

The Order sets the following schedule for the Company's 2013 and future EBA applications:

1. RMP will file its application on or about March 15, as is the current practice.
2. The Division will complete its audit report and supporting testimony by July 15.
3. All intervenors may conduct discovery, with a 14 day turn around beginning March 15.
4. Shortly after RMP files its application, the Commission will notice a scheduling conference to determine a schedule for the filing of testimony by intervenors (including rebuttal and surrebuttal by all parties) that will allow hearings on the application to be completed by September 15.
5. Any rate change necessary to recover or refund an EBA balance will take effect on or before November 1 of the year the application is filed.²

The Division requests that the Order be modified to state that:

1. RMP will file its application on or about March 15, as is the current practice.
2. Promptly after RMP's filing, the Commission will notice a scheduling conference to determine a schedule for the filing of the Division's completed audit report and supporting testimony, testimony by intervenors (providing for rebuttal and surrebuttal by all parties), a hearing date, and an effective date for the rate change.

The Division's request that the schedule be modified is driven by several factors. A significant factor is the combination of the intense effort required to perform an EBA audit and the Division's variable workload. Additionally, a fixed schedule that does not consider other major proceedings may cause hardship to others participating in both dockets.

Because the hearing on the EBA "stub period" is scheduled for January 2013, it is likely that the Division will not be able to begin to thoroughly review the 2012 monthly filings until after the hearing on the stub period. Thus, it will not be possible for the audit

² Id. at p. 14.

process “to begin far in advance of RMP’s formal application”³ as anticipated by the Commission.

Additionally, like most state government divisions, the Division’s responsibilities have grown without a commensurate increase in staff. Thus, events outside the Division’s control, particularly those with statutory deadlines like a general rate case, coupled with the implementation of the Company’s EBA, virtually monopolize the same Division employees who are responsible for the EBA audits. In particular, the Order’s chosen date of July 15 for the completion of the Division’s audit report and supporting testimony virtually coincides with the months that have recently been devoted to Company rate cases. Although there is not a rate case next year due to the Commission’s order approving the Stipulation in Docket Nos. 11-035-200, 12-035-79, and 12-035-80, it is likely that in subsequent years a Company rate case affecting those months will demand the lion’s share of the Division’s resources.

Similarly, the Order’s schedule calling for the hearings on the EBA application to be completed by September 15 may also present challenges for those parties that participate in both the EBA audit proceeding and any other contemporaneous proceedings. The Division is mindful of concerns arising from the lack of an audit deadline but believes an intermediate approach is warranted given the unpredictability of the press of other business.

For the reasons stated above, adoption of the more flexible schedule requested by the Division “will fairly balance RMP’s interest in timely cost recovery, customers’

³ Id. at pp. 14-15.

interest in timely refunds, and intervenor's interest in examining the balancing account entries and the underlying NPC."⁴

Accordingly, the Division respectfully requests that the Commission vacate the schedule for future EBA applications laid out in the Order and requests that the Commission modify its Order as set forth above.

Dated this ____ day of _____ 2012.

Respectfully submitted,

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of Public Utilities

⁴ Id. at p. 15.

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____ 2012, I caused to be mailed, e-mailed, or hand delivered a true and correct copy of the foregoing DIVISION OF PUBLIC UTILITIES' REQUEST FOR REHEARING to the following:

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