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

DOCKET NO. 17-035-01
ORDER MEMORIALIZING BENCH
RULING

ISSUED: February 7, 2018

I. BACKGROUND AND PROCEDURAL HISTORY

On March 15, 2017, PacifiCorp, doing business in Utah as Rocky Mountain Power (PacifiCorp), filed an application (Application) with the Public Service Commission of Utah (PSC) for authority to decrease rates in Electric Service Schedule No. 94 (Schedule 94), Energy Balancing Account (EBA) Pilot Program. Pursuant to Utah Code Ann. § 54-7-13.5 (EBA Statute), which took effect March 25, 2009, the PSC approved use of the EBA to set rates in Docket No. 09-035-15.¹

As set forth in the Application, PacifiCorp requested approval to refund approximately \$6.5 million in deferred EBA costs (EBAC) and interest back to customers over a one year period, commencing with the implementation of interim rates on May 1, 2017. The \$6.5 million credit comprises the following components: 1) a \$11.3 million credit, representing the difference between the actual EBAC and the base EBAC in current base rates for the period beginning January 1, 2016 through December 31, 2016 (Deferral Period);² 2) an approximate \$0.7 million

¹ See *In the Matter of the Application of Rocky Mountain Power for Approval of its Proposed Energy Cost Adjustment Mechanism*, (Corrected Report and Order, issued March 3, 2011; Docket No. 09-035-15).

² Deferred EBAC for the January 2016 through May 2016 period were subject to a 70%/30% sharing (Sharing Band) between customers and shareholders, respectively, of the differences between the forecasted and actual net power costs. On March 11, 2016, the Utah Legislature passed S.B. 115, Sustainable Transportation and Energy Plan Act, which added Utah Code Ann. § 54-7-13.5(2)(d) removing the Sharing Band from the EBA, effective June 1, 2016, and allowing PacifiCorp to recover 100% of its prudently incurred costs as determined and approved by the PSC.

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credit in coal fuel expense savings with the closure of the Deer Creek mine (Deer Creek Mine Closure) pursuant to the PSC-approved stipulation in Docket No. 14-035-147;³ 3) an approximate \$0.5 million credit in accrued interest; 4) an approximate \$0.2 million credit related to adjustments for sales made to a special contract customer; 5) an approximate \$2.9 million credit for savings related to the Retiree Medical Obligation associated with the Deer Creek Mine Closure; and 6) approximately \$9.1 million in amortization expenses associated with the Deer Creek Mine Closure. PacifiCorp's Application also included proposed revisions to Sheet Nos. 94.2 through 94.11 of its P.S.C.U. Tariff No. 50 (Tariff), reflecting a \$6.5 million decrease in Schedule 94 rates, changes to comply with the PSC's February 16, 2017 Order in Docket No. 09-035-15,⁴ additions of account numbers related to the calculation of the EBA rate, and other administrative changes.

On April 25, 2017, the PSC issued an Order in this docket approving PacifiCorp's proposal to apply the \$6.5 million credit to the 2016 EBA balance on an interim basis, and directing PacifiCorp to file revised tariff sheets to change the interim EBA rates to zero once the 2016 EBA balance was collected.⁵ On April 28, 2017, the PSC approved PacifiCorp's proposal to adjust the interim EBA collection rates to zero, effective May 1, 2017.⁶

Pursuant to the PSC's March 23, 2017 Scheduling Order and Order Suspending Tariff (Scheduling Order), on November 15, 2017, the Division of Public Utilities (DPU) filed its final

³ See *In the Matter of the Voluntary Request of Rocky Mountain Power for Approval of Resource Decision and Request for Accounting Order* (Redacted Report and Order Memorializing Bench Ruling, issued April 29, 2015; Docket No. 14-035-147).

⁴ See *supra* n.1 (Order, issued February 16, 2017).

⁵ See (Order at 4, issued April 25, 2017; Docket No. 17-035-01).

⁶ See *id.* (Order Approving Proposed Revisions to Schedule No. 94; issued April 28, 2017).

audit report (Audit), including direct testimony concerning the Application. The DPU's Audit recommended a combined adjustment in EBAC totaling approximately \$8.6 million for 1) costs related to unsuccessful recovery and abandonment of the Joy longwall equipment at the Bridger mine, and 2) replacement power costs related to outages the DPU deemed imprudent.⁷

On December 19, 2017, the Office of Consumer Services (OCS) and the Utah Association of Energy Users (UAE) filed direct testimony in support of the DPU's Audit findings pertaining to the Joy longwall adjustment, and PacifiCorp filed response testimony. On January 11, 2018, PacifiCorp and the DPU filed rebuttal testimony.

On January 30, 2018, PacifiCorp, the DPU, the OCS, and the UAE (collectively, Parties) filed a Settlement Stipulation (Stipulation) in which the Parties agree to an unspecified adjustment of \$2.8 million to be carried forward and applied to PacifiCorp's request in its forthcoming March 2018 EBA filing. The Stipulation is attached as an appendix to this order.

The PSC held a hearing on January 31, 2018 to consider the Stipulation at which PacifiCorp and the DPU provided testimony supporting the Stipulation. PacifiCorp provided a summary of the Stipulation and testified the Stipulation was negotiated in good faith and is in the public interest. The DPU, likewise, testified in support of the Stipulation and expressed that it is in the public interest. In light of the treatment of the \$2.8 million specified in Paragraph 8 of the Stipulation, PacifiCorp and the DPU recommend no changes to Schedule 94 in this proceeding. Counsel for the OCS represented that the OCS has participated in this docket and fully supports the Stipulation. Additionally, counsel for Utah Industrial Energy Consumers entered an

⁷ See *id.* (Confidential DPU Exhibit 1.5 at Tab "DPU Reconciliation").

appearance and, although not a party to the Stipulation, expressed it does not oppose it. No party opposed the Stipulation.

At the conclusion of the hearing, PacifiCorp moved for a bench order approving the Stipulation. No party opposed PacifiCorp's motion. Based on the Stipulation filed, the testimony presented, and, in particular, Paragraph 10 of the Stipulation representing that all Parties agree to the Stipulation as a whole, the PSC granted PacifiCorp's motion and approved the Stipulation. This Order memorializes that ruling.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Stipulation presents a settlement of many issues associated with the Application. The Parties represent a diversity of interests and the major customer groups. These Parties agree the Stipulation is in the public interest and the results are just and reasonable.⁸ Further, no one opposes the Stipulation.

As set forth in Utah Code Ann. § 54-7-1, settlements of matters before the PSC are encouraged at any stage of a proceeding.⁹ Pursuant to this statute, the PSC may approve a stipulation or settlement after considering the interests of the public and other affected persons, if it finds the stipulation or settlement in the public interest.¹⁰ Likewise, in reviewing a settlement, the PSC may consider whether it was the result of good faith, arms-length negotiations.¹¹

The Stipulation at issue is the product of mutual negotiation involving parties with substantial and varying interests. We find that the Application and testimony filed in this docket

⁸ See Stipulation at 3, ¶ 10.

⁹ See Utah Code Ann. § 54-7-1.

¹⁰ See *Utah Dept. of Admin. Services v. Public Service Comm'n*, 658 P.2d 601, 613-14 (Utah 1983).

¹¹ See *id.* at 614 n.24.

demonstrate the importance of the variety of interests that participated in the negotiation and execution of the Stipulation.

No party has presented testimony or evidence in opposition to the Stipulation. We find that the record and evidence in this docket support the unopposed representation of the Parties in Paragraph 10 of the Stipulation that settlement is in the public interest and that the results are just and reasonable.

Accordingly, consistent with our bench ruling issued at the conclusion of the January 31, 2018 hearing, we find: 1) approval of the Stipulation to be in the public interest, and 2) the evidence, contained in the record, supports our finding that the Stipulation is just and reasonable in result. We conclude that the Stipulation is consistent with the EBA Statute, any other relevant PSC statutes or rules, and with the previous orders we have issued under the EBA Statute.

III. ORDER

Based on the findings and conclusions expressed above, we approve the Settlement Stipulation filed in this docket on January 30, 2018.

DATED at Salt Lake City, Utah, February 7, 2018.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Attest:

/s/ Gary L. Widerburg
PSC Secretary
DW#299900

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Notice of Opportunity for Agency Review or Rehearing

Pursuant to §§ 63G-4-301 and 54-7-15 of the Utah Code, an aggrieved party may request agency review or rehearing of this Order by filing a written request with the PSC within 30 days after the issuance of this 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 PSC does not grant a request for review or rehearing within 20 days after the filing of the request, it is deemed denied. Judicial review of the PSC'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 §§ 63G-4-401 and 63G-4-403 of the Utah Code and Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on February 7, 2018, a true and correct copy of the foregoing was served upon the following as indicated below:

By Electronic-Mail:

Data Request Response Center (datarequest@pacificorp.com)
utahdockets@pacificorp.com
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Vicki M. Baldwin (vbaldwin@parsonsbehle.com)
Chad C. Baker (cbaker@parsonsbehle.com)
Utah Industrial Energy Consumers

Erika Tedder (etedder@utah.gov)
Division of Public Utilities

By Hand-Delivery:

Office of Consumer Services
160 East 300 South, 2nd Floor
Salt Lake City, UT 84111

Administrative Assistant

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ATTACHMENT: SETTLEMENT STIPULATION

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1407 W North Temple, Suite 330
Salt Lake City, Utah 84114

January 30, 2018

VIA ELECTRONIC FILING

Utah Public Service Commission
Heber M. Wells Building, 4th Floor
160 East 300 South
Salt Lake City, UT 84114

Attention: Gary Widerburg
Commission Secretary

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

Rocky Mountain Power hereby submits for filing a Settlement Stipulation ("Stipulation") of parties in the above referenced docket.

Rocky Mountain Power respectfully requests that all formal correspondence and requests for additional information regarding this filing be addressed to the following:

By E-mail (preferred): datarequest@pacificorp.com
utahdockets@pacificorp.com
jana.saba@pacificorp.com
yvonne.hogle@pacificorp.com

By regular mail: Data Request Response Center
PacifiCorp
825 NE Multnomah, Suite 2000
Portland, OR 97232

Informal inquiries may be directed to Jana Saba at (801) 220-2823.

Sincerely,


Joelle Steward
Vice President, Regulation

cc: Service List

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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

Docket No. 17-035-01

SETTLEMENT STIPULATION

This Settlement Stipulation (“Stipulation”) is entered into in Docket No. 17-035-01 by and among the parties whose signatures appear on the signature pages hereof (collectively referred to herein as the “Parties” and individually as a “Party”).

1. The Parties conducted settlement discussions on January 22, 2018 to which all intervenors were invited. All intervenors are either Parties to or do not oppose the Stipulation.

2. The Parties recommend that the Public Service Commission of Utah (“Commission”) approve the Stipulation and all of its terms and conditions. The Parties request that the Commission make findings of fact and reach conclusions of law based on the evidence filed in this proceeding and on this Stipulation and issue an appropriate order thereon.

3. Pursuant to its energy balancing account mechanism (“EBA”) tariff Schedule 94, Rocky Mountain Power (“RMP” or the “Company”) filed its application dated March 15, 2017 (“Application”), requesting approval to refund approximately \$6.5 million in deferred EBA Costs (“EBAC”). The \$6.5 million includes the following components: a) a credit of approximately \$11.3 million, the difference between the actual EBAC and the Base EBAC in current base rates for the period beginning January 1, 2016 through December 31, 2016 (“Deferral Period”), b) a credit of approximately \$2.9 million for savings related to the Retiree Medical Obligation not subject to the sharing band, c) a credit of approximately \$0.7 million in coal fuel expense savings

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at the Hunter and Huntington plants related to the Deer Creek mine closure and not subject to the sharing band, d) a credit of approximately \$0.5 million in accrued interest, e) a credit of approximately \$0.2 million related to an adjustment for sales made to a special contract customer, and f) approximately \$9.1 million in costs representing the Utah-allocated Deer Creek mine amortization expense.

4. On November 15, 2017, the Division filed testimony and a confidential audit report, prepared by its consultant Daymark Energy Advisors, recommending further reductions to EBAC for a) recovery and abandonment costs related to the Joy longwall in the amount of approximately \$8.2 million; and b) replacement costs related to 14 outages in the amount of approximately \$210,486, for a total recommended further reduction in EBAC of approximately \$8.4 million.

5. On December 19, 2017, Rocky Mountain Power filed response testimony and the Office of Consumer Services (“OCS”) and the Utah Association of Energy Users (“UAE”) filed direct testimony. The Company responded that neither the adjustment related to the replacement costs for the outages nor the adjustment related to the recovery and abandonment costs of the Joy longwall is warranted. The OCS and UAE both supported the Division’s proposed adjustment related to the recovery and abandonment costs of the Joy longwall, and the OCS included testimony supporting the Company’s proposal on the rate spread of the EBAC.

6. On January 11, 2018, Rocky Mountain Power and the Division filed rebuttal testimony on the Joy longwall issue, among other issues, consistent with their respective positions in their December 19, 2017 testimonies.

7. The Parties agree to an unspecified adjustment in the amount of (\$2,800,000), to the Company’s original request in the amount of (\$6,542,837), for a total request in the amount of

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(\$9,342,837). The original request of (\$6,542,837) was used to offset the EBA, and the current EBA rate is set at \$0.00 per kilowatt-hour.¹

8. The Parties agree that, subject to Commission approval of this Stipulation, the settlement amount totaling a refund of \$2,800,000 will be carried forward and will be offset against the Company's request in the 2018 EBA filing to be made March 15, 2018.

9. The Parties agree that no part of this Stipulation will in any manner be argued or considered as precedential in any future case except with regard to issues expressly called-out and resolved by this Stipulation. This Stipulation does not resolve and does not provide any inferences regarding, and the Parties are free to take any position with respect to any issues not specifically called-out and settled herein.

10. Not all Parties agree that each aspect of this Stipulation is supportable in isolation. Utah Code Annotated Section 54-7-1 authorizes the Commission to approve a settlement so long as the settlement is just and reasonable in result. While the Parties are not able to agree that each specific component of this Stipulation is just and reasonable in isolation, all of the Parties agree that this Stipulation as a whole is just and reasonable in result and in the public interest.

11. All negotiations related to this Stipulation are confidential, and no Party shall be bound by any position asserted in negotiations. Except as expressly provided in this Stipulation, neither the execution of this Stipulation nor the order adopting it shall be deemed to constitute an admission or acknowledgement by any Party of the validity or invalidity of any principle or practice of regulatory accounting or ratemaking; nor shall they be construed to constitute the basis of an estoppel or waiver by any Party; nor shall they be introduced or used as evidence for any other purpose in a future proceeding by any Party except in a proceeding to enforce this Stipulation.

¹ See Docket No. 17-035-01, Order, p.4 (April 25, 2017)

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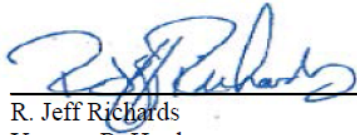
12. The Parties request that the Commission consider this Stipulation at the hearing scheduled in this docket where all pre-filed testimony will be part of the record. In addition, the Company, the Division and any other party that has intervened in these proceedings may, make one or more witnesses available to explain and offer further support for or make comments concerning this Stipulation. As applied to the Division and the Office, any explanation and support provided herein or at the hearing shall be consistent with their statutory authority and responsibility.

13. This Stipulation may be executed by individual Parties through two or more separate, conformed copies, the aggregate of which will be considered as an integrated instrument.

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DATED this 30th day of January, 2018.



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29/01
DATED this 30th day of January, 2018.

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DATED this 30th day of January, 2018.

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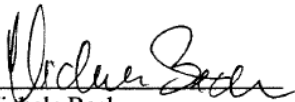
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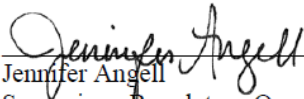
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CERTIFICATE OF SERVICE

Docket No. 17-035-01

I hereby certify that on January 30, 2018, a true and correct copy of the foregoing **Settlement Stipulation** was served by electronic mail to the following:

Utah Office of Consumer Services Cheryl Murray - cmurray@utah.gov Michele Beck - mbeck@utah.gov
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Jennifer Angell
Supervisor, Regulatory Operations