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Rocky Mountain Power's Application for Approval of the 2025 Energy Balancing Account	<u>DOCKET NO. 25-035-01</u> <u>ORDER APPROVING SETTLEMENT</u> <u>STIPULATION</u>
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ISSUED: February 23, 2026

### **1. Procedural Background**

On May 1, 2025, Rocky Mountain Power (RMP) filed its Application for Approval of the 2025 Energy Balancing Account ("Application") with the Public Service Commission (PSC). The Application requests rate recovery of approximately \$471.6 million in deferred energy balancing account costs (the "2024 EBAC") to be collected for twelve months on an interim basis beginning July 1, 2025, through June 30, 2026.

On May 9, 2025, the PSC held a scheduling conference during which the parties stipulated to an adjudication schedule that set: (1) deadlines for preliminary comments and a hearing to consider RMP's request for interim rates; (2) a deadline for the Division of Public Utilities (DPU) to file a report ("Audit") detailing its findings after conducting a more comprehensive review of RMP's Application; (3) deadlines for parties to submit several rounds of written testimony responding to the Application and Audit; and (4) a hearing to consider the merits of RMP's Application and finalization of its proposed rates. On May 13, 2025, the PSC issued a Scheduling Order and Notice of Hearings ("Scheduling Order"), adopting the parties' stipulated schedule.

On June 13, 2025, consistent with the Scheduling Order, the PSC held a virtual hearing (“Interim EBA Rate Hearing”) to consider RMP’s request for interim rates, during which RMP and DPU offered testimony. Utah Association of Energy Users (UAE) appeared but offered no witness.

On June 30, 2025, the PSC issued an order approving RMP’s proposed interim rates, effective for twelve months beginning July 1, 2025.

DPU timely filed its Audit on November 5, 2025. On December 5, 2025, RMP filed a settlement stipulation (“Settlement”), executed by RMP and DPU (“Signatories”).

On December 22, 2025, RMP filed correspondence with the PSC representing that RMP had contacted the Office of Consumer Services (OCS), UAE, and Nucor Steel-Utah, (collectively, with RMP and DPU, “Parties”) and that none opposes the Settlement.

On January 22, 2026, the PSC held a hearing to consider the Settlement during which RMP and DPU appeared and offered testimony. Nucor appeared but offered no testimony.

## **2. Regulatory Background**

Generally, RMP recovers the costs it incurs to serve customers through base rates the PSC sets in a general rate case. Recognizing the volatility of certain marginal costs, such as fuel and purchased power, Utah law allows RMP to operate an energy balancing account (EBA) to track the difference between the amount RMP

actually incurs for certain eligible energy balancing account costs (collectively, “EBAC”) and the amount RMP has recovered for these costs through base rates and to facilitate RMP’s recovery or refund of that difference. Utah Code Ann. § 54-7-13.5 (hereafter, “EBA Statute”). The EBA generally serves to mitigate the risks to RMP and its customers of short-term volatility associated with EBAC. RMP’s Schedule 94, Energy Balancing Account (EBA), approved by the PSC, sets forth RMP’s operation of the EBA. Additionally, the EBA process spares all stakeholders the cost of litigating comprehensive general rate cases that would be unnecessary but for volatile swings in EBAC. Pursuant to Schedule 94 and consistent with the EBA Statute and the PSC’s prior orders, RMP files a reconciliation of its EBAC annually on or before May 1. The EBA procedural schedule contemplated under Schedule 94 provides DPU the subsequent six months, approximately, to conduct a thorough audit and submit a report along with accompanying testimony to the PSC.<sup>1</sup> RMP, DPU, OCS, and other intervening stakeholders are allowed to present evidence at hearing before the PSC, after which the PSC sets final rates associated with RMP’s annual EBA filing.

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<sup>1</sup> The EBA Statute permits RMP to seek the PSC’s approval of interim rates pending completion of the DPU’s audit and the PSC’s approval of final rates, as RMP has done in this docket.

### **3. DPU's Audit and Recommendation**

In its Audit,<sup>2</sup> DPU commented on the historic magnitude of the requested \$471.6 million requested deferral amount and the first-time inclusion of \$12.2 million of collection period interest and Schedule 60, Electric Vehicle Infrastructure Program (EVIP) revenues. Aside from these novel aspects of the Application, DPU concluded that the Application and supporting documentation was generally comparable to that of prior EBA filings. The Audit identified \$9,018,316 in certain physical power transactions that DPU argues RMP executed in violation of its own corporate governance policy. Given the apparent policy violation, DPU recommended the PSC disallow \$9,018,316 in 2024 EBAC recovery, on a Utah-allocated basis, including accrued interest.

### **4. The Settlement**

According to the Settlement, Signatories agree to a reduction in the amount of \$4.51 million to RMP's initial \$471,615,308 request, resulting in a total stipulated EBA recovery of \$467,105,308. Additionally, RMP agrees to submit a report to the PSC before March 1, 2026, detailing the progress it makes "to improve its governance review and preapproval process to ensure that appropriate documentation is created

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<sup>2</sup> As in prior EBA dockets, DPU contracted with Daymark Energy Advisors, Inc. to assist with its Audit and to provide testimony in this docket.

and archived and [that RMP] employees obtain pre-approval of power physical transactions that require pre-approval.”<sup>3</sup>

### **5. Testimony at Hearing**

At hearing, RMP testified that it believes the disputed transactions were “important to meet the system obligations and were prudently incurred[.]”<sup>4</sup> RMP further testified the Settlement “take[s] into consideration the concerns that the DPU filed about its governance review policy” and represents RMP “acknowledge[s] [DPU]’s concerns and is working to improve that review process and pre-approval process.”<sup>5</sup> RMP testified that while the disputed transactions were not in line with the governance, review, and pre-approval process in place for power physical transactions policies, it believed its actions were prudent because a genuine need for the transactions existed.<sup>6</sup>

Finally, RMP testified that the Settlement reduces RMP’s requested 2024 EBAC recovery to \$467,105,308, and the stipulated reduction amount was the result of negotiations having considered DPU’s Audit and testimony regarding certain power purchases the Audit raises. RMP testified the Settlement resolves all 2025 EBA issues.

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<sup>3</sup> Settlement at ¶ 6.

<sup>4</sup> Jan. 22, 2026 Hr’g Tr. at 11:20-21.

<sup>5</sup> *Id.* at 11:18-25.

<sup>6</sup> *Id.* at 9:6-7.

According to DPU's testimony, the Settlement attempts to re-align RMP's behavior with its policies and to enhance RMP's documentation of its decisions to allow DPU to better evaluate those types of decisions in the future. DPU is hopeful the plan that RMP agreed to present to it by March 1, 2026, will address various issues raised in the Audit, such as enhanced details in RMP's commercial objectives report.

Like RMP, DPU testified the Settlement was reached through good faith negotiations between it and RMP,<sup>7</sup> is just and reasonable in result, and that the PSC's approval of the Settlement is in the public interest.<sup>8</sup> DPU's testimony further highlighted that the Settlement requires RMP to report to the PSC on its governance and pre-approval process to ensure that sufficient documentation is created and that employees obtain pre-approvals as required.

## **6. Discussion, Factual Findings, and Legal Conclusions**

The Legislature statutorily encourages settlement, by negotiated agreement of the parties, of matters pending before the PSC.<sup>9</sup> The PSC may approve a settlement agreement after considering the interests of the public and other affected persons,<sup>10</sup> if it finds the agreement is just and reasonable in result based on the evidence in the record.<sup>11</sup>

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<sup>7</sup> Jan. 22, 2026 Hr'g Tr. at 19:13-16.

<sup>8</sup> *Id.* at 18:13-16.

<sup>9</sup> Utah Code § 54-7-1.

<sup>10</sup> See Utah Code § 54-7-1(2)(a).

<sup>11</sup> See Utah Code § 54-7-1(3)(d).

As all interested stakeholders are now well aware, EBAC have increased dramatically over the last several years with much of the increase appearing to stem from high prices RMP paid when purchasing power through market transactions. The PSC was sufficiently concerned when resolving RMP's EBA filing in 2023; it committed to opening an investigatory docket to examine RMP's open market operations and what additional information RMP might provide to better facilitate regulators' review of individual transactions.<sup>12</sup> Consequently, the PSC initiated its *Investigation re: Open Market Operations*, Docket No. 24-035-10, on March 1, 2024.<sup>13</sup> In that docket, during a technical conference the PSC held on April 2, 2024, DPU, RMP, and other participating stakeholders requested an opportunity to work collaboratively through informal discussions to explore mechanisms that will better facilitate regulators' review of these transactions. The PSC accommodated that request and has since received numerous status updates regarding stakeholders' progress.<sup>14</sup> DPU recently filed comments in that docket recommending the PSC implement new annual reporting requirements on the issue, and those recommendations are now under consideration with responsive comments having been filed on February 18, 2026.

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<sup>12</sup> *RMP's Application for Approval of the 2023 EBA*, Docket No. 23-035-01, Order issued Feb. 23, 2024, at 19-20.

<sup>13</sup> *Investigation re: Open Market Operations*, Docket No. 24-035-10, Notice of Docket and Technical Conference issued March 1, 2024.

<sup>14</sup> *Investigation re: Open Market Operations*, Docket No. 24-035-10, Order to File Status Report issued April 4, 2024.

Additionally, the PSC opened another investigatory docket early this year concerning changes to RMP's hedging policies and practices and any impact "on the unprecedented large increases in [EBA] costs since their implementation."<sup>15</sup> The PSC has scheduled a closed technical conference on March 5, 2026, where RMP is expected to answer questions from the PSC and other participating stakeholders.

The PSC references these two existing dockets to emphasize its intense and ongoing concern regarding RMP's dramatically increased EBAC. Here, for 2025, RMP initially sought a \$471.6 million deferral. For context, RMP sought to recover \$175 million in 2023, which prompted the PSC to open its pending investigation regarding RMP's open market operations.<sup>16</sup> In the years immediately preceding that docket, RMP sought \$90.6 million,<sup>17</sup> \$6.7 million,<sup>18</sup> \$36.8 million,<sup>19</sup> and \$23.9 million,<sup>20</sup> respectively. The PSC appreciates that RMP operates in volatile markets and manages many

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<sup>15</sup> *Investigation re: PacifiCorp's Hedging Policies and Practices*, Docket No. 26-035-03, Notice of Docket and Closed Technical Conference issued Jan. 21, 2026.

<sup>16</sup> *RMP's Application for Approval of the 2023 EBA*, Docket No. 23-035-01, Order issued Feb. 23, 2024, at 1.

<sup>17</sup> *RMP's Application for Approval of the 2022 EBA*, Docket No. 22-035-01, Order issued Jan. 9, 2023, at 1.

<sup>18</sup> *RMP's Application for Approval of the 2021 EBA*, Docket No. 21-035-01, Order issued Feb. 23, 2022, at 1.

<sup>19</sup> *RMP's Application for Approval of the 2020 EBA*, Docket No. 20-035-01, Order issued Feb. 26, 2021, at 1.

<sup>20</sup> *RMP's Application for Approval to Increase the Deferred EBA Rate through the EBA Mechanism*, Docket No. 19-035-01, Order issued Mar. 4, 2020, at 1.

changing conditions, but we remain deeply concerned that the trend has only worsened this year.

Nevertheless, we are presented with a negotiated Settlement that no party has opposed. All parties offering testimony at hearing testified that the Settlement is just and reasonable in result and that approval of the Settlement is just, reasonable, and in the public interest.<sup>21</sup> RMP has also represented that no other party opposes the Settlement, and no party appeared at hearing to do so. Together, the Signatories and Parties represent substantial, broad, and varying interests.

We find, therefore, the Settlement to be just and reasonable in result and approval of the Settlement is just, reasonable, and in the public interest. No testimony or other evidence in the record suggests otherwise.

The Settlement is approved.

The PSC notes, however, that a significant question the PSC posed at hearing was not answered. DPU's Audit indicated that RMP "engaged in tens of thousands of transactions on a system-wide basis for natural gas and electricity that settled in the 2024 EBA deferral period."<sup>22</sup> The Audit further explained it "developed a sample of 46 broadly representative transactions (including 38 transactions related to PacifiCorp's

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<sup>21</sup> Jan. 22, 2026 Hr'g Tr. at 18:13-20.

<sup>22</sup> Daymark Energy Advisors Audit Report for Calendar Year 2024 – Public Executive Summary filed Nov. 5, 2025, at 5.

hedging program).<sup>23</sup> DPU found RMP had failed to demonstrate ten of the sampled “power physical transactions” were prudently incurred costs and RMP had executed those trades in violation of RMP’s applicable policies.<sup>24</sup>

The PSC thought it significant that, of the transactions it scrutinized, DPU found serious issues with 22 or 26 percent.<sup>25</sup> At hearing, the PSC inquired as to how DPU determined the sample size and whether DPU believed it was a “statistically significant sample size out of tens of thousands of trading transactions[.]”<sup>26</sup> DPU’s witness, however, did not personally prepare the Audit and therefore could not answer these questions. DPU alluded to having limited time to conduct its review and believed the 42 samples stemmed from some “sort of a pre-sorting pre-evaluation” that DPU could not further explain.<sup>27</sup> Unfortunately, the individuals responsible for preparing the Audit were not called to testify at hearing.

In future EBA proceedings, the PSC asks the DPU to call the individuals responsible for preparing the Audit. If those individuals are not available, the PSC asks DPU to provide an alternative witness that has thorough and personal knowledge regarding the Audit’s contents and underlying methodologies.

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<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> The larger figure applies to the extent the appropriate denominator is the 38 transactions DPU identified as “related to PacifiCorp’s hedging program” as opposed to the total sample size of 46. *Id.*

<sup>26</sup> Jan. 22, 2026 Hr’g Tr. at 33:17–34:8.

<sup>27</sup> *Id.* at 34:13–14.

**7. Order**

For the foregoing reasons, the PSC approves the Settlement filed on December 5, 2025.

DATED at Salt Lake City, Utah, February 23, 2026.

/s/ Jerry D. Fenn, Chair

/s/ David R. Clark, Commissioner

/s/ John S. Harvey, Ph.D., Commissioner

Attest:

/s/ Gary L. Widerburg  
PSC Secretary  
DW#343976

Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this written order by filing a request for review or rehearing with the PSC within 30 days after the issuance of the 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 fails to grant a request for review or rehearing within 30 days after the filing of a request for review or rehearing, 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 Utah Code Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on February 23, 2026, a true and correct copy of the foregoing was delivered upon the following as indicated below:

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