw that question. Let me back up. Your composite NPC allocator uses strictly the Company's cost-of-service model, correct?

A. That's the starting point.

Q. Well, but for your purposes that was the ending point for this docket, correct?

A. It was.

Q. Did the, did the Office accept the Company's cost-of-service study and all its particulars in the last rate case?

A. I'm going back. We didn't accept it all in its entirety.

Q. And yet you're proposing to use the Company's cost-of-service study alone for purposes of the allocator you propose to use for the first EBA true up, correct?

A. Correct.

Q. You, you criticize the revenue spread allocator advocated by UAE, and I believe by Mr. Powell today on the stand. You agreed to that in connection with the $60 million. You agreed to use a revenue-based allocator as opposed to a strict cost-of-service-based allocator, did you not?

MR. PROCTOR: Objection --

Q. (By Mr. Dodge) Has the Office?

MR. PROCTOR: Pardon me, Mr. Dodge, I'm sorry. Objection on the grounds that I believe the question goes to what was accepted by a settlement agreement, which of course reserved out the recognition that the parties disagreed in that settlement in particular.

And so the ultimate order reflects the gross settlement, but not the particulars of any particular -- of any party's position. So I believe that you're now infringing upon that settlement confidentiality, which is statutory.

MR. DODGE: And I don't mean at all, Mr. Chairman, to delve into what was discussed in confidential settlement discussions, nor have I asked that. I asked whether the stipu -- I can break it into two parts:

Does the stipulation accept an allocator based upon revenue as opposed to cost of service? And secondly, did the Office sign that stipulation? That certainly doesn't infringe upon any confidential settlement discussions.

CHAIRMAN BOYER: All right. Let's restate the question that way in two parts.

Q. (By Mr. Dodge) So I'll start with the first one. To your understanding did the stipulation that was reached in the last general rate case and other dockets use a revenue-based allocator for all increased costs in that docket? In the general rate case docket.

A. That's my understanding.

Q. And secondly, did the Office accept that? Did it sign that stipulation?

A. The Office signed that stipulation.

Q. And lest there be any confusion, the Office still agrees that the $60 million, not just the first $20 million component, but the 60 million to be recovered over three years all will be allocated based upon that revenue allocator that was agreed to in the stipulation, correct?

A. Yes, there aren't differences among the parties on that. That was part of the comprehensive settlement.

Q. And then just finally you accept, do you not, that the Com -- that the Commission's clarification of its intent in how EBA true-up costs would be allocated focuses on the spread of base net power costs, as opposed to solely on any particular cost-of-service analysis of net power costs, do you not?

A. Can you restate, please?

Q. I'm asking you to distinguish between on the one hand any particular party's or even a Commission-adopted cost-of-service analysis in terms of how it spreads net power costs on the one hand, and how the Commission may ultimately spread those costs in its ultimate spread order on the other hand.

Do you accept that the Commission's clarifying order focuses on how the base net power costs will spread in the general rate case, as opposed to any particular cost-of-service analysis of the allocation of those costs?

A. Yeah, it's focused on the spread. I mean, it plainly is focused on the spread of the base NPC in the last general rate case.

Q. And you accept that factors other than purely costs can go into the Commission's ultimate spread determination of all costs, correct?

A. Well, cost causation, in fairness, are fundamental cornerstones in terms of cost-of-service principles, but there are other factors.

MR. DODGE: Thank you. No further questions.

CHAIRMAN BOYER: Thank you Mr. Dodge.

Mr. Evans?

MR. EVANS: No questions, thank you.

CHAIRMAN BOYER: Commissioner Allen? Commissioner Campbell? And I have no questions.

Mr. Proctor, no redirect?

Okay. Well, thank you Mr. Gimble, you are excused.

Let's move now to Mr. Dodge and his witness.

MR. DODGE: Thank you Mr. Chairman. We'll call Kevin Higgins.

Mr. Higgins needs to be sworn, Mr. Chairman.

CHAIRMAN BOYER: Yes, I recall that.

(Mr. Higgins was duly sworn.)

KEVIN C. HIGGINS,

called as a witness, having been duly sworn,

was examined and testified as follows:

DIRECT EXAMINATION

BY MR. DODGE:

Q. Mr. Higgins, would you identify yourself and for whom you're testifying?

A. My name is Kevin C. Higgins. I'm testifying on behalf of UAE.

(The reporter asked the witness to speak up.)

THE WITNESS: My name is Kevin Higgins, and I'm testifying on behalf of UAE.

Q. (By Mr. Dodge) And in this docket, Mr. Higgins, did you cause to be prepared and filed under your name your direct testimony, which was labelled UAE Exhibit 1D, your rebuttal testimony, which was list -- identified as UAE Exhibit 1R, your rebuttal Exhibit KCH-1, which is designated as UAE Exhibit 1R.1, and supplemental rebuttal testimony identified as UAE Exhibit 1RS?

A. Yes.

Q. And does that testimony, collectively, represent your testimony in this docket this morning?

A. Yes, it does.

MR. DODGE: Mr. Chairman, I'd move the admission of the exhibits I just identified.

CHAIRMAN BOYER: Are there any objections to the admission of Mr. Higgins' direct, rebuttal, and supplemental rebuttal, together with exhibits as prefiled?

Seeing none, they are admitted.

(Mr. Higgins' testimony was admitted.)

MR. DODGE: Thank you.

Q. (By Mr. Dodge) Mr. Higgins, could you please provide a brief summary of your testimony?

A. Yes, thank you. Good morning. My testimony addresses whether Rocky Mountain Power's proposed treatment of rate spread included in its proposed Tariff Sheet 94.5, filed at the outset of this docket, complies with the Commission's Phase II EBA order on this subject.

My conclusion is that it does. The Company's proposed language ties directly back to the rate spread approved by the Commission in the last general rate case. This issue turns on the plain statement in the Commission's Phase II order that the Commission will rely on its most recent general rate case revenue spread and rate design decisions for the spread of the deferred EBA balance to rate schedules and to rate elements.

Although cost of service is an input into rate spread, we all know that cost of service and rate spread do not mean the same thing. Rate spread takes additional factors into account other than class cost allocation.

It appears to me that attempts to apply an EBA spread based on a narrow cost metric are inconsistent with the Commission's Phase II order plainly stating that the Commission will rely on the rate spread in the most recent general rate case.

In particular, the proposal made by Mr. Gimble on behalf of the Office to use a composite net power cost allocator is inconsistent with this provision. Moreover, Mr. Gimble's proposal is simply a variation of what Rocky Mountain Power had initially proposed in its initial Phase II filing and will produce results that are not substantially different from what Rocky Mountain Power had recommended.

As the Company's proposal was discussed in the Phase II order and was neither accepted nor modified by the Commission, it appears to me that Mr. Gimble's proposal lies outside the boundaries of the Commission's admonition that this proceeding is not intended to be a forum for relitigating the EBA Phase II proceeding.

Finally, I wish to call special attention to the spread of the $20 million per year for three years in deferred net power costs that are included as part of the settlement stipulation in Docket No. 10-035-124. A specific formulaic spread of those costs was an integral part of stipulation approved in that docket, upon which the parties relied in agreeing to that comprehensive and complex settlement.

It would be fundamentally unfair to parties who negotiated that agreement in good faith to alter the rate spread of these specific dollars on an after-the-fact basis. And from what I can tell based on listening to the other parties in this proceeding to this point, there seems to be some consensus around that, around that principle.

And that, that concludes my summary.

MR. DODGE: Mr. Higgins is available for cross.

CHAIRMAN BOYER: Okay. Thank you Mr. Higgins.

Ms. Hogle, any cross-examination?

MS. HOGLE: I have none.

CHAIRMAN BOYER: Ms. Schmid?

MS. SCHMID: None.

CHAIRMAN BOYER: Mr. Proctor?

MR. PROCTOR: Yes, thank you.

CROSS-EXAMINATION

BY MR. PROCTOR:

Q. Mr. Higgins, what was the date of the Phase II order that you referred to as determining the rate spread of the EBA?

A. I believe it was March 3, 2001.

Q. Did not this Commission issue an order on January --

A. Oh, 2011, sorry. 2011, pardon me.

CHAIRMAN BOYER: Time flies, doesn't it?

THE WITNESS: It flies, you know. When you have your head to the -- nose to the grindstone it just passes like.

MR. PROCTOR: Or when you're getting old it just.

Q. (By Mr. Proctor) Are you aware that the Commission issued a January 20, 2012, implementation order, and in that order it referenced how EBA -- deferred EBA amounts to -- must be consistent with the approved spread of base EBA costs to rate schedules?

A. Yes.

Q. Does that language in the January 20, 2012, implementation order, is it different than the language that you saw quoted from the Phase II order of March 2011?

A. In substance, no. Because the, the updated language still refers back to the concept of rate spread. And rate spread, even if it's the spread of EBA-related costs, is distinct from allocation of costs.

Allocation of costs takes place in the cost-of-service study. Spread of rates takes that information and other information and is applied to the final determination of rates that customer classes are required to recover.

Q. So your reference to them to be in substance the same is based upon your interpretation of what was intended by the March 11, 2012, versus the January 20, two thou -- or excuse me, 2011, versus the January 20, 2012, implementation order?

A. Yes. I did, I did not see -- the Commission retained the nexus to spread in its updated order on this subject. And so it simply referenced specifically the EBA spread, but, but it was spread, nonetheless, as distinct from allocation of costs.

Q. Only in the January 20, 2012, order did they reference, as you just noted, the base EBA costs, correct?

A. Yes.

MR. PROCTOR: Thank you Mr. Higgins.

CHAIRMAN BOYER: Mr. Evans, any cross-examination of this witness?

MR. EVANS: No, thank you.

CHAIRMAN BOYER: Okay, thank you.

Commissioner Allen? Commissioner Campbell? I have no questions.

Any redirect, Mr. Dodge?

MR. DODGE: No, thank you.

CHAIRMAN BOYER: Well, thank you Mr. Higgins, you are excused.

THE WITNESS: Thank you.

CHAIRMAN BOYER: Let's proceed now, I think we have time. We'll proceed now to hear from the UIEC and their witness, Mr. Brubaker.

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MAURICE BRUBAKER,

called as a witness, having been duly sworn,

was examined and testified as follows:

DIRECT EXAMINATION

BY MR. EVANS:

Q. Good morning Mr. Brubaker.

A. Morning.

Q. Would you state your name and occupation, please?

A. Maurice Brubaker. I'm a consultant with Brubaker & Associates.

Q. And are your qualifications attached as Appendix A to your direct testimony?

A. Yes.

Q. You're the same Maurice Brubaker that filed direct testimony with exhibits, prefiled errata to direct with an exhibit, prefiled rebuttal, and prefiled surrebuttal in this docket?

A. I am.

Q. And if I were to ask you the questions appearing in that testimony today would your answers be the same as in your prefiled written testimony?

A. They would.

Q. Do you have any corrections or additions to make?

A. I don't.

MR. EVANS: Mr. Chairman, we move for the admission of Mr. Brubaker's testimony as listed on the

UIEC exhibit list in this docket, which has been submitted to the Commission and the parties.

CHAIRMAN BOYER: Is there any objection to the admission of Mr. Brubaker's direct, rebuttal, surrebuttal, the exhibits, and errata as filed?

They are admitted.

(Mr. Brubaker's testimony was admitted.)

MR. EVANS: Thank you.

Q. (By Mr. Evans) Mr. Brubaker, do you have a summary of your testimony that you can present to us at this time?

A. I do, thank you. I would like to present just a brief summary touching on some of the major points in my testimonies.

First with respect to the monthly costs, of which there's already been a lot of discussion this morning. I think we all recognize that EBA costs vary monthly to a substantial extent, and that the reconciliations of EBA costs monthly are varying quite substantially by month. So to me it makes sense, both from a cost causation standpoint and for the purpose of conveying proper price signals to customers, to look at doing a reconciliation on a monthly basis.

And just as an example I looked at the Company's first filing, which covers the months of

October through December of 2011 for their reconciliation. And I noted that the amount per kilowatt hour in the reconciliation for the months of November and December were each about four times the amount per kilowatt hour in the reconciliation for October.

And I've not seen any other months but it's not surprising, those levels of differences, and so we'd like to look more closely and examine how we might better reflect those differences in the tariffs as we go forward.

And as I said in my surrebuttal testimony and was pointed out earlier today, we're not asking you to do that right now. We're not asking you to change what you've already done for the first cycle. But given that this is a pilot and this is the first experience all of the Utah parties have had with an EBA, we think it's important to take the time to look at some of these different aspects of allocation and reconciliation to try and see if we can't come to some, some approach that better reflects cost causation across the season and across customer classes.

It you don't ever collect the information or, or look at it you don't have any basis to evaluate whether there's a better way or not. So that essentially is what we're saying. We realize it could be -- it would be more complex and more complicated than, than what we're doing now, but sometimes that's just a necessity if you want to improve the accuracy of what you're doing.

We don't think that simplicity should be allowed to trump the approach or concept of trying to implement rates that are as reasonable and cost based as we can.

As part of that we also talked about the customer -- or the carrying charges that we have related to the monthly billing. And recommend looking at increasing the frequency of monthly billing -- or increasing the frequency to monthly billing, or every other month, or some other reasonable pattern. As opposed to waiting an average of 17 months, I think, to true up the over/unders with the customer.

If the customers were allowed to pay more frequently, even they're estimated amounts subject to true up, you could clear those balances more quickly. The Company would have their money or the customers would have their money back. And we don't have, you know, the circumstance of a lot of carrying charges piling up.

Second point I make on carrying charges is when you look at the, look at the cash flow, on average the Company is paying its fuel and purchase power bills 20 days after the end of the month. So to me it made sense to consider not starting the carrying charges until the Company is out of pocket some amount of money, and then it can flow on through to the ultimate collection with interest all the way, all the way down to that end.

I note in my testimony that the 6 percent rate is, I think, pretty high in today's markets. Commissioner Campbell, I think, raised the issue is this a policy question. And I think maybe at least in part, in part it's a policy question. And we would urge you to, to look at that.

I noted that the Company in January of 2012 floated 10-year first mortgage bonds at a rate of 2.95 percent for that 10-year obligation. And also reported in its 10-K that its short-term borrowing rate was 1/2 of 1 percent, not per year but on a monthly -- I'm sorry, not per month but on an annual basis. Which is equivalent to what the 6 percent is on a monthly basis.

So given the current economic circumstances we think that the 6 percent is worthy of at least another look. And maybe the -- maybe there is a reason for a policy change, for these kinds of things that tend to be short-term and can go both ways, to focus more on short-term borrowing rates or something like that as opposed to a hard number that's not particularly dynamic, let's say.

The third question that I addressed or want to highlight is the detail of information. And I guess I would characterize it this way: Some parties say, Let's start with not a whole lot, or a small amount of information, and build up to more if we need it. My point would be, unless you look at the detailed information you don't know whether you can ignore it or not.

You know, there can be a lot of -- you can look at high-level account details and numbers and it looks fine but, you know, unless you raise the hood and look underneath it you may not detect potential problems or issues.

And it's not a matter of people trying to do the wrong thing or to hide things, it's just these are very complex transactions and recordkeepings. The Company keeps records in a number of forms, like most corporations. And we just want to be sure we get the right numbers.

And so, yeah, maybe it takes, maybe it takes more labor on the front end, but we need to look at it in enough detail to find out what do we really need. And if there's detail that doesn't need to be provided, then you can avoid doing that. But unless you, unless you know what's there I think it's hard to, hard to make a good decision about that.

The tariff itself ought to be pretty complete as to what's to be included. And we're not saying everything has to be in the tariff. Mr. Croft's level of medium or high-level detail we think would be appropriate. But there could also be other documents. If they're official documents, Commission orders, or agreed-upon manuals for implementation of EBA that could be referred to, that would be fine.

The point is, when the Division or others are evaluating what the Company gives it you have to have some guidepost to go back to and say, What is it they were supposed to put in here? What is it they were supposed to leave out? And did they do that? And if you're very general in the tariff, it's difficult.

And I have, unfortunately, been in more than one proceeding where there were conflicts and differences of viewpoint about the language of the tariff and what it permitted, or required, or what it disallowed. And so I think it makes sense to try to tie this down as much as possible. And so that's why we opt for a higher level of detail here on the front end.

On, on contracts, I think the UIEC position has been laid out pretty well. We're -- we would be fine, I think, with just putting the statute language into the, the tariffs. So that would conclude my summary.

MR. EVANS: Thank you. Mr. Brubaker is available for cross.

CHAIRMAN BOYER: Thank you Mr. Brubaker.

Ms. Hogle, do you have cross-examination?

MS. HOGLE: I do. A few questions.

CROSS-EXAMINATION

BY MS. HOGLE:

Q. Good morning Mr. Brubaker.

A. Morning.

Q. Are you familiar with the Commission's corrected report and order in Docket 09-035-15, the ECAM approval docket, that they issued I believe March 3, 2011?

A. I haven't -- I've read it. I haven't committed it to memory, but I've read it.

MS. HOGLE: Okay. May I approach the

witness, Commissioner?

CHAIRMAN BOYER: You may.

Q. (By Ms. Hogle) Have you had an opportunity to review what I've just handed to you?

A. I just kind of walked through the pages. I didn't know what you wanted to ask me, so I didn't --

Q. Okay.

A. -- put focus on anything in particular.

Q. Subject to check, and while you're still looking through that, will you agree with me that the document consists of the first two pages and page 76 of the Commission's March 3, 2011, order? First document that I gave to you.

A. That's the cover, the first two pages behind the cover, and page 1, 70 -- page 76 and page 77 of that article.

MS. HOGLE: Mr. Chairman, I'd like the Commission to take administrative notice of this March 3, 2011, Corrected Report and Order in Docket 09-035-15.

CHAIRMAN BOYER: Okay, we shall.

Q. (By Ms. Hogle) Can you turn to page 76, Mr. Brubaker?

A. I have it.

Q. Will you agree with me that the formula on top of page 76 is the Commission-approved formula for the calculation of carrying charges for the EBA?

A. I would.

Q. And if you would can you please turn to page 3, lines 53 to 58 of your rebuttal testimony?

A. I will do that. I'm pausing here because I'm thinking that there was a typo there in the .005 percent carrying charge rate that the Company may have corrected later. But subject to that, this is the -- what the Commission put out as its order.

Q. And I believe it was corrected in Mr. McDougal's testimony.

A. I'm sorry, I'll ask my testimony reference that you asked me to turn to.

Q. Oh. Page 3 of your rebuttal testimony, lines 53 to 58.

A. Yes.

Q. And can you start reading where it says: "As I indicated in my direct testimony," and then ending with "enjoys" on line 57? Can you read that, please?

A. Okay. Page -- lines 53 through 57 basically is I think what you're asking me to read?

Q. To read, if you will.

A. Yeah.

"As I indicated in my direct

testimony, RMP enjoys certain payment lags, which means that application of carrying charges should not commence at the end of a calendar month, but rather should commence to be applied 20 days following the end of the calendar month in order properly to account for the lags in payment that RMP enjoys."

Q. Thank you. Now can you go back to that formula that you were looking at a minute ago, page 76 of the Commission order?

A. Yes.

Q. Do you see any reference in that formula, the Commission-approved formula, for a 20-day carrying charge delay to account for payment lag?

A. No, I don't.

Q. So you're raising a new issue in this compliance docket; isn't that right?

A. I think, yeah, it's an issue that wasn't considered in developing this particular tariff. I would, I would agree with that.

Q. One that you could have raised in the ECAM approval docket, 09-035-15; is that right?

A. Possibly, if I have been testifying at the time.

Q. Or one that your client, UIEC, could have raised?

A. I think that's right.

Q. Okay. Are you familiar with the Commission's prehearing order in Docket 11-035-T10 --

A. Yes.

Q. -- issued January -- okay. I believe you have a copy of it in front of you.

A. Yes, I do.

Q. Or a copy of part of it in front of you. What I've handed to you are pages 2 and 5, in addition to the cover page of that prehearing order. Will you agree with me that that's --

A. Yes, I will.

Q. Okay.

MS. HOGLE: Mr. Chairman, I'd like the Commission to take administrative notice of its prehearing order in Docket 11-035-T10, issued January 20, 2012.

CHAIRMAN BOYER: Okay, so noted.

Q. (By Ms. Hogle) Okay. So can you page to turn 2 (sic) of that prehearing order and begin reading, after the discussion section, the second sentence and the third sentence for me, please?

(The reporter asked the witness to speak up.)

THE WITNESS: All right. Which page again, please?
Q. (By Ms. Hogle) Page 2 of that prehearing order. The second sentence after the discussion section. Or in that discussion section.
A. "As such, our inquiry in this docket
is limited to questions regarding the
proposed tariff's compliance with
pertinent statutes and our prior
orders."
Q. Can you continue with the third sentence?
A. "It is not a forum for relitigating
positions presented (or that should have
been presented) in the prior proceedings
which produced the EPA and -- EBA and
determined the EBA-related costs that
are currently in rates."
Q. And then can you turn to page 5 and read the second sentence after the three questions?
A. "Also, in the event any party
identifies an aspect of the EBA
implementation upon which our prior
orders are silent, and which requires
resolution in order to begin
implementation of the mechanism, we will

consider proposals to supply the needed information."

Q. Isn't it true that the Commission could begin implementation of the mechanism without incorporating your proposal that you cite in your testimony regarding carrying charges and application of a 20-day delay accounting for payment lag?

A. Yes, they could. And I think that's what we said in our surrebuttal testimony. That these were things to be looked at in the deferral period properly, and we're not asking the Commission to change anything it's already done at this point.

MS. HOGLE: Thank you Mr. Brubaker. I have no further questions.

CHAIRMAN BOYER: Okay, thank you Ms. Hogle.

Ms. Schmid, any questions of this witness?

MS. SCHMID: No questions.

CHAIRMAN BOYER: Mr. Proctor, any cross-examination?

MR. PROCTOR: No.

CHAIRMAN BOYER: Mr. Dodge?

MR. DODGE: No questions.

CHAIRMAN BOYER: Okay. Commissioner Allen? Commissioner Campbell?

COMMISSIONER CAMPBELL: I guess just one

question. I mean, you argue that your position is based on cost causation and that's an important factor. And I'm just trying to reconcile your position on the monthly versus the Office's allocator, which is argued that it also is more cost causative than what we currently have before us.

THE WITNESS: Surely. I think there are different, different aspects of cost causation. Certainly the method that you use in a cost-of-service study and might or might not adopt in an order is one view of cost causation.

On a less complex level, seasonal variations in costs can be recognized without adopting an explicit cost-of-service methodology. We have rates now that reflect cost differences by season-based tariff to do that. This is just another aspect of trying to capture those changes as to the reconciliation part of the EBA laws.

CHAIRMAN BOYER: Thank you.

Mr. Evans, is there any redirect?

MR. EVANS: No, Mr. Chairman. Thank you.

CHAIRMAN BOYER: Okay. Thank you, Mr. Brubaker, you may be excused.

THE WITNESS: Thank you.

CHAIRMAN BOYER: Is there anything further we should hear this morning?

All right. With that we'll conclude this hearing. We will take this matter under advisement and get an order out as soon as humanly possible. Thank you all for your participation.

(The hearing was concluded at 11:47 a.m.)

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**C E R T I F I C A T E**

STATE OF UTAH )
) ss.
COUNTY OF SALT LAKE )

This is to certify that the foregoing proceedings were taken before me, KELLY L. WILBURN, a Certified Shorthand Reporter and Registered Professional Reporter in and for the State of Utah.

That the proceedings were reported by me in stenotype and thereafter caused by me to be transcribed into typewriting. And that a full, true, and correct transcription of said proceedings so taken and transcribed is set forth in the foregoing pages, numbered 1 through 121, inclusive.

I further certify that I am not of kin or otherwise associated with any of the parties to said cause of action, and that I am not interested in the event thereof.

SIGNED ON THIS **29th** DAY OF **April**, **2012**.

___________________________
Kelly L. Wilburn, CSR, RPR
Utah CSR No. 109582-7801

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