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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of Rocky Mountain Power to Decrease the Deferred EBA Rate through the Energy Balancing Account Mechanism

**COMMENTS OF THE UTAH
INDUSTRIAL ENERGY
CONSUMERS**

Docket No. 15-035-03

In lieu of direct testimony, the UIEC intervention group submits the following comments in response to Rocky Mountain Power's ("RMP" or "Company") Application and supporting testimony in this docket, and in response to the Division of Public Utilities' ("Division") audit report and testimony.

1. On November 1, 2014, PacifiCorp began its participation in the California ISO ("CAISO") Energy Imbalance Market ("EIM"). Direct Testimony of Brian S. Dickman ("Dickman Direct"), 14:276-79. The Company states that participation in the EIM has resulted in reduced actual net power costs, and that "all net benefits arising from the EIM operation" through December 31, 2014, have been included in the EBA deferral. *Id.* As discussed below, it is not clear what types of expenses and revenues have produced the "net benefits," and whether all of those expenses and revenues should have been included in actual net power costs for the purposes of the EBA deferral. Nevertheless, for the purposes of the present case, the UIEC do not oppose

the Company's proposed EIM-related expenses and revenues, but reserve the right to do so in future proceedings.

2. The parties to the most recent general rate case, Docket No. 13-035-184 ("2014 Rate Case"), addressed the accounting treatment of certain EIM-related costs in a Settlement Stipulation filed with the Commission on June 25, 2014 ("Stipulation"). The Stipulation provided, in part:

The Parties agree that the Commission may enter a deferred accounting order to permit the Company *to begin to defer* a) Utah's allocated portion of energy imbalance market ("EIM")-related operations and maintenance expenses incurred on or after September 1, 2014, and b) depreciation expense related to capital investments necessary to implement EIM recorded on or after September 1, 2014 *for potential recovery from customers pursuant to a Commission order in a future rate case*. The Parties further agree that *the prudence of the deferred EIM costs shall be determined in such future rate case* and that the Parties may contest the costs to be recovered notwithstanding their agreement not to oppose deferred accounting treatment.

Stipulation, Docket No. 13-035-184 (June 25, 2014) at ¶ 30 (emphasis added). Following a hearing on the Stipulation, the Commission approved the terms and conditions of the Stipulation without modification. Report and Order, Docket No 13-035-184 (Aug. 29, 2014) at 70.¹

3. Although the Commission's order in Docket 13-035-184 allowed the Company to begin the deferral on September 1, 2014, for *potential* recovery, it did not authorize recovery until after "the prudence of the deferred EIM costs [could] be determined in [a] future rate case." *Id.* at ¶ 30. Since the EBA is not a rate case, there should be no recovery of any level of deferred EIM-related operations and maintenance expenses ("O&M") or depreciation costs in this EBA case.

¹ The Settlement Stipulation provided that the Company could begin to collect the deferral only following a prudence review and Commission order in a "future rate case." Stipulation at 11, ¶ 30.

4. As part of the Division's investigation in the present EBA docket, the Division requested and received from the Company a summary description of certain EIM-related accounts that had been added to the EBA. Division DR 17.1; RMP Response to Division DR 17.1 (attached as Appendix 1). The Division offered no opinion on whether these accounts were properly included in the EBA, but stated as follows:

Given the complexity of understanding the types of Energy Imbalance Market (EIM) costs and revenues included in the EBA, the Division reserves the right to make adjustments in future EBA audits for the types of EIM costs it deems to be imprudent, inappropriate or unreasonable, or not meeting the public interest. No adjustments related to EIM costs and revenues however are proposed in this current EBA audit.

Direct Testimony of Matthew Croft ("Croft Direct") (July 15, 2015) at 4:56-59. Rather than try to sort out in this docket the types of costs and revenues that PacifiCorp has included in the EBA, the Division reserved the right to make adjustments in future EBA cases for the types and prudence of EIM-related costs the Division deems appropriate for recovery through the EBA. *Id.* at 4:56-62.

5. For purposes of the present docket, the UIEC do not oppose PacifiCorp's proposed accounting of EIM-related costs and revenues. The UIEC, however, reserve their right to challenge in any future proceeding the types of EIM-related costs and revenues proposed to be included as "net power costs" in base rates and in future EBA filings, as well as the prudence of all EIM-related costs.

6. The Division, having reserved its right to "make adjustments in future EBA audits for the types of costs," continued:

To be clear, the Division will not adjust calendar year 2014 EIM related dollars in future EBA audits, but may challenge certain types of EIM costs and revenues in future EBA filings.

Croft Direct at 4:59-62. The Division’s statement that it “will not adjust calendar year 2014 EIM related dollars,” while not entirely “clear,” seems to anticipate the question of how to treat adjustments to 2014 EIM-related dollars that may arise as a result of pricing anomalies that occurred shortly after the EIM went live.

7. During the last two months of 2014, CAISO reported that “transitional conditions” in the EIM caused prices to be set at the \$1,000/MWh bid cap in CAISO’s tariff. *Order Granting Tariff Waiver and Directing Informational Filings*, Docket No. ER15-402-000 (FERC, December 1, 2014) at 2-3, ¶4. Contending that those prices were not reflective of actual physical conditions on the system, CAISO requested and received from the Federal Energy Regulatory Commission (“FERC”) limited waivers of the sections of its tariff establishing the price for imbalance energy during that period of time. *See id.* (waiver for period from November 15, 2014, to February 12, 2015); *Order Granting Tariff Waiver*, Docket No. ER15-817-000 (FERC, July 29, 2015) at 15, ¶27 (waiver for period from November 1-14, 2014) (collectively, “FERC Waiver Orders”).

8. The application of the FERC Waiver Orders to re-settle transactions that occurred during the last two months of 2014, could result in PacifiCorp issuing a refund.² While the UIEC take no position on the Division’s refusal to adjust calendar year 2014 EIM-related dollars, the Commission should be mindful that any such refund would occur in a different period than the over-collection, causing a mismatch between the customers that paid the excess prices and those who receive the refund.

² PacifiCorp was the recipient of the higher EIM prices. *Order Granting Tariff Waiver*, Docket No. ER15-817-000 at 14, ¶26.

9. In sum, the UIEC do not oppose including in the present EBA the net “benefit to customers” in the form of reduced net power costs arising from PacifiCorp’s participation in the EIM through December 31, 2014. The UIEC reserve the right, however, to challenge, in any future proceeding, the types of EIM-related expenses and revenues that should be included as net power costs in base rates or in any future EBA deferral, the prudence and amount of any EIM-related expenses (including any refund that may arise from re-settling the 2014 EIM transactions), and the recovery of any EIM-related expenses from ratepayers, either through base rates or through a future EBA deferral.

DATED this 18th day of August, 2015

/s/ William J. Evans

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CERTIFICATE OF SERVICE

(Docket No. 15-035-03)

I hereby certify that on this 18th day of August 2015, I caused to be e-mailed, a true and correct copy of the foregoing **COMMENTS OF THE UTAH INDUSTRIAL ENERGY CONSUMERS** to:

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