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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of Rocky Mountain Power to increase the Deferred EBA Rate through the Energy Balancing Account Mechanism	**Docket No. 18-035-01** **UAE'S RESPONSIVE COMMENTS REGARDING RMP EBA SHARING MECHANISM**

Pursuant to the Scheduling Order, Notice of Hearings, and Tariff Status issued March 29, 2018 in this docket by the Public Service Commission of Utah ("Commission"), the Utah Association of Energy Users ("UAE") files these comments addressing "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."[1]

[1] *See* Scheduling Order, Notice of Hearings, and Tariff Status at 3.

Background on the EBA

The Commission's March 2, 2011, Report and Order[2] in this docket, known as the EBA Order, approved PacifiCorp's application for its proposed energy cost adjustment mechanism as a pilot ratemaking program, subject to certain modifications, including a 70-30 customer-shareholder sharing mechanism, and authorized an energy balancing account ("EBA"), for approximately four years, beginning October 1, 2011, and ending December 31, 2015. The pilot was extended to December 31, 2016, in the August 29, 2014 Report and Order issued on by the Commission in Docket No. 13-035-184, as agreed upon by parties involved in the Settlement in the case.

In March 2016, the Utah Legislature passed Senate Bill 115, the Sustainable Transportation and Energy Plan Act ("SB 115"), which among other things temporarily eliminates the 70-30 sharing mechanism and requires the Commission to permit the utility to recover 100% of its prudently incurred actual power costs through the EBA mechanism[3] until December 31, 2019, at which point the 100% recovery requirement is repealed.[4] SB 115 also requires the Commission to report to the Public Utilities and Technology Interim Committee ("PUTIC") before December 1, 2017, and December 1, 2018, regarding whether allowing a utility to recover 100% of its prudently incurred actual power costs through the EBA mechanism is reasonable and in the public interest.[5] In the Commission's February 17, 2017, Order, it extended the EBA pilot period through December 31, 2019, and stated its intention to allow

[2] *See* In the Matter of the Application of Rocky Mountain Power for Approval of its Proposed Energy Cost Adjustment Mechanism (Report and Order, issued March 2, 2011), Docket No. 09-035-15. *See also id.* (Corrected Report and Order, issued March 3, 2011) and *id.* (Errata to Corrected Report and Order, issued March 16, 2011). As used elsewhere in this order, the aforementioned orders are referred to collectively as the EBA Order.
[3] *See* Utah Code § 54-7-13.5(2)(d); S.B. 115, lines 558-561.
[4] *See* Utah Code § 63I-1-254; S.B. 115, line 727.
[5] *See* Utah Code § 54-7-13.5(6); S.B. 115, lines 601-604.

stakeholder input and comment with respect to the 2017 and 2018 reports required by SB 115 during the EBA docket.[6]

In March 2017, the Commission solicited feedback from stakeholders for its 2017 Report to the PUTIC. The report, as required by the legislation, addressed whether the elimination of the sharing mechanism is reasonable and in the public interest. Comments were provided by the following stakeholders: Rocky Mountain Power, the Utah Division of Public Utilities, the Utah Office of Consumer Services, the Utah Industrial Energy Consumers, and UAE. Stakeholder comments with respect to the report were consistent with the positions of those stakeholders for several years: Rocky Mountain Power supports the elimination of the risk-sharing mechanism, and the other stakeholders dispute the utility's position for various reasons.[7] The Commission concluded in its 2017 Report to the PUTIC that it had not modified its conclusion from its 2011 EBA Order that the risk-sharing mechanism preserves Rocky Mountain Power's financial incentive to minimize net power cost both in the short-run and long-run. However, it declined to take an affirmative position with respect to whether the sharing mechanism should be allowed to sunset in order to preserve its ability to adjudicate future EBA issues in an unbiased way.[8]

UAE Recommendations on the EBA Sharing Mechanism

In accordance with the Commission's February 16, 2017, Order in Docket No. 09-035-15, requesting comments from parties on the issue of the EBA, UAE files the following comments. There have not been any changes in circumstance to warrant any

[6] February 16, 2017 Order, Docket No. 09-035-15, at 6 & 27.
[7] 2017 Report of the PSC under UCA section 54-7-13.5(6), p. 5. Note the OCS concluded that it was premature to determine whether allowing Rocky Mountain Power to recover 100 percent of its net power costs through the EBA is reasonable and in the public interest, until the audit report from the Division and subsequent PSC processes are complete, but disputes RMP's claim that the risk-sharing mechanism adversely affected customers by denying them full refunds.
[8] *Id.*

change to UAE's position on this matter, and the following comments are consistent with UAE's prior comments on this issue that have been provided over the past several years.

1. UAE believes that the sharing mechanism provided a meaningful incentive for the Company to manage its net power costs ("NPC"). The 70/30 sharing mechanism originally adopted by the Commission as part of the EBA Pilot struck a reasonable balance between customers and shareholders with respect to the sharing of risks associated with deviations in actual NPC relative to what is established in rates. If any extension of the EBA is permitted beyond December 31, 2019, UAE recommends that the 70/30 sharing mechanism be reinstated (as noted in SB 115).
2. The 70/30 sharing mechanism is a clear, straightforward method to give RMP a material stake in each of the actions and decisions related to power costs, which therefore aligns the interests of the utility with those of the customers. The sharing mechanism gives RMP a strong incentive to perform well in managing costs if it stands to gain or lose from its cost management decisions.
3. Although the Company may not control market prices, this does not mean it is a mere passive bystander when it comes to managing its power costs. It is in the overall management of its resources, as distinct from control over market prices, that incentives matter. Every hour of every day, RMP needs to be managing the dispatch of its system to achieve minimum costs, subject to the reliability constraints under which it operates. This requires a sophisticated approach to managing utility-owned resources, as well as conducting a large volume of transactions—purchases and sales—throughout the year.

a. For example, in 2017, the Company made more than 7.2 million MWh of energy sales for resale.[9] The Company also transacted for more than 14 million MWh of energy purchases.[10]

4. The depth and breadth of the Company's around-the-clock dispatch and balancing requirement is clearly extensive. It is critical that RMP have the proper incentives for these transactions, as well as in the management of its fuel procurement, to produce the greatest possible net benefit to customers. This incentive is most efficiently implemented by a regime in which RMP significantly shares in the benefits and risks of its decisions. To ensure sound utility cost-management performance, it is far preferable to harness the natural economic self-interest of the Company than to rely on after-the-fact prudence audits to review the reasonableness of past actions.

5. Under a sharing mechanism, RMP also shares in the economic consequences with respect to the Company's own operations. For example, if forced outages are less frequent than had reasonably been projected, the Company shares in its superior performance. Absent a sharing mechanism, RMP would be economically indifferent between scheduling a maintenance outage during a time when power replacement costs are relatively high versus during a period when prices are low.

6. All other states in PacifiCorp's jurisdiction, except California, which represents the lowest share of PacifiCorp's load, have a version of a sharing mechanism in place,

[9] PacifiCorp FERC Form 1, Section 311.
[10] *Id*., Section 327.

thereby recognizing the importance of financial incentives and the appropriateness of risk sharing.

a. Wyoming requires a 70/30 sharing mechanism that is very similar to the sharing mechanism that had been in place in Utah.[11]

b. Idaho has a 90/10 sharing mechanism,[12] but also generally uses historical test years to set rates.

c. The Oregon mechanism, called the Power Cost Adjustment Mechanism ("PCAM"), was adopted in December 2012. Oregon has an asymmetrical deadband ranging from negative $15 million to positive $30 million on an Oregon-allocated basis. Outside the deadband, a 90/10 sharing mechanism is applied, with customers absorbing 90% of incremental costs above the deadband and receiving 90% of the benefits below the deadband. In addition, PCAM recovery is subject to an earnings test, with zero recovery or refund if the Company's actual return on equity ("ROE") is within 100 basis points of its authorized level. [13]

d. The Washington Power Cost Adjustment Mechanism ("PCAM") was implemented in May 2015. The Washington PCAM has a deadband of +/- $4 million on a Washington-allocated basis. Outside the deadband, PCAM recovery is governed by three-tiered sharing bands:[14]

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[11] Rocky Mountain Power Wyoming Tariff, Energy Cost Adjustment Mechanism Schedule 95.
[12] Idaho Case No. PAC-E-18-01, Order Approving the ECAM, p. 2 (May 31, 2018).
[13] Oregon Docket No. UE-246, Order No. 12-493, p. 15 (December 20, 2012).
[14] Washington Docket No. UE-140762 (consolidated), pp. 25-26 (May 26, 2015).

i. 50/50 sharing for positive NPC variances between $4 million and $10 million.

ii. 75% customer/ 25% Company sharing for negative NPC variances between $4 million and $10 million, i.e. customers receive a refund of 75% in this range.

iii. Symmetrical 90% customer / 10% Company sharing for NPC variances outside +/- $10 million

7. If any extension of the EBA is permitted beyond December 31, 2019, UAE strongly recommends that the 70-30 sharing mechanism be reinstated. The 70-30 sharing mechanism will provide a critical incentive for the Company to manage its costs and will strike a reasonable balance between customers and shareholders with respect to the sharing of risks associated with deviations in NPC relative to what is established in rates.

8. UAE further recommends that the Commission, in its report to the PUTIC, support the sunset provision of SB 115 so that, as of December 31, 2019, the statutory prohibition against a sharing mechanism will be eliminated. Such a sunset will allow the Commission to reinstate a sharing mechanism to the extent and for so long as the Commission determines that a sharing mechanism is in the public interest. There is widespread support among most stakeholders for a sharing mechanism because of the important incentives that it provides for prudent utility cost management. As noted above, the Commission likewise concluded, both in its 2011 EBA Order and in its 2017 Report to the PUTIC, that the sharing mechanism

provides an incentive for the Company to minimize net power costs. The Commission has been asked to provide a report to the PUTIC on this matter because of the Commission's expertise in ratemaking. UAE respectfully asks the Commission to take an affirmative position in support of its ability to protect the public interest by recommending to the PUTIC that the 100% sharing provision in SB 115 be allowed to sunset so that the Commission will have the authority to approve an EBA sharing mechanism that the Commission determines to be in the public interest.

DATED this 18th day of September, 2018.

HATCH, JAMES & DODGE

Phillip J Russell

/s/ ________________________

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by email this 18th day of September, 2018 on the following:

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