

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

)
In the Matter of the Application of Rocky) DOCKET NO. 12-035-67
Mountain Power to Increase Rates by \$29.3)
Million or 1.7 Percent through the Energy)
Balancing Account)
)
In the Matter of the Application of Rocky) DOCKET NO. 09-035-15
Mountain Power for Approval of its Proposed)
Energy Cost Adjustment Mechanism)
)
In the Matter of the Rocky Mountain Power) DOCKET NO. 11-035-T10
Proposed Schedule 94, Energy Balancing)
Account (EBA) Pilot Program Tariff)
) ORDER ON REQUEST FOR
) REHEARING
)

ISSUED: October 16, 2012

SYNOPSIS

The Commission clarifies its Order on EBA Interim Rate Process, issued August 30, 2012.

By the Commission:

This matter is before the Commission on the Division of Public Utilities' ("Division") Request for Rehearing ("Request") of the Order on EBA Interim Rate Process ("Order") issued on August 30, 2012 in the above-captioned dockets. Among other things, the Order establishes milestones for processing future EBA (Energy Balancing Account) applications beginning in 2013. The Division asks the Commission to vacate the milestones and to substitute a scheduling approach the Division considers more flexible. Rocky Mountain Power ("RMP"), a division of PacifiCorp, objects to the Request. The Utah Industrial Energy Users, an intervention group referring to itself as "UIEC", does not oppose the Request but asks

the Commission to consider the additional carrying costs generated by any delay in determining the amount to be recovered or refunded. For the reasons discussed below, the Commission clarifies the Order to address the Division's concerns.

SUMMARY OF THE ARGUMENTS

The Order establishes the following procedural milestones for future EBA applications, beginning with RMP's 2013 EBA filing:

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.¹

The Order acknowledges these milestones will place on the Division the added burden of a fixed schedule for producing its annual audit report and direct testimony regarding EBA costs. The Commission took this approach, believing the Division's audit process could begin far in advance of RMP's formal EBA application because RMP is required to file its EBA data monthly. The Division, however, states, in light of its other duties this year, a thorough review of the 2012 monthly filings will not be possible until after January 2013. Thus, the Division's access to monthly EBA data, at least under current conditions, is not affording the Division much

¹ Order on EBA Interim Rate Process, August 30, 2012, p.14.

advantage in preparing to meet the 2013 milestones. The other statements the Division offers in support of its Request suggest the Division expects the demands on its resources will not lessen in the foreseeable future.

In its Request, the Division expresses concern regarding how the milestones may conflict with the Division's obligations in other major proceedings. For example, the Division is concerned the milestones overlap the time frame when general rate case testimony is typically filed, an effort which takes the "lion's share" of Division resources. The Division reasons other general rate case participants may also have their resources stretched too thin by the proposed milestones. The Division notes performing its new EBA audit responsibilities requires intense effort. The Division asserts its growing responsibilities come without commensurate increases in staff.

The Division proposes the Commission mitigate the potential conflicts with the Division's other duties by substituting the following approach in lieu of the aforementioned scheduling milestones:

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 believes the current and foreseeable demands on its resources make this recommended approach more appropriate.

RMP opposes the Division's proposed changes to the Order. While RMP acknowledges the effort it will take for the Division to perform the annual EBA audit, RMP believes its monthly filing of net power cost data makes this effort manageable within the Order's milestones. Furthermore, RMP argues the milestones are necessary to permit timely recovery of RMP's costs. The carrying costs that would flow into rates from extending the audit schedule will disadvantage customers, according to RMP. Finally, RMP disagrees with the Division's view that the milestones produce an inflexible schedule. RMP points out the milestones do not prescribe specific due dates for testimony. Moreover, RMP believes a specific date for completion of the audit and an effective date for the annual EBA rate changes are important to customers so they can plan and budget based on a predictable process.

UIEC is the only other party to respond to the Request. UIEC does not oppose the Request; however, UIEC raises two concerns. First, as with RMP, UIEC asks the Commission to consider that any delay in determining the amount to be recovered or refunded through the EBA may affect the amount of carrying charges reflected in customers' rates. Second, UIEC argues delay could also adversely impact the ability of parties to discover evidence relevant to the issues in an EBA case. UIEC argues the Division's inability to complete its audit report within the time set by the Order must not be allowed to affect the amount that ratepayers are charged for EBA costs, or impair their ability to participate effectively in EBA proceedings.

DISCUSSION

We recognize the importance to both RMP and its customers of receiving a prompt determination of the appropriate EBA balance to be refunded or recovered in rates. We must balance this objective with the requirements of an effective audit process that is an essential component of EBA administration. With these interests in mind, we hereby clarify the schedule milestones set out at page 14 of the Order and referenced in ordering paragraphs 1 and 2 thereof.

We will treat the Order's schedule milestones as guidelines describing schedule parameters we intend to follow generally. At each scheduling conference to be held shortly after RMP files its EBA application (milestone #4), we will hear from the Division concerning its ability to meet the schedule milestones. In the event other, higher demands on Division resources require a different schedule, the Division will be free to propose an alternative that will enable it to conduct an effective audit with appropriate rigor and attention to detail. This approach will allow the Commission, the Division, and the other parties to develop a schedule on a case-by-case basis that balances the interests in a prompt resolution based on a high-quality audit report.

DATED at Salt Lake City, Utah this 16th day of October, 2012.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Gary L. Widerburg
Commission Secretary
DW# 236083

Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this order by filing a request for review or rehearing with the Commission within 30 days after the issuance of the order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply with the requirements of Utah Code Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 16th day of October, 2012, a true and correct copy of the foregoing Order on Request for Rehearing was served upon the following as indicated below:

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