

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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In the Matter of: The Application of ) Docket No:  
Rocky Mountain Power to Increase Rates ) 12-035-67  
by \$29.3 Million or 1.7 Percent Through )  
the Energy Balancing Account. )  
)

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In the Matter of: The Application of ) Docket No:  
Rocky Mountain Power for Authority to ) 12-035-68  
Revise Rates in Tariff Schedule 98, )  
Renewable Energy Credits Balancing )  
Account, by Crediting Revenues of )  
Approximately \$4.0 Million. )

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TRANSCRIPT OF HEARING PROCEEDINGS

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

DATE: May 14, 2012

TIME: 9:04 a.m.

REPORTED BY: Kelly L. Wilburn, CSR, RPR

APPEARANCES

Presiding:

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WITNESSES

In Docket No. 12-035-67

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For the Office

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WITNESSES

In Docket No. 12-035-68

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1 MAY 14, 2012

9:04 A.M.

2 P R O C E E D I N G S

3 HEARING OFFICER: Good morning. My name is  
4 David Clark. The Commission has designated me as the  
5 presiding officer for the two matters scheduled for  
6 hearing this morning.

7 The first is Docket No. 12-035-67, which is  
8 captioned: In the Matter of the Application of Rocky  
9 Mountain Power to Increase Rates by \$29.3 million, or  
10 1.7 percent through the energy balancing account.

11 The second matter, which was duly noticed for  
12 hearing immediately following the hearing in the  
13 12-035-67 matter is Docket No. 12-035-68, captioned:  
14 In the Matter of the Application of Rocky Mountain  
15 Power for Authority to Revise Rates in Tariff  
16 Schedule 98, Renewable Energy Credits Balancing  
17 Account, By Crediting Revenues of Approximately  
18 \$4 Million.

19 Let's begin by taking the appearances of the  
20 parties and counsel here. Ms. Hogle?

21 MS. HOGLE: Good morning Mr. Hearing Officer  
22 and parties. Yvonne Hogle on behalf of Rocky Mountain  
23 Power. With me today are Mr. Brian Dickman, Mr. Steve  
24 McDougal, and Mr. Bill Griffith, who will be providing  
25 a short summary of their testimony in support of the

1 application. Thank you.

2 HEARING OFFICER: Thank you. Ms. Schmid?

3 MS. SCHMID: Patricia Schmid, with the  
4 Attorney General's Office, for the Division of Public  
5 Utilities. And with me is Mr. Wes Felix. We have  
6 Mr. Matthew Croft as our witness today.

7 HEARING OFFICER: Thank you.

8 MR. GIMBLE: Yeah, I'm Dan Gimble. I'll be  
9 the witness for the office. The Office does not have  
10 counsel today.

11 HEARING OFFICER: Thank you Mr. Gimble.

12 MR. EVANS: I'm William Evans for the Utah  
13 Industrial Energy Consumers. And I'll be appearing in  
14 the first docket, 12-035-67. My partner, Vicki  
15 Baldwin, will enter appearance in the second docket  
16 today.

17 HEARING OFFICER: Thank you.

18 MR. DODGE: Gary Dodge on behalf of UAE.

19 HEARING OFFICER: Thank you.

20 MS. SCHMID: Pardon me, if I may? Brenda  
21 Croft will be our witness in the second docket.  
22 Brenda Salter. Oh dear, Brenda Salter.

23 HEARING OFFICER: Thank you. I'd like to  
24 begin this morning by hearing the parties' positions  
25 on the comments filed by UIEC, which in effect, at

1 least as to some of the issues in the EBA docket and  
2 all of the issues in the RBA docket, would cause us  
3 not to go forward today.

4 So Ms. Hogle, would you like to address that?

5 MS. HOGLE: Yes, thank you Mr. Hearing  
6 Officer. On behalf of Rocky Mountain Power we would  
7 like to thank the Commission for the opportunity to  
8 present to you the Company's application and  
9 supporting testimony for approval of a surcharge to  
10 the Company's customers of approximately \$28.9 million  
11 beginning June 1, 2012.

12 Rather than going into all of the history of  
13 the EBA, the Company requests that you take official  
14 notice of Docket Nos. 09-035-15, which is the EBA  
15 docket, 10-035-124, the 2011 general rate case, and  
16 11-035-T10, the EBA tariff compliance docket.

17 HEARING OFFICER: Any objection?

18 MS. HOGLE: The EBA -- the purpose of the EBA  
19 is to track the difference between base net power  
20 costs, or energy balancing account costs plus wheeling  
21 revenues, and actual energy balancing costs, and  
22 charge or credit 70 percent of the difference of that  
23 to our Utah customers on an annual basis.

24 At issue in this case is the \$8.9 million of  
25 EBAC costs the Company seeks to collect through an



1 interim surcharge. No party has an issue with the  
2 recovery of the \$20 million installment agreed to as  
3 part of the stipulation in the Utah general rate case  
4 in 2011. The Commission should approve the recovery  
5 of the \$20 million on a final basis, as that was the  
6 final amount.

7 With respect to the proposed effective date,  
8 the effective date is something that could have been  
9 brought up in the EBA docket, in the Utah general rate  
10 case, and the recently-concluded EBA tariff compliance  
11 docket, because it was discussed in all three of those  
12 dockets.

13 The scope of the EBA tariff compliance docket  
14 in fact was to determine if the Company's Tariff  
15 Schedule 94 was consistent with prior Commission  
16 orders and Utah laws that are relevant to the  
17 implementation of the EBA.

18 Recently the Commission issued its order in  
19 the tariff compliance docket ordering the Company to  
20 make a few modifications to Tariff Schedule 94 prior  
21 to the proposed effective date of June 1, 2012. Which  
22 date, by the way, was prominently displayed on each  
23 page of Tariff Schedule 94.

24 No party raised an issue with that date in  
25 that docket, so not surprisingly the effective date

1 was not one of the modifications that the Commission  
2 ordered the Company to make.

3 It is inappropriate for UIEC to, at this 11th  
4 hour, try to stop the implementation of the EBA by  
5 raising an issue that should have been brought up  
6 several dockets ago. And which UIEC had every  
7 opportunity to do so.

8 With respect to the interim rate, to justify  
9 an interim rate of \$8.9 million the Company must  
10 provide *prima facie* evidence that it is just and  
11 reasonable. As noted by all parties, including UIEC,  
12 the Company's calculations are consistent with the  
13 methodologies and formulas in Tariff Schedule 94. So  
14 mathematically, the amount is correct.

15 With a few modifications noted in the  
16 Commission order recently issued in the EBA tariff  
17 compliance docket, Schedule 94 is consistent with  
18 applicable Commission orders and Utah law.

19 The Commission has already found that the EBA  
20 is in the public interest. It found that the EBA  
21 should be processed in two phases: An interim and a  
22 final phase. So an application for interim approval  
23 such as the one before you that contains -- or  
24 conforms to the process and contains the appropriate  
25 costs and revenues described in the Company's tariff

1 will result in just and reasonable rates.

2 Because the request for the \$8.9 million is  
3 for interim approval, all parties will have an  
4 opportunity to continue to review and evaluate it  
5 before final rates go into effect. Parties will also  
6 have every opportunity to determine if the energy  
7 balancing account -- energy balance account costs of  
8 \$8.9 million were prudently incurred.

9 So based on the Division's recommendation for  
10 interim approval of the Company's request for recovery  
11 with minor modifications to comply with the  
12 Commission's order in the EBA tariff compliance  
13 docket, and given that no, no party has brought forth  
14 any evidence demonstrating that the Company has not  
15 met its burden that its request is not just and  
16 reasonable, the Company respectfully requests that the  
17 Commission approve a surcharge of \$28.9 million  
18 beginning June 1, 2012, \$8.9 million of which would be  
19 on an interim basis.

20 The Company has three witnesses here today  
21 who would provide short summaries in support of the  
22 Company's application. Mr. Dickman will address --  
23 Mr. Brian Dickman will address the calculation of the  
24 EBA deferral amount.

25 Mr. Steve McDougal will address the

1 allocation of EBA costs to Utah as part of the EBA  
2 deferral filing. And finally, Mr. Bill Griffith will  
3 address the Company's proposed revenue spread and EBA  
4 rates. Thank you.

5 HEARING OFFICER: Thank you Ms. Hogle.

6 Ms. Schmid, do you have any comments?

7 MS. SCHMID: I do. UIEC fails to raise  
8 effective arguments to prevent us from going forward  
9 today. UIEC's arguments are inconsistent with the  
10 proceedings in the EBA docket, and are inconsistent  
11 with the nature of an interim rate increase.

12 The interim rate increase requires only a  
13 *prima facie* showing. And, as Ms. Hogle said, UIEC  
14 presents no evidence on the record to counter what is  
15 here. So it will be the Commission's duty to  
16 determine what evidence is on the record, and if that  
17 provides sufficient evidence to make a *prima facie*  
18 case for approval of the interim rates.

19 Also, UIEC's comments ignore the fact that  
20 this is a, a pilot program and will be going forward  
21 in different forms. UIEC's comments also ignore the  
22 fact that they have had ample opportunity to raise  
23 these issues in other dockets.

24 Thus, UIEC raises nothing to prevent the  
25 Commission from going forward and rendering a decision

1 on the matter set forth in this docket.

2 HEARING OFFICER: Thank you. Mr. Gimble?

3 MR. GIMBLE: The Office has no comment at  
4 this time.

5 HEARING OFFICER: Okay, thank you.

6 Mr. Dodge?

7 MR. DODGE: No, I have no comments. Thank  
8 you.

9 HEARING OFFICER: Mr. Evans?

10 MR. EVANS: Thank you. We've set out our  
11 position in our comments, and so assuming that  
12 everyone's read those I won't go back over that and  
13 state what our case is. But let me respond briefly to  
14 what's been said this morning.

15 This is the first opportunity that we've had  
16 to raise this issue with respect to the requested  
17 9.3 million. I guess it's down to 8.9 million today.  
18 We didn't raise it in the tariff proceeding because  
19 that has -- the T10 docket, that is, because we have  
20 agreed and stipulated to the recovery of \$20 million,  
21 which must be recovered under the tariff.

22 That procedure had to run its course. The  
23 tariff's in place. We don't have any objection to the  
24 Company beginning to collect its \$20 million, as of  
25 June 1, under the tariff.

1           As for the EBA docket itself, the 15 docket,  
2 this was never raised. We kept being told, Oh, we  
3 don't have a procedure. We don't know how this will  
4 work. This is a pilot program. The procedure will be  
5 decided when we get to the point where the Company has  
6 applied for recovery of EBA costs. Actual costs from  
7 this period at the end of 2011.

8           This is not the Federal Rules of Civil  
9 Procedure. There's no compulsory counterclaim here.  
10 And we're not required to oppose the application  
11 before the Commission set a time for us to file our  
12 comments. We don't believe that we've waived any  
13 argument, nor do we believe that it's late in coming.

14           We didn't have the \$9.3 million number until  
15 March 15. We didn't have the Division's report until  
16 much later. We're entitled to rely on the Division to  
17 do its job and ferret out the problems with the  
18 application. Which it did a good job in discovering  
19 that there were still estimates in that number. That  
20 there might have been problems with out-of-period  
21 adjustments.

22           And in res -- unfortunately, they didn't  
23 raise the legal issue that needed to be raised and  
24 that we have now raised our comments. So I don't  
25 think that, that our raising the issue at this point

1 is untimely. In fact, I think we've raised it just  
2 when it should be raised.

3 Ms. Schmid is right that there must be a  
4 *prima facie* showing of -- that the rates are just and  
5 reasonable and prudently incurred, which there has not  
6 been in this case.

7 Not only is -- has the Division's application  
8 been challenged as to the numbers that it put out, but  
9 there is -- and has been in the last few years --  
10 serious questions about swap losses, to the tune of  
11 many hundreds of millions of dollars, as a result of  
12 prudence that has had no examination. We've not  
13 looked at it.

14 And I don't see how any party can assert that  
15 the Company has made a *prima facie* showing that its  
16 power costs that it has in this 8.9 million are  
17 prudently incurred. There's nothing in the record to  
18 suggest that.

19 The Commission -- just because these rates  
20 are interim doesn't mean that they can be put in place  
21 without a finding that they're just and reasonable.  
22 Just and reasonable under the EBA statute, and all of  
23 the other Commission statutes, require a finding that  
24 the costs were prudently incurred.

25 That is gonna take some time. This is not

1 Questar. It's not a 191 account or a Questar Gas  
2 purchase balancing account. It is far more  
3 complicated than that. We're talking some time it  
4 will take before anyone has a handle on what the costs  
5 really should be or whether they were prudently  
6 incurred.

7 We don't have a -- but especially for the  
8 pilot program we should not be rushed into a June 1  
9 date. Now, let me also say this. Whenever the June 1  
10 date was raised it was raised in connection with  
11 recovery of the stipulated \$20 million. And we do not  
12 have a problem with that.

13 But we do have a problem rushing the rest of  
14 this to a rate increase before it has had a look.  
15 We're here today with Company witnesses and one -- and  
16 maybe a witness from the Division, but no opportunity  
17 for parties who oppose the application for the  
18 8.9 million to put in testimony.

19 And we don't think it's possible for the  
20 Commission to make a finding that it's just and  
21 reasonable to put that amount in rates at this time.  
22 We think that, because it's a pilot program, we should  
23 take our time. Take a look at it. Vet the issues of  
24 prudence and power costs. And get to a decision  
25 sometime down the road.



1           Let me say this as well. These same issues  
2 will be looked at thoroughly in the upcoming rate  
3 case. And the parties can use that rate case to  
4 inform themselves about what needs to be looked at,  
5 how it should be looked at. How we can best  
6 coordinate the EBA with base rates so that we don't  
7 start off down the wrong path on these EBA cost  
8 recovery proceedings.

9           If it takes a year, that's fine. They've got  
10 the \$20 million rate increase between now and then.  
11 Let's let the, let's let the process really run its  
12 course and make sure that we've got just and  
13 reasonable rates in place before they start recovery  
14 of the actual power costs from the fourth quarter  
15 2011.

16           HEARING OFFICER: Thank you Mr. Evans. As  
17 you were speaking you referred to the legal issue.  
18 Would you be more precise about, if you can recall the  
19 context of your comments, the legal issue that I  
20 believe you said the Division didn't raise and you  
21 raised in your comments. Would you --

22           MR. EVANS: The legal --

23           HEARING OFFICER: -- define that as you  
24 understand it?

25           MR. EVANS: Yes. The EBA statute allows for

1 recovery of actual prudently-incurred fuel and  
2 purchase power costs. Without a finding that they're  
3 actual and prudently incurred, there can't -- they  
4 can't be put into rates.

5 And not only do we know today, sitting here,  
6 that we're not looking at actual costs -- the Company  
7 and the Division both said they're estimated costs in  
8 here -- to what extent we do not know. We cannot put  
9 estimated costs into rates.

10 Second, they must not only be actual but they  
11 must be prudently incurred. There's been no finding  
12 of prudence. There's been no *prima facie* case put  
13 forth on prudence. And it is -- the legal issues are  
14 that the Commission must get to that decision.

15 Here's the final legal issue, is that you  
16 can't get to that decision by just hearing testimony  
17 from the advocate of that position. The Company. You  
18 must hear evidence from parties who oppose it. And  
19 there has been no process put in place for the  
20 Commission to hear that evidence.

21 Moreover, it wouldn't be appropriate to  
22 require the parties to file their testimony and, and  
23 submit that kind of evidence until there's been a  
24 chance to do some discovery and to do the audit that  
25 looks at whether these costs were prudently incurred.

1 I just don't -- to put in -- to put that kind  
2 of a -- to allow the actual power costs, whatever they  
3 may be, from the 11th quar -- from the fourth quarter  
4 2011 to go into rates now I think is to ignore due  
5 process, to ignore what the EBA statute says, and to  
6 ignore -- the Commission's primary job is to make sure  
7 that rates are just and reasonable. It can't be done  
8 based on this record.

9 HEARING OFFICER: Are you aware of how the  
10 schedule and process that we're operating under was  
11 determined? In other words, the dates and the -- and  
12 guidance in this -- in the Commission's March 30th  
13 scheduling order.

14 MR. EVANS: I understand the June 1 date came  
15 out of the stipulation. That's been the target date  
16 since back in July of 2011. But that was for the  
17 \$20 million.

18 Then we did an application for an additional  
19 9.3. And the process -- and when we sat in that  
20 scheduling conference it was unclear how the procedure  
21 was gonna go and what this hearing was gonna be about.

22 I am aware that the process -- this hearing  
23 today -- the 20 million can't go into rates until  
24 there's a hearing. That hearing scheduled back then  
25 was for the 20 million, in my view. I thought there

1 was gonna be some recommendation from the Division  
2 about how to set up the schedule to look at the  
3 \$9.3 million.

4 There was noth -- there's been nothing that I  
5 know of, except for the Company's application, where  
6 there was any understanding that that \$9.3 million  
7 should go into rates on June 1.

8 HEARING OFFICER: Thank you. Any comments  
9 from any other parties?

10 MS. HOGLE: Mr. Clark, may I -- may the  
11 Company have an opportunity to respond to that?

12 HEARING OFFICER: Sure.

13 MS. HOGLE: Thank you. First of all, in  
14 Docket 11-035-T10, which is the tariff compliance  
15 docket, where the Commission was, was noting the  
16 parties' positions as to the 8.9, or 9.3 million  
17 dollar surcharge at the time, the Commission itself  
18 noted that the surcharge would become effective on an  
19 interim basis June 1, 2012.

20 If you look at page 11, at the bottom there  
21 it says, and I'll read for the record:

22 "Under these circumstances we  
23 conclude just and reasonable rates are  
24 best achieved through spreading the  
25 June 1, 2012, EBA surcharge using the

1 percentages the settling parties chose  
2 to apply and spreading the revenue  
3 requirement increase in Docket  
4 No. 10-035-124 to each retail customer  
5 class."

6 And this was not a discussion with respect to  
7 the \$20 million, it was a discussion with respect to  
8 the 8 point -- excuse me, the \$9.3 million originally.

9 Secondly --

10 HEARING OFFICER: Before you leave that,  
11 Ms. Hogle, would -- just so we have it clear in the  
12 record, what's -- that's a Commission order that  
13 you're referring to. And --

14 MS. HOGLE: It's --

15 MR. EVANS: -- its date?

16 MS. HOGLE: The date on that is May 1, 2012.  
17 And it's Docket No. 11-035-T10. Bottom of page 11.

18 HEARING OFFICER: Uh-huh.

19 MR. EVANS: What? It's an order? It's the  
20 Commission's order?

21 MS. HOGLE: It's an order.

22 MR. EVANS: Okay, thank you.

23 MS. HOGLE: Yes. Second, the interim phase  
24 is not the phase where a prudence review would occur.  
25 The Commission, as I stated before, the Commission set

1 forth the two-step process. There is no deadline with  
2 respect to the finality of the rates and when that  
3 should occur in this case.

4 Parties will have a lot of opportunity to  
5 look at the prudence of the energy balancing account  
6 costs, including with respect to the swap losses. So  
7 any argument that any party will be deprived of due  
8 process fails under those circumstances because they  
9 will have due process.

10 They will have that opportunity. And, and  
11 like I said before, there is no deadline.

12 HEARING OFFICER: Ms. Hogle, is it your view  
13 that that includes, then, transactions in the  
14 October 1 to December 31, 2011, period?

15 MS. HOGLE: The -- during the deferral  
16 period, yes. So anything -- any costs that were  
17 incurred from October 2011 through December 2011 are,  
18 are appropriate to be evaluated and reviewed.

19 And then one last thing, the interim rates  
20 that will take effect are subject to refund. And so I  
21 think there is a protection for customers as well  
22 based on that.

23 HEARING OFFICER: Thank you.

24 MS. SCHMID: If I may?

25 HEARING OFFICER: Ms. Schmid, yes.

1 MS. SCHMID: Thank you. UIEC raises an  
2 issue, but further examination of the issue shows that  
3 there is no harm -- that, that putting rates into  
4 place on an interim basis here is consistent with the  
5 statutes set forth applicable to the Public Service  
6 Commission.

7 The Public Service Commission statutes  
8 contemplate interim rates, as well as provide methods  
9 for establishing interim rates, and the standard for  
10 final rates. The interim rates standard is set forth  
11 at 54-7-12, Section (4.) That standard is a *prima*  
12 *facie* standard.

13 To establish what goes into final rates there  
14 will be a second step in this docket. The Division's  
15 report is a Phase I. And it will be followed by a  
16 Phase II, or a second report, which will occur after  
17 the Division has had a longer period of time in which  
18 to examine the evidence to determine whether or not  
19 the final rates that would result would be just and  
20 reasonable.

21 By establishing rates that are interim, the  
22 Commission allows things to go forward but protects  
23 against harm. There is further opportunity for  
24 comment by the parties after the Division's report,  
25 albeit the period is short.

1           So perhaps the remedy, instead of stopping  
2 the process now, would be to allow interim rates to go  
3 into effect if the interim rates standard is proven by  
4 the parties, and then to establish a longer comment  
5 period, if needed, after the Division's second report.

6           I think that the process established is good.  
7 I think that there was an opportunity to challenge the  
8 process that could have been made. Although I, I will  
9 acknowledge that the time to request rehearing on the  
10 May 1st order in the T1 docket -- T10 docket has not  
11 passed.

12           The EBA dockets are extremely complex and  
13 intertwined. I think that by applying the interim  
14 rate standard to the evidence presented today, the  
15 Commission has the opportunity to follow through with  
16 the desired process on the EBA pilot program. Thank  
17 you.

18           HEARING OFFICER: Thank you. Mr. Evans?

19           MR. EVANS: Thank you. I've just been handed  
20 a copy of the order in the T10 case, that May 1 order,  
21 and I'm looking at the bottom of page 11. I see the  
22 reference to the spread. The only reference I see to,  
23 to an increase is the reference to the stipulation  
24 made in Docket 10-035-124.

25           We did not -- I don't believe that the



1 Commission here was addressing the \$9.3 million rate  
2 increase. So I don't think that the, the order on the  
3 tariff cuts one way or the other on whether the  
4 Commission -- on what the Commission should do with  
5 this \$9.3 million request.

6 Second, interim, interim rates are interim  
7 because they are changes in the rates that occur  
8 between rate cases. They were originally put in place  
9 so that the Company -- in a time of steep inflation,  
10 so that during the 240-day rate case period the  
11 Utility wouldn't suffer losses simply due to inflation  
12 during the time between the filing of the application  
13 and the time that rates go into effect.

14 Originally there was a showing -- an interim  
15 rate required a showing of financial harm. Not only  
16 financial, but serious financial harm to the Utility  
17 before the Commission would order interim rates. That  
18 eventually got relaxed in rate cases.

19 But the statute that Ms. Schmid references is  
20 a rate case statute. And we agree that it does state  
21 the principle that there must be a *prima facie* showing  
22 that the rate is just and reasonable before it goes  
23 into effect. Our point here, of course, is there's  
24 been no such showing.

25 Second, even though the rate is interim, it

1 doesn't mean that there's not harm if it goes into  
2 effect before it's determined to be just and  
3 reasonable. Yes, it's subject to refund, but refund  
4 cannot make customers whole.

5           And that has been recognized by the  
6 Commission since the very first time it ordered an  
7 interim rate. There's a problem with taking the  
8 customers' money first and then determining whether  
9 the rate is just and reasonable. And we've cited in  
10 our brief examples of why that is.

11           The other one that we didn't cite is that you  
12 can't make sure that -- no one can be sure that the  
13 refund ever goes back to the customers who paid the  
14 overcharges. And certainly cannot guarantee that it  
15 goes to those customers in proportion to the amount  
16 that they paid. It just is not a suitable remedy, and  
17 it's not correct to say there is no harm.

18           The Company's -- the Company's getting  
19 6 percent on this. This is subject to 6 percent  
20 interest. The harm is foreclosed by the interest rate  
21 by letting them collect -- defer this amount and  
22 collect 6 percent interest on it before they amortize  
23 it. Before they collect it in rates.

24           We're -- the potential for harm by delaying  
25 the implementation of that \$9.3 million in rates is

1 covered by the carrying charges. To say that they  
2 need to recover it now to avoid harm is not only not  
3 true, but it is a less-efficient way to avoid the harm  
4 to make them pay now subject to refund.

5 So I think that, I think that if we're  
6 looking at the balance of harm, there's far less harm  
7 done by delaying the implementation of this rate  
8 increase, rather than putting it in place now and then  
9 trying to determine whether it's just and reasonable  
10 and do a refund in a way that customers won't be hurt.

11 HEARING OFFICER: Thank you.

12 I want you to know, I intend to take a recess  
13 shortly. But before I do I'd like counsel to address  
14 whether or not any of the arguments that you've made  
15 are different in the context of the RBA.

16 We've been addressing principally the EBA in,  
17 in the arguments. At least the specific references  
18 have been to the energy balancing account as opposed  
19 to the renewable energy credit balancing account.

20 MS. BALDWIN: Mr. Hearing Officer?

21 HEARING OFFICER: Are the arguments  
22 different, or are there additional arguments in that  
23 setting? And let me --

24 MS. BALDWIN: If I may, we withdraw our due  
25 process claim in the RBA case. We recognize that that

1 is not a rate increase, instead it's a self-expiring  
2 liquidating credit; therefore, we withdraw that due  
3 process claim in that case.

4 HEARING OFFICER: Just to help me be clear,  
5 Ms. Baldwin. I'm looking, for example, on page 2 of  
6 your comments -- or 2 of your filing. And you  
7 address -- or perhaps best to say that the -- I'm  
8 looking at the last sentence in the paragraph that  
9 begins on page 1 and continues onto page 2, where you  
10 reference a direct violation of UIEC's procedural and  
11 substantive due process rights.

12 MS. BALDWIN: Yes, and I would like to  
13 withdraw that statement.

14 HEARING OFFICER: Okay. And so concerns  
15 about the use of an interim rate approach are  
16 withdrawn as well?

17 MS. BALDWIN: We do have concern with the  
18 approach; however, we understand that there is no  
19 legal basis for a due process claim. And that there  
20 is a self-expiration of this credit, and there will be  
21 a credit going forward. And those two exist.

22 And this is not a rate adjustment, actually,  
23 even though it appears to be in effect, and therefore  
24 we do withdraw any complaint about the process in the  
25 RBA only.

1           However, our recommendation does remain the  
2 same. As you will see, our recommendation was not to  
3 delay. Our recommendation was to go forward with the,  
4 the credit and still have the Commission order the  
5 Division to conduct certain hearing -- certain  
6 findings.

7           HEARING OFFICER: I wonder if I -- would you  
8 mind if I -- if you just summarize for me then what  
9 remains? I want to make sure I understand where UIEC  
10 is exactly, and what we've left behind, what still is  
11 on the table. Can you please?

12           MS. BALDWIN: Okay. What's on the table is  
13 that we think that the assets are being wasted. And  
14 we still urge the Commission to go forward with  
15 investigating -- ordering the Division to investigate  
16 whether the Company was imprudent in its management of  
17 the RECs.

18           If so, what portion of banked RECs should  
19 have been sold at a higher price. What value should  
20 have been imputed to those RECs. And whether a  
21 carrying charge should start accruing on those RECs.  
22 That investigation we think should go forward, but we  
23 have no qualms with the temporary rate going into  
24 effect.

25           HEARING OFFICER: So the investigation you're

1 describing would take place during the pendency of the  
2 interim rate?

3 MS. BALDWIN: Yes. And it's our  
4 understanding that all parties would be allowed to  
5 participate in that investigation.

6 HEARING OFFICER: Thank you. Any questions  
7 or comments based on that clarifying statement from  
8 Ms. Baldwin?

9 MS. HOGLE: Just one clarification,  
10 Mr. Clark. Is the Company gonna have an opportunity  
11 to respond to that as a -- in a separate proceeding,  
12 or do you envision ruling from the bench, or -- I  
13 mean, it almost seems to me like this is a combined  
14 process. Is that what is transpiring?

15 HEARING OFFICER: Well -- thank you. The  
16 proceedings aren't consolidated, but I'm trying to be  
17 efficient. I want to take a recess, confer with the  
18 Commissioners. And I thought it would be most  
19 efficient if I understood all of the positions on the  
20 issues that would prevent us, in the minds of UIEC at  
21 least, prevent us from going forward today.

22 So that -- so I am interested in hearing any,  
23 any positions of parties on that set of issues or  
24 questions. With -- and, and so I'd like to know what  
25 your response is to UIEC's change in position and, and

1 any, any other comment that you would have at this  
2 time, so.

3 MS. HOGLE: So, yes. With respect to the  
4 interim rates, the issue with the interim rates that  
5 UIEC just withdrew, the Company would just like to  
6 make it clear that when it filed its application it  
7 did not seek interim approval of the credit in the  
8 case.

9 If you recall, Mr. Hearing Officer, at the  
10 scheduling conference parties, including UIEC,  
11 insisted that the Company agree to an interim rate  
12 process. The Company agreed to that. And so for UIEC  
13 to have made that argument that the Commission doesn't  
14 have authority to approve interim rate case -- an  
15 interim rate increase is, is contradictory.

16 So basically what it -- what happened is  
17 that, you know, it was a bait and switch. And I want  
18 that to be on the record.

19 MS. BALDWIN: Mr. Clark, I would like to  
20 repeat that I did withdraw the argument, so I'm not  
21 sure -- I did withdraw the argument -- I did withdraw  
22 the claim, and therefore I'm not sure why we're going  
23 forward with argument against my now-withdraw claim.

24 HEARING OFFICER: Thank you. I have another  
25 set of questions for you. And again, this addresses

1 both dockets, I hope this isn't too cumbersome for the  
2 parties. But what is your sense of what would remain  
3 of substantive issues relating to the RBA?

4 What issues would we hear today, in light of  
5 the change in position from UIEC? Are you able to  
6 articulate for me?

7 MS. HOGLE: Can I respond to that?

8 HEARING OFFICER: Uh-huh.

9 MS. HOGLE: In particular we'd like to  
10 respond to the UIEC's continued recommendation that  
11 the Division invest -- or that the Commission order  
12 the Division to investigate REC sales on a historical  
13 basis to possibly impute a higher value to those REC  
14 sales.

15 HEARING OFFICER: Would you be offering  
16 testimony on that issue, or argument?

17 MS. HOGLE: It would be argument, your Honor.

18 HEARING OFFICER: Okay.

19 MS. HOGLE: Pursuant to the global settlement  
20 agreement in the 2011 general rate case, parties  
21 agreed that the RBA include a credit balance of  
22 \$39.5 million, representing REC revenues received by  
23 the Company from February -- approximately  
24 February 2010 through December 2010, which the Company  
25 agreed to pass on to its customers.



1           As part of a prior settlement in  
2 Case 10-035-89 the Company also agreed to pass on to  
3 its customers a \$3 million monthly credit beginning in  
4 January 2011. As a result of these settlements, REC  
5 revenues of a total of approximately \$73 million, and  
6 \$42 million on a Utah basis, generated by the Company  
7 during 2011 is being passed on to the Company's Utah  
8 customers.

9           In exchange for that parties agreed, pursuant  
10 to those settlements, to assert no future claims with  
11 regard to the amount of REC revenues that were to be  
12 passed on to customers from REC sales for the period  
13 beginning January 2009 through December 31, 2010.

14           And for further background on this, the  
15 Company would request that the Commission take  
16 official notice of Docket Nos. 10-035-124, 11-035-46,  
17 10-035-14, and 10-035-89. So the recommendation --

18           HEARING OFFICER: Let me just, is there any  
19 objection to that?

20           Notice is taken as requested.

21           MS. HOGLE: Thank you. The recommendation  
22 that the Division -- or that the Commission order the  
23 Division to go back and investigate whether any REC  
24 sales during that time period should be imputed, or  
25 additional value of those REC sales should be imputed

1 to the Company, would be in direct violation of the  
2 global settlement agreement. Thank you.

3 HEARING OFFICER: Any other party like to  
4 address that issue before we leave it?

5 MS. BALDWIN: Yes. I would like to say that  
6 I don't believe that the global settlement does -- it,  
7 it settles those issues that were raised. We never  
8 raised this issue. We asked for, we asked for certain  
9 things to be granted in -- and that was to have the  
10 revenues for sold RECs in -- past 2009 and up through  
11 February of 2010 to be addressed.

12 And we agreed in that settlement to withdraw  
13 those, those claims and not to raise them again. And  
14 we are not raising those now. What we're raising is  
15 that there are, there are assets out there that have  
16 not been valued, they've never been given a value, and  
17 they are being wasted by the Company.

18 And that's our claim that we would like to  
19 have investigated, which is totally separate from  
20 anything that was in the global settlement.

21 HEARING OFFICER: Thank you.

22 MR. FELIX: I've got just two brief comments  
23 if you will, your Honor. First just a, I guess a  
24 cautionary note. Just it's the Division's view that  
25 it's always difficult and fraught with negative

1 possibilities when we would be enjoined to -- if we  
2 were enjoined to go back, with the advantage of  
3 hindsight, and attempt to supplant the business  
4 judgment of the Company with respect to its use of the  
5 RECs and the timing of their, of their sales. And  
6 supplant our own -- and replace that with our own  
7 judgment.

8           That's a, that's a difficult and maybe  
9 improper kind of analysis. But if we were instructed  
10 to do that sort of analysis the Division would hope  
11 that this would just be an independent investigation  
12 by the Division. I guess not a technical group or  
13 something broader.

14           HEARING OFFICER: Thank you. Any other  
15 comments?

16           MS. MURRAY: Your Honor, there was one  
17 additional issue that the Office raised, and it was  
18 the billing determinants that would be used in the  
19 RBA.

20           HEARING OFFICER: Right.

21           MS. MURRAY: We think that we explained our  
22 position in the memo and don't need -- know that there  
23 are further comments necessary.

24           HEARING OFFICER: So if we were to receive  
25 those -- that memorandum into evidence, that would

1 satisfy at least your desire for a showing?

2 MS. MURRAY: It would, yes.

3 HEARING OFFICER: And how do the other  
4 parties feel about that process? Would -- is there a  
5 desire to cross-examine, Ms. Hogle?

6 MS. HOGLE: The Company would like to have  
7 the opportunity to respond to that.

8 HEARING OFFICER: Through a witness, or?

9 MS. HOGLE: Through a witness.

10 HEARING OFFICER: Okay.

11 MS. HOGLE: Thank you.

12 MS. SCHMID: And just to make it clear, the  
13 Division intends to present witnesses adopting both  
14 the comments in the RBA docket and in the EBA docket.  
15 And those witnesses will be available for cross  
16 examination and questions from you, your Honor.

17 HEARING OFFICER: Thank you. Anything more  
18 before we recess?

19 Then we will be in recess.

20 (A recess was taken from 9:52 to 10:33 a.m.)

21 HEARING OFFICER: Earlier on this record we  
22 addressed issues related to both Dockets 12-035-67 and  
23 12-035-68 as they pertained to the scope of the  
24 hearings today. We're now focussing again just on  
25 Docket No. 12-035-67 at this moment. We'll get to

1 12-035-68 when we conclude here.

2 But just so we're all on the same page, we  
3 are addressing the \$29.3 million, or 1.7 percent  
4 energy balancing account increase proposed in  
5 Docket No. 12-035-67.

6 And having conferred with the Commissioners I  
7 need to inform you that in this hearing today we are  
8 only going to consider the deferred net power costs,  
9 which total about \$20 million, that are -- that  
10 actually total exactly \$20 million, that are raised in  
11 this application. Except that later we'll establish a  
12 schedule related to the residual amount of  
13 approximately \$9 million.

14 So unless there are questions about that  
15 we'll begin with the Company's case on the deferred  
16 net power costs. And so Ms. Hogle, would you like to  
17 proceed, please?

18 MS. SCHMID: Pardon me.

19 HEARING OFFICER: Oh.

20 MS. SCHMID: I do have a question. Could we  
21 go off the record for just one moment? I apologize.

22 MR. EVANS: Sure.

23 (A discussion was held off the record.)

24 HEARING OFFICER: We are to the point in this  
25 process of addressing the \$20 million deferred net

1 power cost issue. And Ms. Hogle, would you like to  
2 proceed?

3 MS. HOGLE: Certainly. The Company would  
4 call Mr. Bill Griffith to address the Company's  
5 proposed REC revenue spread and REC rates with respect  
6 to the energy balancing account costs in the amount of  
7 \$20 million.

8 HEARING OFFICER: Thank you.

9 MS. SCHMID: Pardon me, was that the EBA?

10 MS. HOGLE: In, in the EBA docket.

11 MS. SCHMID: Thank you.

12 (Mr. Griffith was duly sworn.)

13 HEARING OFFICER: Thank you. Ms. Hogle?

14 WILLIAM R. GRIFFITH,

15 called as a witness, having been duly sworn,

16 was examined and testified as follows:

17 DIRECT EXAMINATION

18 BY MS. HOGLE:

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

21 A. My name is William R. Griffith. My place of  
22 employment -- I'm employed with PacifiCorp. And my  
23 address is 825 Northeast Multnomah, Portland, Oregon.

24 Q. And in that capacity did you prepare direct  
25 testimony with exhibits in support of the Company's

1 application?

2 A. Yes, I did.

3 Q. Do you have any changes to your testimony?

4 A. No, I do not.

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

7 A. Yes.

8 MS. HOGLE: Mr. Hearing Officer, I would like  
9 to move for the admission of the direct testimony with  
10 exhibits of Mr. Bill Griffith into evidence.

11 HEARING OFFICER: Any objection?

12 MS. SCHMID: None.

13 HEARING OFFICER: They are received.

14 (Mr. Griffith's testimony and exhibits were  
15 received.)

16 MS. HOGLE: One moment Mr. Hearing Officer.

17 (Pause.)

18 MS. HOGLE: The Company would also like to  
19 move into the record the exhibits and the comments  
20 that the Company filed in this docket May 10, 2012.

21 HEARING OFFICER: Any objection?

22 MR. EVANS: Subject to our ability to respond  
23 at some point in the future, we have no objection.

24 HEARING OFFICER: Thank you. They're  
25 received.

1 (RMP's May 10, 2012, comments and exhibits  
2 were received.)

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

5 A. Yes, I have a short summary.

6 Q. Please proceed.

7 A. My filed testimony provided rate spreads and  
8 rates to apply a \$29.286 million, or 1.7 percent  
9 energy balancing account adjustment through  
10 Schedule 94. The allocation of the EBA surcharge  
11 across customer classes utilized the rate spread  
12 methodology from the 2011 general rate case.

13 The stipulated percentage of revenue  
14 increase, as it was called, applied changes across  
15 rate schedules to base rates in that docket. The  
16 Division and the Office have pointed out that my  
17 written testimony did not thoroughly explain the rate  
18 spread methodology utilized, and I agree.

19 The proposal applied the rate spread in the  
20 same way as the rate spread calculation in the 2011  
21 GRC, with two exceptions that were not clearly spelled  
22 out in my testimony but which were noted in the  
23 comments filed by the Company on May 10, 2012.

24 First, in order to match rates with the  
25 actual rate-effective period over which the charges



1 will apply, which is the -- the June 2013 forecast  
2 test period from the 2012 general rate case was  
3 utilized. This test period was also utilized for the  
4 proposed REC -- or RBA Schedule 98 credit.

5 This approach of using a more-recent test  
6 period has been utilized by the Commission before.  
7 For example in the 2011 DSM surcharge, where the rates  
8 were designed to reflect the rate-effective period and  
9 the loads in that period.

10 Second, because of changes to customer  
11 characteristics since the 2011 general rate case,  
12 Contract Customer 4 is currently included in the loads  
13 of Contract Customer 3. Contract Customer 3 is  
14 subject to a credit or surcharge for the EBA deferral  
15 based on the terms of Contract Customer 3, therefore  
16 an adjustment was required to the stipulated  
17 percentage of revenue requirement increased  
18 percentages in order to implement that change anyway.

19 The proposed EBA rates in Schedule 94 were  
20 developed to apply the charges to customers' monthly  
21 power charges and energy charges. The Company's  
22 comments filed on May 2012 proposed a reduction to the  
23 EBA surcharge, as Mr. Dickman indicated. As a result,  
24 the proposed EBA surcharge was designed to collect  
25 28.89 million, or 1.7 percent. That concludes my

1 summary.

2 MS. HOGLE: Mr. Griffith is available for  
3 questions.

4 HEARING OFFICER: Ms. Schmid?

5 MS. SCHMID: No questions.

6 MR. DODGE: No questions.

7 MR. EVANS: I would respectfully like to  
8 reserve my cross until sometime later. I'm not  
9 prepared to cross him today, but would be once we have  
10 filed some testimony. And presumably there will be  
11 another hearing on this, and I would like to reserve  
12 cross to that time.

13 HEARING OFFICER: And are you addressing the  
14 \$8.9 million issue --

15 MR. EVANS: No, I'm --

16 MR. EVANS: -- as distinct from the  
17 \$20 million issue?

18 MR. EVANS: Yes, thank you. To the, to the  
19 extent that it is proposed that this spread apply to  
20 the 8.9 million, I reserve cross. With respect to the  
21 20, there is no cross from me.

22 HEARING OFFICER: Thank you.

23 MS. SCHMID: One comment, if I may. If there  
24 is further testimony be ordered on the 9.3, the  
25 Division recommends that it follow the process

1 established so there would be an opportunity to  
2 respond to the testimony filed by UIEC.

3 HEARING OFFICER: Thank you. Anything else  
4 for this witness?

5 Mr. Griffith, you're excused. Thank you.

6 THE WITNESS: Thank you.

7 HEARING OFFICER: Ms. Hogle?

8 MS. HOGLE: The Company rests its case with  
9 respect to Docket No. 12-035-67.

10 HEARING OFFICER: Okay. And again, we're  
11 confining this to the \$20 million piece of that  
12 application. So that's the sense in which I  
13 understand your, your comments.

14 MS. HOGLE: Correct.

15 HEARING OFFICER: Thank you Ms. Hogle.

16 MS. SCHMID: The Division would like to call  
17 its witness, Mr. Matthew Croft, regarding the  
18 20 million.

19 (Mr. Croft was duly sworn.)

20 HEARING OFFICER: Thank you.

21 \*\*\*

22 \*\*\*

23 MATTHEW CROFT,

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

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DIRECT EXAMINATION

BY MS. SCHMID:

Q. Good morning.

A. Good morning.

Q. Could you please state your full name, position, by whom you are employed, and business address for the record?

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

Q. Thank you. In connection with your employment by the Division have you participated in Docket No. 12-035-67?

A. Yes, I have.

Q. And did you prepare or cause to be prepared the memorandum filed April 27, 2012, by the Division?

A. Yes.

Q. Insofar as that memorandum addresses the issue of the \$20 million, including billing determinants, do you have any changes or corrections to that memo?

A. No, I do not.

MS. SCHMID: The Division would like to move for the admission of the Division's memorandum dated

1 April 27, 2012, insofar as it addresses issues  
2 associated with the \$20 million.

3 HEARING OFFICER: Any objection?

4 It will be received in evidence, thank you.

5 (DPU April 27, 2012, memorandum was received.)

6 MS. SCHMID: Thank you.

7 Q. (By Ms. Schmid) Mr. Croft, do you have a  
8 summary?

9 A. Yes, I do.

10 Q. Please proceed.

11 A. On March 15, 2012, Rocky Mountain Power filed  
12 an application to increase rates to the energy  
13 balancing account. The Company's application  
14 requested an increase in rates of 29.3 million. As  
15 we've discussed here, the 20 million -- \$20 million of  
16 that amount relates to the first installment of a  
17 three-year deferred net power cost amortization. That  
18 was established in the last rate case.

19 On May 10th the Office of Consumer Services  
20 and the Company filed comments to our comments. And  
21 the Company noted that they disagree with the  
22 Division's recommendation that the recovery of the  
23 20 million in deferred net power costs be approved on  
24 an interim basis.

25 In our initial comments the, the intent of

1 calling them "interim" was just to reflect the fact  
2 that there was going to be a true up of the entire  
3 \$60 million. However, in retrospect probably those  
4 rates are final. They're not interim, they are final.  
5 The 60 million or the 20 million is not subject to  
6 audit or, or adjustment, so those rates are final.

7           With respect to the billing determinants, the  
8 Office believes that the billing determinants to be  
9 used for the 20 million should be those that were part  
10 of the previous general rate case. That  
11 recommendation was made in order to be consistent with  
12 the Commission's order with respect to the rate spread  
13 in the EBA tariff docket.

14           The Company proposes to use billing  
15 determinants that are for the, the rate-effective  
16 period of the EBA, so the Division sees this as a  
17 matter of consistency versus accuracy. Accuracy in  
18 the, in the sense that the rate-effective period  
19 met -- the rate-effective period for the EBA matches  
20 the billing determinants chosen by the Company.

21           The Division believes that both  
22 recommendations have merit, and is open to the  
23 Commission adopting either method. And that concludes  
24 my summary.

25           MS. SCHMID: Thank you. Mr. Croft is

1 available for cross-examination or questions from the  
2 hearing officer.

3 HEARING OFFICER: Thank you Ms. Schmid.

4 Any cross-examination for Mr. Croft?

5 MS. HOGLE: No questions.

6 MR. EVANS: I have, I have one question.

7 HEARING OFFICER: Mr. Evans.

8 CROSS EXAMINATION

9 BY MR. EVANS:

10 Q. Mr. Croft?

11 A. Uh-huh.

12 Q. When you say that the rates are not interim,  
13 do you mean by that that they are -- that the amount  
14 is liquidated and not subject to audit or adjustment?

15 A. The \$60 million has been set. That amount  
16 will not change. That's the amount that is not  
17 subject to audit or, or adjustment.

18 Q. And I'm trying to get to the meaning of the  
19 term "interim" that you used.

20 A. Uh-huh.

21 Q. Is that what you mean by "not interim"?  
22 Versus final?

23 A. In our comments the, the idea was that they  
24 were interim in the sense that they were just subject  
25 to the final true up. But in retrospect they, they

1 are final, they're not interim.

2 Q. So you're using the word "interim" to mean a  
3 rate that is subject to final true up?

4 A. I'm not sure I -- again, the idea was just --  
5 the important idea here, I think, is that the  
6 \$60 million is subject to a true up. Now -- so in  
7 that sense they should be final. Perhaps the wrong  
8 word was used as "interim" in our comments. But they  
9 are final.

10 Q. Okay. But you wouldn't insist on using the  
11 word "interim" if I were to agree that they're final?

12 I want to, I want to -- we're having --  
13 you've been here -- you've been sitting here this  
14 morning, right?

15 A. Uh-huh.

16 Q. You heard our discussion on interim rates and  
17 what that might mean. And our position is that, that  
18 rates in between rate cases are interim. In that  
19 sense would you agree that this is an interim rate,  
20 because it's set in between rate cases?

21 MS. SCHMID: Object to the form of the  
22 question.

23 MR. EVANS: Well, let, let's see if I can --

24 HEARING OFFICER: It's, it's overruled. Go  
25 ahead Mr. -- restate your question, if you don't mind,



1 just for the witness's benefit.

2 Q. (By Mr. Evans) Would you agree that these  
3 rates are interim in the sense that they are set in  
4 between rate cases?

5 A. I'm not sure I want to agree to a definition  
6 of "interim."

7 Q. Okay.

8 A. But the idea is that the 60 million is not  
9 subject to an adjustment or change at a later date.

10 Q. Right. Okay, I, I agree with you there, and  
11 we've heard you testify to that. But you've also used  
12 the word "interim," and you've said these rates are  
13 interim. Now, if you're not gonna agree to a  
14 definition then I would like you to retract the word  
15 "interim." You're using a word that you're not  
16 willing to define.

17 A. Well, I think that's -- I mean, what we're  
18 saying is that they are final. They're not interim  
19 with respect to the \$60 million.

20 Q. You mean they're, they're not subject to  
21 audit or adjustment?

22 A. Correct.

23 Q. Okay. And is that all you mean when you say  
24 that they're interim? That they're not interim,  
25 excuse me.

1 A. Yes, they're, they're final in that sense.

2 Q. Thank you.

3 MR. EVANS: No more questions.

4 MS. SCHMID: I have limited redirect.

5 HEARING OFFICER: Ms. Schmid.

6 REDIRECT EXAMINATION

7 BY MS. SCHMID:

8 Q. Mr. Croft, we've been discussing interim.  
9 The fact that a \$20 million amount is set and that  
10 there will be some sort of mechanical mechanism at the  
11 end to address recovery over a period of time, do you  
12 have any comments on that?

13 A. On the, on the true up?

14 Q. Yes. Could you explain that a little bit, as  
15 to how and why that happens? In the \$20 million case?

16 A. Basically it is -- my understanding is it  
17 deals with the collection period. And so the idea is  
18 the Company needs to get as close as they can to  
19 collecting that \$60 million. It's a collection period  
20 issue. It's not a, We're gonna change how much, you  
21 know, the 60 million to 45 or 75. It's just a, it's  
22 an issue that deals with the collection period.

23 Q. So in this case with respect to \$20 million  
24 at issue, is it your testimony that that is also a  
25 collection period issue?

1           A.     Yes.

2           MS. SCHMID: Thank you.

3           HEARING OFFICER: Any other examination for  
4 this witness?

5           Thank you, Mr. Croft, you're excused.

6           Ms. Schmid, anything further?

7           MS. SCHMID: I'm sorry. Nothing further.

8           HEARING OFFICER: Thank you. Mr. Gimble?

9           MR. GIMBLE: Can I address from here, or do  
10 you want me to come up?

11          HEARING OFFICER: Why don't you come up.

12          MR. GIMBLE: Okay.

13          HEARING OFFICER: Just to follow suit.

14          (Mr. Gimble was duly sworn.)

15          HEARING OFFICER: Thank you. Mr. Gimble,  
16 you're not represented by counsel today, but I believe  
17 you know to provide your name, and address, and work  
18 location.

19          MR. GIMBLE: Right.

20          HEARING OFFICER: And then any other  
21 information that you would like to provide to the  
22 Commission would be most welcome. Thank you.

23                                 DANIEL E. GIMBLE,

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

1 MR. GIMBLE: Okay. My name is Dan Gimble. I  
2 work for the Office of Consumer Services. My address  
3 is 160 East 300 South, Salt Lake City, Utah.

4 The, in terms of the \$20 million that relates  
5 to the, the stipulation that was for the EBA deferral  
6 amounts, I -- part of the last rate case -- we believe  
7 our, our memo addresses that. If you have any  
8 questions on what we said there in terms of our memo,  
9 we'd be happy to respond.

10 Essentially, you know, the Commission or --  
11 in terms of bill -- on the issue of billing  
12 determinants the Commission ordered that the  
13 stipulated revenue spread from the last general rate  
14 case be used to allocate the current EBA deferral  
15 amount. And so we'd recommend using the billing  
16 determinants associated with that revenue spread in  
17 the last rate case.

18 That maintains a consistency between the  
19 ordered EBA rate spread, the static scalar and static  
20 allocation factors discussed in your May 1, 2012, EBA  
21 order on page 18, and also the billing determinants  
22 set in the last general rate case.

23 However, we made a distinction between that  
24 and future EBA filings. The Commission has directed  
25 the Company to use the composite NPC allocator to

1 spread EBA deferrals, and rely on a dynamic scalar in  
2 dynamic allocation factors, so it appears more  
3 appropriate to use forecasted billing determinants to  
4 set interim EBA rates in the future.

5 We agree with the Division that these  
6 determinants should be updated at a later time if you  
7 use forecasts. You could base it on the ordered  
8 billing determinants, for example, in a concurrent  
9 rate case, or to better reflect actual loads -- or  
10 class loads when final EBA rates are set.

11 I guess the other issue that would be  
12 applicable to the 20 million would be the interim rate  
13 spread that was discussed by Witness Griffith on  
14 behalf of the Company. The slight modifications made  
15 by the Company to the ordered rate spread from the  
16 last GRC appear to be necessary and reasonable, and we  
17 didn't have any recommendation in that area.

18 HEARING OFFICER: Thank you Mr. Gimble. And  
19 I have a memo from the Office dated May 10th that is  
20 the memo to which I think you referred during your  
21 testimony or summary. Is there any objection to  
22 receiving this into evidence?

23 MS. SCHMID: No objection.

24 HEARING OFFICER: Okay. Then it will be  
25 received.

1 (OCS May 10th memo was received.)

2 MR. EVANS: And is there any cross-  
3 examination for Mr. Gimble?

4 MS. SCHMID: None.

5 MR. EVANS: None here, thank you.

6 HEARING OFFICER: Okay. Thank you,  
7 Mr. Gimble, you may be excused.

8 MR. GIMBLE: Thank you.

9 HEARING OFFICER: Is there any other party  
10 desiring to present evidence on the deferred net power  
11 cost issue in Docket 12-035-67?

12 MR. EVANS: With respect to the \$20 million?

13 HEARING OFFICER: That's what I meant by  
14 "deferred net power costs," but yes. With, with  
15 respect to the \$20 million.

16 MR. EVANS: No.

17 HEARING OFFICER: Okay. We'll turn now to,  
18 excuse me, Docket 12-035-68.

19 And Ms. Hogle, I believe you have a statement  
20 about proceeding with the presentation of evidence  
21 relative to this application today. And so would you  
22 like to address that now, please?

23 MS. HOGLE: I wonder if Mr. Hearing Officer  
24 can indulge me and allow us to go off the record for  
25 one minute.

1 MR. EVANS: Off the record.

2 (A discussion was held off the record.)

3 HEARING OFFICER: Ms. Hogle?

4 MS. HOGLE: On behalf of Rocky Mountain Power  
5 we would like to thank you for the opportunity to  
6 present to you the Company's application and  
7 supporting testimony for approval of a credit to the  
8 Company's customers of approximately \$4 million  
9 beginning June 1, 2012.

10 Tariff Schedule 98, or the RBA, was  
11 established pursuant to a global settlement agreement  
12 among multiple parties involving five different  
13 dockets, including the 2011 general rate case.

14 The RBA tracks the difference between REC  
15 revenues included in rates and actual REC revenues  
16 received by the Company, and credits or charges  
17 100 percent of the difference to Utah customers on an  
18 annual basis.

19 The global settlement agreement set REC  
20 revenues at about \$50.9 million in base rates  
21 beginning September 21, 2011. As I stated before, the  
22 parties agreed that the RBA include a credit balance  
23 of \$39.5 million, representing REC revenues received  
24 by the Company from February 22, 2010, through  
25 December 31, 2010, which the Company agreed to pass on

1 to its customers beginning January 2011.

2 As part of a prior settlement the Company  
3 agreed to pass on to its customers \$3 million in  
4 credits beginning January 2011, representing  
5 incremental REC revenues not then reflected in Utah  
6 rates.

7 As a result of these settlements, REC  
8 revenues of a total of approximately \$73 million, or  
9 \$42 million on a Utah basis, generated by the Company  
10 during 2011 is being passed on to the Company's  
11 customers.

12 As I indicated before, for further background  
13 on this the Company requests that the Commission take  
14 official notice of Docket Nos. 10-035-124, 11-035-46,  
15 10-035-14, and 10-035-89.

16 In exchange for this benefit to our customers  
17 parties agreed, pursuant to those settlements, to  
18 assert no future claims with regard to the amount of  
19 REC revenues that were to be passed on to customers  
20 from REC sales for the period January 2009 through  
21 December 2010.

22 The scope of this proceeding then is to  
23 determine whether the Company has provided *prima facie*  
24 evidence that the \$4 million credit representing the  
25 difference between REC revenues embedded in base -- in



1 rates, base rates, and those received by the Company,  
2 those actual REC revenues received by the Company, is  
3 accurate and consistent with the tariff. So in other  
4 words, sufficient evidence to prove that the  
5 \$4 million is just and reasonable.

6 After reviewing the application, including  
7 the supporting testimony, the Division of Public  
8 Utilities and the Office of Consumer Services  
9 recommend approval of the application on an interim  
10 basis.

11 With respect to UIEC, we've already discussed  
12 that on the record. However, given the turn of events  
13 in this proceeding with respect to the EBA docket the  
14 Company asks that the Commission treat the RBA docket,  
15 if it decides in the EBA docket to delay the  
16 implementation of the EBA, the Company respectfully  
17 requests that it also delay the implementation of the  
18 RBA of June 1, 2012.

19 The Company has three witnesses here today to  
20 provide short summaries in support of the Company's  
21 application. Ms. Stacey Kusters will address the  
22 historical REC sales in 2011 that were used in the  
23 calculation to set the tariff Schedule 98 credit.

24 Mr. McDougal is available to address the  
25 allocation of total company sales to Utah and the

1 calculation of the deferral component to true up  
2 calendar year 2011 REC sales. And Mr. Bill Griffith  
3 will address the Company's proposed REC revenue spread  
4 and REC rates. Thank you.

5 HEARING OFFICER: Thank you Ms. Hogle.  
6 Please call your first witness.

7 MS. HOGLE: The Company would like to call  
8 Ms. Stacey Kusters.

9 (Ms. Kusters was duly sworn.)

10 HEARING OFFICER: Thank you. Please be  
11 seated, Ms. Kusters.

12 THE WITNESS: Thank you.

13 STACEY J. KUSTERS,

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

16 DIRECT EXAMINATION

17 BY MS. HOGLE:

18 Q. Good morning Ms. Kusters.

19 A. Good morning.

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

22 A. I'm Stacey Kusters. I work at PacifiCorp.  
23 My business address is 825 Northeast Multnomah,  
24 Portland, Oregon.

25 Q. In that capacity did you prepare direct

1 testimony, with exhibits, in support of the Company's  
2 application?

3 A. Yes, I did.

4 Q. Do you have any changes to your testimony?

5 A. No, I don't.

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

9 A. Yes, they will.

10 MS. HOGLE: Mr. Hearing Officer, I would like  
11 to move for the admission of -- into evidence of the  
12 direct testimony of Stacey Kusters, with exhibits.

13 HEARING OFFICER: Any objection?

14 It's received.

15 (Ms. Kusters' testimony and exhibits were  
16 received.)

17 MS. HOGLE: Thank you.

18 Q. (By Ms. Hogle) Ms. Kusters, do you have a  
19 short summary for the Commission today?

20 A. Yes, I do.

21 Q. Please proceed.

22 A. My filed testimony this proceeding presents  
23 the actual total Company 2011 renewable energy, RECs,  
24 used in the calculation to set Schedule 98, renewable  
25 balancing RBA credit, that the Company is seeking to

1 become effective June 1st of 2012.

2 Actual REC revenues for calendar year 2011  
3 were 72.8 million on a total company basis, and 41.7  
4 on a Utah-allocated basis. My confidential exhibits  
5 provide detailed accounting on the REC revenues  
6 received for calendar year 2011, a summary of actual  
7 REC revenues by month and by resource on a total  
8 company basis, and actual REC sales by entity, tag,  
9 price, resources, and vintage for January through  
10 October 2011.

11 The resource assignments for November and  
12 December are estimated and will be updated in  
13 subsequent true ups. That concludes my summary.

14 MS. HOGLE: Ms. Kusters is available for  
15 questions.

16 HEARING OFFICER: Thank you. Ms. Schmid?

17 MS. SCHMID: No questions.

18 HEARING OFFICER: Mr. Gimble?

19 MR. DODGE: No questions.

20 HEARING OFFICER: Mr. Dodge. Ms. Baldwin?

21 MS. BALDWIN: No questions.

22 HEARING OFFICER: Thank you, Ms. Kusters,  
23 you're excused.

24 MS. HOGLE: The Company calls Mr. Steve  
25 McDougal.

1 (Mr. McDougal was duly sworn.)

2 HEARING OFFICER: Please be seated.

3 STEVEN R. McDOUGAL,

4 called as a witness, having been duly sworn,

5 was examined and testified as follows:

6 DIRECT EXAMINATION

7 BY MS. HOGLE:

8 Q. Good morning Mr. McDougal.

9 A. Good morning.

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

12 A. Yes. My name is Steven McDougal. I am  
13 employed at Rocky Mountain Power at 201 South Main,  
14 Salt Lake City, Utah.

15 Q. In that capacity did you prepare direct  
16 testimony, with exhibits, in support of the Company's  
17 application?

18 A. Yes, I did.

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

21 A. No, I do not.

22 Q. So if I were to ask you here today the same  
23 questions that are in your testimony, would your  
24 answers be the same?

25 A. They would.

1 MS. HOGLE: I would like to move the  
2 admission into evidence of Mr. McDougal's direct  
3 testimony, with exhibits.

4 HEARING OFFICER: Any objection?

5 It's received.

6 (Mr. McDougal's testimony and exhibits were  
7 received.)

8 Q. (By Ms. Hogle) Do you have a summary for the  
9 Commission today?

10 A. Yes, I do.

11 Q. Please proceed.

12 A. My testimony addresses the calculation of the  
13 REC balancing account, or RBA, and the allocation of  
14 the RECs to Utah. The REC balancing account is  
15 calculated in the exact same manner as the EBA, which  
16 is we looked at actuals for a certain period and we  
17 looked at the amount that was embedded in rates for  
18 the same period. The only difference is the EBA was  
19 from October 1st, the RECs were for the full calendar  
20 year.

21 What we did in the calculation is on the  
22 table on page 3 of my testimony we started out with  
23 the stipulated amount from the prior case, which was  
24 \$39.5 million, for a balance as of December 31, 2010.  
25 We added to that the RECs that Stacey Kusters

1 testified to that we sold in calendar year 2011 of  
2 approximately \$41.7 million on a Utah-allocated basis.

3 We then looked at the amount that was in base  
4 rates of roughly \$21.8 million, and the surcredit that  
5 we had given back to customers during the year of  
6 about 37 and-a-half million, and the estimated RECs  
7 that will be given back prior to May 31st of about  
8 20.4 million.

9 Once we netted those together with the  
10 carrying charges, the deferral balance is \$4 million.  
11 That concludes my summary.

12 MS. HOGLE: Mr. McDougal is available for  
13 questions.

14 HEARING OFFICER: Thank you.

15 Any cross, Ms. Schmid?

16 MS. SCHMID: None from the Division.

17 MS. BALDWIN: Yes.

18 HEARING OFFICER: Ms. Baldwin?

19 MS. BALDWIN: Yes.

20 CROSS-EXAMINATION

21 BY MS. BALDWIN:

22 Q. Mr. McDougal, referring to the table on  
23 page 3 that you talked about? It's true you have  
24 surcredits for 2011 and estimated surcredits for  
25 January through May of 2012, correct?

1 A. That is correct.

2 Q. You have a carrying charge for 2011, and  
3 estimated carrying charge for January through May of  
4 2012, correct?

5 A. Correct.

6 Q. You have what was in rate base in 2011, but  
7 you don't have anything for what is going to be in  
8 rate base for January through May of 2012. Is there a  
9 reason for that? Is there not going to be anything in  
10 rate base?

11 A. In rate base, no.

12 Q. So in rate base from January of 2012 --  
13 January 1 through May 31st there's no REC revenues in  
14 rate base?

15 A. Well, let's, let's differentiate here. Are  
16 you talking about rate base or in rates?

17 Q. In rates.

18 A. Okay. I, I thought you were referring to if  
19 we were capitalizing these between --

20 Q. In base rates. No, I'm sorry, no.

21 A. Okay.

22 Q. In base rates.

23 A. When you asked the second question I thought,  
24 you know, you were asking that. No, there is not.  
25 That will be part of the true up for calendar year



1 2012.

2 Q. Okay. Okay. I just wanted to understand  
3 that. Thank you.

4 MS. BALDWIN: No more questions.

5 HEARING OFFICER: Any redirect?

6 MS. HOGLE: No.

7 HEARING OFFICER: Mr. McDougal, you're  
8 excused. Thank you for your testimony.

9 Please call your next witness.

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

12 MR. GRIFFITH: Do I need to be sworn again,  
13 or?

14 HEARING OFFICER: You -- well, this is a  
15 separate proceeding, let's -- we'll swear you again.

16 MR. GRIFFITH: Okay.

17 (Mr. Griffith was duly sworn.)

18 HEARING OFFICER: Thank you.

19 WILLIAM R. GRIFFITH,

20 called as a witness, having been duly sworn,

21 was examined and testified as follows:

22 DIRECT EXAMINATION

23 BY MS. HOGLE:

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

1           A.    My name is William R. Griffith. I'm employed  
2 by PacifiCorp. My address is 825 Northeast Multnomah,  
3 Portland, Oregon.

4           Q.    In that capacity did you prepare direct  
5 testimony with exhibits in support of the Company's  
6 application?

7           A.    Yes.

8           Q.    Do you have any changes to your testimony?

9           A.    No, I do not.

10          Q.    So if I were to ask you here today the same  
11 questions that are in your testimony, would your  
12 answers be the same?

13          A.    Yes, they would.

14                MS. HOGLE: I would like to move for the  
15 admission into evidence of the direct testimony of  
16 Mr. Bill Griffith, with exhibits.

17                HEARING OFFICER: Any objection?

18                It's received in evidence.

19                (Mr. Griffith's testimony and exhibits were  
20                                received.)

21                MS. HOGLE: Mr. Griffith is available -- no,  
22 excuse me.

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

25          A.    Yes.

1 Q. Please proceed.

2 A. Thank you. In my testimony I provide the  
3 rate spread and rates through Tariff Schedule 98 to  
4 return to customers \$4.0 million, or 0.2 percent of  
5 the REC revenue deferral proposed by the Company.

6 In order to match rates with the  
7 rate-effective period over which the charges will  
8 apply, a June 2013 forecast test period was utilized.  
9 This is the forecast test period from the 2012 general  
10 rate case.

11 The allocation of the credit across rate  
12 schedules is applied using the F10 allocation factor  
13 from the company's class cost-of-service study  
14 consistent with paragraph 10 of the stipulation on  
15 cost of service, rate spread, and rate design in the  
16 2011 general rate case.

17 Rates were developed to apply the Schedule 98  
18 deferral to customers' monthly power charges and  
19 energy charges, consistent with present Schedule 98.  
20 The current Schedule 98 credit will expire May 31,  
21 2012.

22 The proposed REC credit presented in my  
23 testimony will result in an overall credit to  
24 customers of 0.2 percent. That concludes my summary.

25 MS. HOGLE: Mr. Griffith is now ready for

1 questions.

2 HEARING OFFICER: Any cross-examination for  
3 Mr. Griffith? Ms. Schmid?

4 MS. SCHMID: None.

5 MR. GIMBLE: None.

6 HEARING OFFICER: Thank you.

7 MR. DODGE: No questions.

8 HEARING OFFICER: No cross-examination,  
9 Mr. Griffith.

10 MR. GRIFFITH: Thank you.

11 HEARING OFFICER: You're excused. Thank you.

12 MS. SCHMID: The Division would like to call  
13 Ms. Brenda Salter as its witness in this matter.

14 HEARING OFFICER: Thank you.

15 MS. SCHMID: Although may we have a moment?

16 HEARING OFFICER: We'll be off the record.

17 (A discussion was held off the record.)

18 (Ms. Salter was duly sworn.)

19 HEARING OFFICER: Thank you Ms. Salter.

20 BRENDA SALTER,

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

23 DIRECT EXAMINATION

24 BY MS. SCHMID:

25 Q. Good morning.

1 A. Good morning.

2 Q. Could you please state your full name,  
3 position, by whom you are employed, and your business  
4 address for the record?

5 A. My name is Brenda Salter. I am a utility  
6 analyst for the Division of Public Utilities. My  
7 business address is 160 East 300 South, Salt Lake  
8 City, Utah.

9 Q. Thank you. In connection with your  
10 employment by the Division have you participated in  
11 Docket No. 12-035-68, the RBA docket, as it's commonly  
12 called, or the REC docket, on behalf of the Division?

13 A. I have, yes.

14 Q. Did you prepare or cause to be prepared the  
15 memorandum that was filed April 27, 2012, on behalf of  
16 the Division?

17 A. I did, yes.

18 Q. Do you have any changes or corrections to  
19 that memorandum?

20 A. No, I do not.

21 Q. Do you adopt that memorandum as your  
22 testimony?

23 A. I do.

24 MS. SCHMID: With that, the Division requests  
25 the admission of the Division memorandum dated

1 April 27, 2012, in the RBA docket.

2 HEARING OFFICER: Any objection?

3 It'll be received in evidence.

4 (DPU April 27, 2012, memorandum was received.)

5 Q. (By Ms. Schmid) Ms. Salter, do you have a  
6 brief summary?

7 A. I have a very brief summary. I won't go into  
8 what the Company has already presented. I just want  
9 to state that the Division recommends that the  
10 Commission approve the change to the Schedule 98 as  
11 filed. And approve the rate decrease on an interim  
12 basis until a final audit of the REC revenues  
13 contained in this filing can be completed by the  
14 Division.

15 MS. SCHMID: Thank you. Ms. Salter is now  
16 available for cross-examination or questions from the  
17 Hearing Officer.

18 HEARING OFFICER: Thank you. Any  
19 cross-examination?

20 MR. GIMBLE: None.

21 HEARING OFFICER: Thank you Ms. Salter,  
22 you're excused.

23 MS. SALTER: Thank you.

24 HEARING OFFICER: Does that conclude the  
25 Division's showing?

1 MS. SCHMID: Yes, it did.

2 MS. MURRAY: Sorry, I'm calling myself here.

3 HEARING OFFICER: Would you please stand and  
4 raise your right hand?

5 MS. MURRAY: Oh, I'm sorry.

6 HEARING OFFICER: Thank you Ms. Murray.

7 (Ms. Murray was duly sworn.)

8 HEARING OFFICER: Thank you, please be  
9 seated. And you're here without counsel?

10 MS. MURRAY: I am.

11 HEARING OFFICER: Would you state your name,  
12 and position, and address for the record, and then  
13 provide any summary that you have.

14 CHERYL MURRAY,

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

17 MS. MURRAY: Okay. My name is Cheryl Murray.  
18 I'm a utility analyst with the Office of Consumer  
19 Services. My business address is 160 East 300 South,  
20 Salt Lake City, Utah.

21 And because we are without counsel we do  
22 request the admission of our comments dated May 10th  
23 in this docket.

24 HEARING OFFICER: Any objection?

25 They're received.

1 (OCS May 10th comments were received.)

2 MS. MURRAY: Okay. And our comments were  
3 very short and said what we needed to say, so I'm  
4 going to forego a summary. And --

5 HEARING OFFICER: Any cross?

6 MS. MURRAY: -- questions.

7 HEARING OFFICER: Any cross-examination for  
8 Ms. Murray?

9 Thank you, you're excused.

10 MS. MURRAY: Thank you.

11 HEARING OFFICER: Any other party have  
12 witnesses to present or evidence to introduce?

13 MS. BALDWIN: I would just like to say at  
14 some point I would like to respond to Ms. Hogle's  
15 opening statement.

16 HEARING OFFICER: Now is the time.

17 MS. BALDWIN: Okay. When she suggested that  
18 the EBA and the RBA are connected, the EBA is totally  
19 unrelated to the RBA. The Commission's order in the  
20 EBA docket pointed out that there was no connection.  
21 Characterized the RBA direct credits was credits  
22 similar to SO2 credits.

23 What we're dealing with here are revenues  
24 that have been received and we're expiring that  
25 credit. We're estimating revenues to be received



1 going forward and estimating that credit. So I don't  
2 see that there's any reason to delay one because the  
3 other one has a due process issue.

4 The EBA is set pursuant to a statute that  
5 actually requires actuals. That is not the case with  
6 the RBA. And the EBA is an actual rate adjustment,  
7 and that is not the case with the RBA. Thank you.

8 MS. HOGLE: The Company would like to  
9 respond.

10 HEARING OFFICER: Ms. Hogle.

11 MS. HOGLE: The Company would like to  
12 emphasize the fact that both the EBA and the RBA use  
13 forecast amounts and, therefore, should be treated  
14 equally. Treating them differently would indicate  
15 that the Commission applies different scrutiny with  
16 respect to the same standard of interim rates,  
17 therefore if the EBA is delayed then it follows that  
18 the RBA should also be delayed. Thank you.

19 HEARING OFFICER: Thank you Ms. Hogle.

20 MS. BALDWIN: Excuse me, if I could say one  
21 more thing?

22 HEARING OFFICER: Ms. Baldwin.

23 MS. BALDWIN: That begs to say that we all  
24 agree on what an interim rate is, and I don't think  
25 that there is that agreement here. Whether we're in

1 the EBA docket or the RBA docket. Like I said,  
2 they're two different animals. I think that the RBA  
3 is a temporary rate. But -- and that's all I have,  
4 thank you.

5 HEARING OFFICER: Thank you. We'll be off  
6 the record.

7 (A discussion was held off the record.)

8 HEARING OFFICER: We are going to address a  
9 proposal from the Company that relates to the  
10 8 million -- or \$8.9 million energy balancing account  
11 balance that covers the period October 1, 2011, to  
12 December 31, 2011. Ms. Hogle.

13 MS. HOGLE: Thank you Mr. Hearing Officer.  
14 The Company agrees with counsel for the Division of  
15 Public Utilities that prior to taking any evidence it  
16 appears to the Company that the Commission is  
17 uncomfortable with making a decision at this time with  
18 respect to what interim rate -- or what standard to  
19 apply to interim rates.

20 Given that, the Company proposes that the  
21 parties file a legal brief within 15 days. The  
22 Company's position is that its testimony supports the  
23 *prima facie* standard already. And, therefore, after  
24 receiving legal briefs on the issue if the Commission  
25 deems it appropriate and necessary to take testimony,

1 then at that time the Commission can go forward and  
2 schedule a scheduling conference.

3 And that is the Company's proposal.

4 HEARING OFFICER: Thank you Ms. Hogle.

5 Ms. Schmid, I believe you had an item you  
6 wanted to raise.

7 MS. SCHMID: Thank you. With regard to the  
8 legal issues concerning *prima facie*, the interplay  
9 between the EBA statute and 54-7-12, among others, the  
10 Division also respectfully requests a briefing  
11 schedule.

12 The Division proposes simultaneous opening  
13 briefs and also responsive briefs.

14 HEARING OFFICER: Is the 15-day proposal for  
15 opening briefs feasible for the Division?

16 MS. SCHMID: It is, thank you.

17 HEARING OFFICER: All right. And what would  
18 you propose as a, an interval between opening and  
19 closing briefs?

20 MS. SCHMID: Five days? Also --

21 HEARING OFFICER: Calendar or business?

22 MS. SCHMID: Calendar. Also I then suggest  
23 that -- or I respectfully request that the Commission  
24 make a ruling on the scope of the issues before it and  
25 what is the standard that will be applied before we

1 proceed into the testimony phase so we can make sure  
2 that what is addressed is as the Commission desired.

3 HEARING OFFICER: Are you anticipating that  
4 would be done in the decision on the briefs, or now,  
5 today?

6 MS. SCHMID: I would suggest that that  
7 decision be made after the briefs have been filed, but  
8 as -- respectfully, as soon thereafter as possible,  
9 and then we meet to discuss a schedule for further  
10 proceedings.

11 HEARING OFFICER: Thank you. Any other  
12 comment on this subject?

13 MR. EVANS: Just to, just to make sure I  
14 understand. I'm almost sorry that I even breathed the  
15 words "*prima facie* case" because that statute, of  
16 course, applies to rate cases.

17 The EBA has its own separate statute. And I  
18 think we are at a point where briefing on the burden  
19 of proof, what needs to be shown, how the EBA statute  
20 works, so that we can put in place a procedure to go  
21 forward. I agree with Ms. Schmid that there should be  
22 a decision on those things before the schedule is put  
23 in place.

24 And -- but I, I do think that five days is  
25 too little to respond, especially I'm out of town for

1 the week that that would fall in. But we can take 15  
2 to do it, if we can take another 15 to respond. And  
3 then after the Commission orders, set a scheduling  
4 conference. I think that would make good sense.

5 MS. HOGLE: If necessary, uh-huh.

6 HEARING OFFICER: Thank you. Any other  
7 proposals?

8 We'll be off the record.

9 (A recess was taken from 11:37 to 11:56 a.m.)

10 HEARING OFFICER: Let the record reflect that  
11 Mr. McDougal has resumed the witness stand.

12 I have a question for you, Mr. McDougal. In  
13 the context of the RBA could you describe for the  
14 record the allocation factor that was used to allocate  
15 actual RBA total company costs to Utah?

16 MR. McDOUGAL: The actual total company RECs  
17 were split basically into three groups, depending upon  
18 whether we are banking the RECs for certain states.  
19 Then as we look at the RECs we allocate those -- the  
20 RECs to those states that are not banking the RECs.

21 Where I walked straight up here I don't have  
22 my exhibit, but it's I believe SRM-3. Let me go grab  
23 that real quickly.

24 It's actually SRM-2, page 2.1. And if you  
25 look at that you can see how all the RECs are

1 originally allocated using an SG factor, but then are  
2 reallocated based upon what states are banking the  
3 RECs. And that's why the allocation is above the  
4 normal 43 percent.

5 HEARING OFFICER: That would be an adjustment  
6 that wouldn't have been applied in the EBA context,  
7 correct?

8 MR. McDOUGAL: Correct. Because the EBA we  
9 have actuals and we just used the straight factors.  
10 It is using the exact same factors, it's just looking  
11 and saying if we don't sell a certain state's then all  
12 the costs are allocated to the remaining states.

13 It's one of the items that was agreed to as  
14 part of the revised protocol and it was carried  
15 forward into the 2010 protocol.

16 HEARING OFFICER: Any questions based on  
17 mine?

18 MR. EVANS: What do we mean by "banking"  
19 RECs? I'm not getting that. "Banking" do you mean  
20 retiring them?

21 MR. McDOUGAL: Basically they're renewable  
22 portfolio standards. And so certain states require  
23 us, as part of their RPS standards, that we do not  
24 sell their RECs. Their RECs are used to meet the  
25 renewable portfolio standard.

1 MR. EVANS: Thank you.

2 HEARING OFFICER: So a banked REC would be a  
3 REC used to meet the renewable portfolio standards?

4 MR. McDOUGAL: Right. And that's my  
5 definition. I am not sure if that's the definition  
6 that origination or anybody uses, But yes.

7 HEARING OFFICER: Any other questions on this  
8 topic?

9 Thank you. Thank you Mr. McDougal.

10 Oh, Ms. Hogle, did you have something?

11 MS. HOGLE: I'm sorry, not on this topic.  
12 But I'm wondering before we break if I can make one  
13 suggestion?

14 HEARING OFFICER: Uh-huh. Mr. McDougal,  
15 you're excused.

16 Ms. Hogle?

17 MS. HOGLE: It occurred to the Company that  
18 assuming that the Commission, after reading our  
19 briefs, determines that there is no need for  
20 additional witnesses to support the brief, would it be  
21 a good idea for the Company to put on its witnesses  
22 today with respect to the \$8.9 million?

23 Of course subject to Mr. -- excuse me,  
24 Counsel Evans' objections. And we would note that, of  
25 course. And he would, he would object, of course.

1           But if the Commission would consider doing  
2 that so that the Company doesn't have to bring back  
3 its witnesses with the testimony. I just think it  
4 would be more expeditious to handle it that way and  
5 just to have our witnesses testify today, despite the  
6 objection of Mr. Evans.

7           MR. EVANS: Well, may I respond?

8           HEARING OFFICER: Mr. Evans.

9           MR. EVANS: With all respect, we appreciate  
10 the Company's problem of bringing the witnesses back.  
11 But I don't think that we can get effective  
12 cross-examination done on these witnesses today.  
13 Effective cross is largely dependent on what other  
14 parties file for testimony and the way the whole  
15 picture emerges.

16           To say that we're gonna do our cross today,  
17 before there's been anything else on the record except  
18 the Company's testimony, would, would mean that we're  
19 doing ineffective cross-examination. So I'd ask that  
20 we, that we not do that. We wait until the  
21 appropriate time to cross these witnesses.

22           HEARING OFFICER: Any other parties wish to  
23 express a position on this issue? Okay.

24           MS. SCHMID: We would reserve the right to  
25 cross if that is what is ordered.



1 HEARING OFFICER: Thank you Ms. Schmid.  
2 That's a matter that I'll review with the  
3 Commissioners. So in light of that request and so  
4 that it can remain viable, I think you'll need to have  
5 your witnesses here in the afternoon.

6 MS. HOGLE: Yes, sir.

7 HEARING OFFICER: Without any commitments  
8 from the Commission as to whether they will testify or  
9 not.

10 MS. SCHMID: That would mean Mr. Croft would  
11 also be here. As his -- as the Division's memorandum  
12 addressed the \$9 million.

13 HEARING OFFICER: Thank you, yes.

14 MS. SCHMID: If she puts hers on.

15 HEARING OFFICER: Thank you.

16 All right, we'll be off the record and in  
17 recess until 1:30. Thank you all.

18 MR. EVANS: And at 1:30 we're going to take  
19 up?

20 HEARING OFFICER: There's been a question as  
21 to what will be addressed at 1:30. And certainly the  
22 topic of briefing and a briefing schedule. And  
23 whether or not the Commissioners also desire the  
24 parties to establish an evidentiary schedule, a  
25 hearing schedule, for the \$8.9 million EBA issue.

1 I may also address the other two issues as to  
2 which we took evidence this morning.

3 MR. EVANS: Okay.

4 HEARING OFFICER: But I'm uncertain about  
5 whether that will occur or not.

6 MR. EVANS: Okay, thank you.

7 HEARING OFFICER: All right. Thank you very  
8 much.

9 (A luncheon recess was taken  
10 from 12:03 to 1:35 p.m.)

11 HEARING OFFICER: Before I begin is there  
12 anything that any of the parties would like to note,  
13 either on or off the record.

14 All right. The Commissioners have authorized  
15 me to issue some orders, which will be subsequently  
16 memorialized in written orders of the Commission. The  
17 first is with regard to Docket No. 12-035-67. The  
18 request for a \$20 million surcharge that relates to  
19 deferred net power costs and flows out of the general  
20 rate case settlement agreement is approved, to be  
21 effective June 1. The billing determinants to be used  
22 are those that are found in that general rate case  
23 decision.

24 And with regard to the remaining issues in  
25 that application that we've characterized as the, the

1 \$8.9 million issue that represents a balance in the  
2 energy balancing account accrued for the period  
3 October 1 through December 31, 2011, that issue is, is  
4 to be the subject of briefing.

5 And the schedule for the briefs, that I  
6 believe is consistent with at least some of the  
7 comments that were made this morning, is opening  
8 briefs on May 29th, closing briefs on June 13th. And  
9 nothing further will be scheduled relative to that set  
10 of issues until after the briefing process and the  
11 Commission's order in response to those briefs.

12 And the issues generally to be addressed in  
13 the briefs are: The application of an interim rates  
14 process relative to the energy balancing account  
15 amortization or recovery of whatever over or  
16 under-collection might exist in that account as it's  
17 administered year by year under the EBA order. And  
18 the standards that should apply relative to the  
19 Applicant's burden of proof to obtain the interim rate  
20 relief.

21 And if I wasn't clear about it, the  
22 Commission will not receive any evidence on the set of  
23 issues that is going to be briefed at this time, nor  
24 will a schedule be establish for the evidentiary  
25 proceeding.

1 I believe that addresses the open issues  
2 relative to 12-035-67. If there's a question about  
3 that, now would be a good time to inquire. Does  
4 anyone have any question about whether or not I've  
5 addressed all of the, the open issues?

6 Thank you. Then we'll turn to 12-035-68.  
7 And the rate change approved in that application is --  
8 I'm sorry, the rate change requested in that  
9 application is approved, effective June 1st of 2012.  
10 With the same billing determinants used as are being  
11 used for the energy balancing account and which have  
12 their origins in the 2011 general rate case decision.

13 Now, the \$20 million rate impact is  
14 permanent. This rate change is interim, pending the  
15 results of the Division's audit and the publication of  
16 those results, and a future process by which parties  
17 will be -- will have the opportunity to address the  
18 Division's audit report.

19 I believe I've addressed the open issues  
20 relative to that docket. But again, if there are  
21 questions or clarifications that the parties seek, now  
22 is the time.

23 Is there anything else that should come  
24 before the Commission at this time on either of these  
25 two dockets? Let's be off the record for a moment.

1 (A discussion was held off the record.)

2 HEARING OFFICER: The Company's indicated  
3 that it seeks a clarification. It would like to  
4 express an understanding of part of the oral order  
5 that I've just articulated. And we're gonna ask  
6 Mr. Griffith, who's already under oath, to express  
7 that understanding for the Company.

8 MR. GRIFFITH: Yes. The Company understands  
9 that the billing determinants, the loads from the 2011  
10 general rate case, will be used to design both the EBA  
11 and the RBA rates.

12 The only clarification we're asking is that  
13 since that time of the 2011 general rate case loads,  
14 which showed separate customer -- Contract Customers 4  
15 and 3, today those customers are combined into one.  
16 So that when we design the rates we will set the rates  
17 for contract -- for current Contract Customer 3, which  
18 has within it Contract Customer 4, we will set the  
19 rates for Contract Customer 3 by summing the kilowatt  
20 hour loads for Contract Customers 4 and Contract  
21 Customer 3. Thank you.

22 HEARING OFFICER: Thank you. Any comment on  
23 that clarification?

24 MR. EVANS: Yeah, I have one question for  
25 Mr. Griffith. In, in summing the loads for Contract

1 Customer 4 and 3 do you get the same result as if you  
2 had applied the billing determinants separately to  
3 Customer 3 and 4?

4 MR. GRIFFITH: You would get the same  
5 combined est -- result, certainly. Because none of  
6 the other values will change. You'll just be summing  
7 them together to get an a -- it'll be, in a sense --  
8 well, it'll be one rate summing the two together.

9 I don't know if it's exactly the same. One  
10 could have been a little higher and one could have  
11 been a little lower.

12 MR. EVANS: Yeah, that's the question.

13 MR. GRIFFITH: But today they would roll  
14 together into the average of the two weighted by the  
15 kilowatt hours for the two contract customers.

16 MR. EVANS: And you don't know --

17 MR. GRIFFITH: Into one rate.

18 MR. EVANS: You don't know whether that would  
19 make -- that would be a different result than if  
20 Customer 3 were still on the system and the EBA charge  
21 were billed separately to both using rate determinants  
22 from the last case and then the amount of the EBA  
23 surcharge for the two was summed?

24 MR. GRIFFITH: The same dollars would be  
25 collected for those two contract customers combined.

1 And the same kilowatt hours. So I don't know what  
2 other part would be different.

3 MR. EVANS: Okay.

4 MR. GRIFFITH: It still combines -- nothing  
5 else changes for any of the other customers. And the,  
6 and the \$20 million and the 4 million are already set.  
7 So it's just -- it's no real difference that I can  
8 see.

9 MR. EVANS: Thank you.

10 HEARING OFFICER: Anything further?

11 Then we're adjourned. Thank you all very  
12 much for your participation.

13 (The hearing was concluded at 1:53 p.m.)

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