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DEPARTMENT OF COMMERCE
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To: The Public Service Commission of Utah

From: The Office of Consumer Services
Michele Beck, Director
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Copies to: Service List

Date: September 15, 2017

Subject: Docket No. 17-035-01, In the Matter of the Application of Rocky Mountain Power to Decrease the Deferred EBA Rate through the Energy Balancing Account Mechanism

Docket No. 09-035-15, In the Matter of the Application of Rocky Mountain Power for Approval of its Proposed Energy Cost Adjustment Mechanism

Background

The Office of Consumer Services (“Office”) filed testimony in the Energy Balancing Account (“EBA”) Evaluation Docket, 09-035-15 regarding the statutory responsibility of the Public Service Commission of Utah (“Commission”) cited in Utah Code Ann. Section 54-7-13.5(6) to report on the EBA before the Public Utility and Technology Interim Committee (“PUTIC”) of the Utah Legislature. The Office recommended in its testimony that the Commission should implement a process allowing stakeholders to provide input for these reports. On February 16, 2017, the Commission issued its order indicating that it intended to allow input and comment in its annual reports before the PUTIC.¹

On March 23, 2017, the Commission issued a courtesy notice (“Notice”) requesting interested parties to submit initial comments to the Commission by September 15, 2017 and reply comments on or before October 16, 2017 to be filed in Docket 17-035-01. These comments are offered according to the Commission’s request.

¹ See the Commission’s Order in Docket 09-035-15 dated Feb. 16, 2017, page 6.

Comments

The Commission requested that parties file comments to address “whether allowing an electrical corporation to continue to recover [100% of the electrical corporation’s prudently incurred] costs under Subsection (2)(d) [of the EBA statute] is reasonable and in the public interest.”² The Office appreciates the opportunity for parties to provide feedback and input to the Commission’s EBA Report to the PUTIC (“PUTIC Report”). The Commission will be reporting December 1 of this year and again in 2018 to the PUTIC. The extension of the EBA pilot allows more time to investigate and analyze over time the impact of increasing the sharing band percentage. At this time, the Office asserts that it is premature to determine if the 100% EBA cost recovery is reasonable and in the public interest.

First, The Commission recently approved other changes to the EBA such as implementing interim rates and a significantly different procedural schedule to review EBA filings in addition to the statutory change in the sharing band. Also, the most recently completed true-up docket had two different sharing band calculations due to the timing of Senate Bill 115’s passage. As the details of the EBA are currently in flux³, it is difficult to determine if the sharing band is reasonable and in the public interest at this time.

Second, since this is the first EBA proceeding that has implemented the 100% of EBA cost recovery feature, it is premature to draw conclusions at least until the end of this proceeding which will occur March of next year. Under the revised EBA schedule parties are currently filing discovery and waiting on the Division of Public Utilities (“DPU”) EBA Audit Report, which will be filed in November. Until parties have a chance to review the DPU’s Audit Report and associated information in this docket, parties won’t have sufficient evidence to provide significant input regarding the removal of the sharing band. Given the timing for the PUTIC Report, there is little information on which to draw conclusions about the reasonableness of the collection of 100% of net power costs at this time.

² See the Commission’s Courtesy Notice issued March 23, 2017.

³ The issue of whether the Commission erred in injecting interim rates into the EBA mechanism has been appealed by the Office of Consumer Services and the Utah Association of Energy Users and is presently pending before the Utah Court of Appeals in Case No. 20170364. Accordingly, this issue has yet to be finally resolved.

The Office believes that in addition to providing recommendations about the sharing band, the PUTIC Report should inform and educate legislators about the EBA, historically and currently. Understanding the evolution of the EBA from its inception could assist legislators in evaluating whether the changes to the EBA are reasonable and in the public interest. Therefore, the Office recommends that the Commission take the opportunity to educate the legislators regarding the history of the development of the EBA. This approach allows the Commission to provide legislators and other stakeholders background information to evaluate whether the EBA and its operation is reasonable and in the public interest.

Recommendations

The Office recommends to the Commission the following:

1. Include in the PUTIC Report a historical background of the EBA to provide the PUTIC and other stakeholders a benchmark to evaluate the changes made statutorily or by Commission Order.
2. Provide a background in the PUTIC Report of the development of the EBA, including both regulatory changes and the sharing band change required by the passing of Senate Bill 115.
3. Report that it is premature to draw conclusions as to whether the 100% sharing band is reasonable and in the public interest at this time.