



GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

State of Utah
DEPARTMENT OF COMMERCE
Office of Consumer Services

MICHELE BECK
Director

To: The Public Service Commission of Utah

From: The Office of Consumer Services
Michele Beck, Director
Cheryl Murray, Utility Analyst

Date: October 16, 2018

Subject: Docket No. 18-035-01, Office of Consumer Services' Reply Comments Regarding Rocky Mountain Power's Energy Balancing Account Sharing Mechanism. Docket No. 18-035-01.

Background

On March 29, 2018, the Public Service Commission (Commission) issued a Scheduling Order, Notice of Hearings, and Tariff Status. At page 3, the Commission stated: "[I]n accordance with the PSC's February 16, 2017 Order in Docket No. 09-035-15, the following schedule relates to the PSC's 2018 report to the Public Utilities and Technology Interim Committee." September 18, 2018 and October 16, 2018 were established as deadlines for parties to submit comments and reply comments, respectively.

The Commission further clarified "[c]omments and reply comments filed in accordance with the above schedule should 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."

On September 18, 2018, the following parties submitted comments on the matter to the Commission: 1) Division of Public Utilities (Division); 2) Utah Association of Energy Users (UAE); 3) Utah Industrial Energy Consumers (UIEC) and 4) Rocky Mountain Power (Company).

Pursuant to the scheduling order established on March 29, 2018, the Office of Consumer Services submits the following reply comments.

Response to the Division, UAE, and UIEC

The Division “recommends that the sharing band as originally set up by the Public Service Commission (Commission) in its order creating the EBA in Docket No. 09-035-15 should be reinstated at the earliest possible moment”. The Division asserts that the 70/30 sharing band provided incentives for PacifiCorp to manage its costs and share business risk with its ratepayers. “The elimination of the sharing band is a significant shift of risk to ratepayers.” (Division comments, page 2)

The Division points to the Commission’s conclusion regarding the sharing band in its Report and Order in Docket No. 09-035-15, p. 69, quoting:

“We recognize, however, relying solely on prudence reviews will shift too much of the risk for suboptimal planning and operation currently borne by the company, who is in the best position to manage this risk, to customers, who are not. Therefore, the balancing account we adopt requires both Company [PacifiCorp], customers and shareholders to remain at risk for a portion of the actual net power cost which deviates from approved forecasts. This decision recognizes the value of Company management having meaningful financial incentives to minimize net power costs in the short-run and long-run, regardless of the extent of net power cost volatility. We find a sharing mechanism is the best method, at this point, to ensure customer and shareholder interests are aligned and the public interest is maintained.”¹

The Division further states the following in the conclusion of its comments:

“The Division believes the EBA is beneficial to the Utility with little to no net benefit to ratepayers. The elimination of the sharing band further benefits the company and magnifies the problem of shifting risks onto ratepayers. It also does not compensate ratepayers for this additional risk by adjusting the return on equity for the Utility. By effectively guaranteeing the Utility 100% recovery of its net power costs, the EBA as now implemented misaligns the Utility’s incentives in forecasting, managing net power costs, accounting for net power costs, and overall operational efficiency.”

(Division comments, page 4)

¹ Docket No. 09-035-15, In the Matter of the Application of Rocky Mountain Power for Approval of its Proposed Energy Cost Adjustment Mechanism, March 2, 2011, Report and Order, p. 69 – 70.

The UAE and UIEC also raised concerns about aligning incentives absent the sharing band and the lack of adjustment to the Company's rate of return to reflect the lower risk both due to the existence of the EBA and the removal of the sharing band.

The Office agrees that the EBA benefits the Company and shifts risk to ratepayers. The Office further agrees with the proposition that the Company should share in the risk of net power cost volatility. The Company remains in the best position to manage this risk. As the Commission stated "[a] sharing mechanism is the best method, at this point, to ensure customer and shareholder interests are aligned and the public interest is maintained". No other method has been brought forward to replace the sharing mechanism and maintain the public interest.

Shifting 100% of the risks associated with the management of net power costs to Utah ratepayers is especially problematic in the context of the policies adopted by the other states in which PacifiCorp operates its multi-state system. As shown by UAE, the vast majority of PacifiCorp's customers in other states are protected by some sort of sharing mechanism applied to the true-up of net power costs. (UAE comments, pages 5 – 7) It is troubling to the Office that Utah customers should be subjected to more risk than PacifiCorp's other customers, especially without any adjustments having been made to PacifiCorp's rate of return to reflect the lower level of risk to the Company.

Response to Rocky Mountain Power

The Company asserts that the EBA with no sharing band is in the public interest. In making that assertion the Company states that allowing PacifiCorp to recover 100 percent of its NPC ensures that customers do not over-pay or under-pay for the energy they consume. The Company notes that by eliminating the sharing band customers were refunded approximately \$1.7 million in the 2018 EBA that otherwise would not have been refunded.

While the Company vaguely acknowledged previous economic benefits to customers of the sharing band, it failed to report the magnitude of these previous benefits. Over the history of the EBA, the sharing band has resulted in \$40.3 million in benefits to customers. Further, last year's EBA true-up that included a refund to customers appears to be the anomaly. Once again, in this year's EBA filing, the Company is proposing a rate increase.

The Company also asserts that the EBA is procedurally efficient since it helps mitigate the need for more frequent general rate cases, noting that it has not filed a general rate case since 2014. However, it is not clear whether the public interest is best served by going so long without a general rate case, especially since the Company appeared to be over-earning on its rate of return during some of that time.

Office Recommendation

The Commission requested comments on “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.” The Office asserts that allowing the Company to recover 100% of its net power costs might be reasonable and in the public interest, if other mechanisms were in place to reflect the lower risk profile for the Company and to ensure that incentives for management of costs were aligned with ratepayer interests. However, it is not in the public interest to mandate full recovery in the absence of counterbalancing protections, which is the current situation.

The Office recommends that the Commission inform the legislature that the public interest is not best served with the current statute and the mandated 100% recovery should be allowed to sunset. In the case that the Commission does not take this position, or that the legislature does not allow sunset, the Office asserts that the Commission must initiate a process to evaluate how to implement alternative mechanisms to reflect the shifts in risks and to better align Company management of net power costs with ratepayer interests.