

1983

## In The Matter of The Estate of : Rolando S. Garza - Appendix

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- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

IN THE MATTER OF THE APPLICA- )  
TION OF UTAH POWER & LIGHT )  
COMPANY TO IMPLEMENT THE )  
COMPANY'S ENERGY BALANCING )  
ACCOUNT FOR THE PERIOD SEP- )  
TEMBER 19, 1981 THROUGH AUG- )  
UST, 1982 )

CASE NO. 82-035-14

ORDER ON  
REHEARING

By the Commission:

On October 6, 1982, Utah Power & Light Company ("Utah Power" or "Company") filed an application with the Commission seeking an adjustment in its Energy Balancing Account ("EBA" or "Account") for the period September, 1981, through August, 1982, in the amount of \$6,012,000.00. Evidence was heard and the Commission subsequently entered its Order authorizing the proposed adjustment on December 30, 1982.

On January 19, 1983, the Division of Public Utilities and the Committee of Consumer Services ("Committee") filed petitions for rehearing and reconsideration. The Division's Petition alleged that the Commission's Order was unlawful and requested rehearing and that the Commission Order be suspended pending final resolution of issues raised in the Petition. The motion of the Committee requested the same relief and incorporated by reference the allegations of unlawfulness and error stated in the Division's Petition. Applicant subsequently filed its response to the Division and Committee Petitions.



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After due deliberation and consideration of the Petitions and the response to those Petitions, the Commission granted a rehearing but did not grant the request for suspension of the Commission Order. Hearings were held on May 24 and 25, 1983, of the Division and Committee Petitions.

The Commission incorporates herein the Findings of Fact and Conclusions and affirms the position it took in its December 30, 1982 Order, and notes the dissent in that Order of Commissioner Eyrne. The Commission, based upon the further testimony of the Applicant and argument of counsel for the parties, now makes these additional Findings of Fact, Conclusions and issues its Order on Rehearing.

#### FINDINGS OF FACT

1. The Commission, in establishing the Energy Balancing Account, attempted to eliminate perceived inequitable results, as to both the Company and its ratepayers, occurring from inaccurate forecasting of non-tariff sales, surplus sales to other utilities, purchases from other utilities and fuel costs in rate cases.

2. The EBA procedure requires the Company to forecast, for a period in the future, anticipated revenues to be received from non-tariff and surplus sales, as well as expenses to be incurred from purchased energy and fuel costs. The result of this forecast, after netting the components of the formula, is an EBA rate

which, if subsequently approved by the Commission, appears in the company's Tariff and becomes the basis for collecting revenue from the Company's customers.

3. During or at the end of the forecast period, retroactive adjustments are made to the Account to bring the forecasted numbers in compliance with actual numbers. The result of the adjustments, together with forecasted revenues to be received from non-tariff and surplus sales, and expenses to be incurred from purchased energy and fuel costs, are then considered in the next EBA hearing as the process begins anew. The account procedure is a two-phase process, the first of which is a forecast, upon which rates are based and revenues subsequently collected, and the second a retroactive adjustment to bring the forecast to actual.

4. The Company proposed adjustment in this case is a retroactive adjustment similar to all adjustments previously and currently made in the EBA procedure after monies are collected pursuant to a Commission approved EBA rate.

#### CONCLUSIONS

1. The Company proposed adjustment is consistent with other adjustments previously and currently made in the Account procedure in that all are retroactive in nature and none alter the Commission approved rate.

2. The Commission has authority pursuant to Utah Code Ann. §54-4-1 et. seq. (1981 Supp.) to permit the proposed adjustments.

3. The proposed adjustment is consistent with Commission intent that the EBA eliminate inequitable results or windfall benefits to either the Company or its ratepayers.

4. The proposed adjustment does not constitute retroactive rate making.

ORDER

Based upon the Findings of Fact and Conclusions in both the hearing and rehearing in this matter the Commission affirms its earlier issued Order.

DATED at Salt Lake City, Utah, this 5th day of July, 1982.

/s/Brent H. Cameron, Chariman

(SEAL)

/s/David R. Irvine, Commissioner

Attest:

/s/Georgia B. Peterson, Secretary

COMMISSIONER BYRNE DISSENTING, WITH COMMENTS

Having dissented from the Commission's December 30, 1981 Order in Case No. 82-035-14, and having reviewed and analyzed the arguments propounded by the Company and the Division upon

arguments propounded by the Company and the Division upon rehearing, I reaffirm my dissent from the Commission's action in this case.

I do not believe that the compiling of actual figures by the Company, when such figures are available, constitute "retroactive adjustments" to the Account as suggested in paragraph 3 of the Findings of Fact and in paragraph 1 of the Conclusions in this Order or that the Account procedure is a "two phase" process. The Company and the Commission use the actual balance of the account together with the forecasted power sales, purchases, and energy costs, to arrive at a setting of rates for a prospective period. To remove revenues from the Account for conditions which occurred in the past as was done in this case, certainly represents a "retroactive adjustment" although I am not convinced that it represents "retroactive ratemaking" as asserted by the Division.

I continue to believe that the Company has raised an issue which should be dealt with by a prospective redesign of the parameters and calculational methodology in the Energy Balancing Account, and urge the Company and the Division to propose such modifications to the process to this Commission.

/s/James M. Byrne, Commissioner

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

IN THE MATTER OF THE APPLICATION )	
OF UTAH POWER & LIGHT COMPANY )	<u>REPORT AND ORDER</u>
FOR APPROVAL OF ITS PROPOSED )	
ELECTRIC SCHEDULES AND ELECTRIC )	Case Nos. <u>78-035-21</u>
SERVICE REGULATIONS )	<u>79-035-03</u>
)	

Submitted: April 6, 1979	Issued: July 20, 1979
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Appearances:

Sidney G. Baucom and Verl R. Topham	For	Utah Power & Light Company, Applicant
Stephen R. Pandle Assistant Attorney General	For	Division of Public Utilities, Department of Business Regulation, State of Utah
F. Robert Reeder and Val R. Antczak of Parsons, Behle & Latimer	For	Kennecott Copper Corporation and Union Carbide Corporation
Kenneth R. Fefferney	For	United States Steel Corporation
Brinton R. Burbidge, Assistant Attorney General	For	Utah State Board of Regents
Raymond W. Gee	For	Utah Irrigation Association and South Milford Pumpers Association
James L. Barker, Jr., Assistant Attorney General	For	Committee of Consumer Services
Gary G. Sackett	For	Mountain Fuel Supply Company
Fredrik Waiss	For	Stauffer Chemical Company
James G. Watt and Kea Bardine	For	Mountain States Legal Foundation
Margo Hovingh	For	Herself
Harold Dangerfield	For	Himself
Bruce Plenk of Utah Legal Services	For	Utah State Coalition of Senior Citizens
Layne R. Forbes	For	City of Bountiful
W. Berry Hutchings	For	Bountiful City Light & Power

studies to be performed by outside consultants. Because the Commission has in this Order required Utah Power to perform the studies we deem necessary, this allowance is no longer necessary and will be disallowed.

PURCHASED POWER, SALES FOR RESALE AND FUEL COSTS

31. The Commission notes Utah Power is in a unique position to acquire and use or sell inexpensive hydro-power from the Northwest, as well as sell at a profit power generated with its own surplus capacity to oil burning electric utilities in the Southwest. Because of fluctuations in the availability of hydro-power, however, there can be wide variations in the revenue available from the sales of such power and in the amount of fuel costs saved when such power is used to offset internal generation.

32. Because of these wide variations, the appropriate treatment of expense and revenue attributable to purchased power, sales for resale and fuel costs is of considerable concern to the Commission. During the course of these proceedings, the Division presented testimony on appropriate amounts to be allowed for purchased power and sales for resale which differ significantly from the figures proposed by the Company. Given that those items have not been susceptible to accurate estimation, we conclude that the Division's figures are as much a guess as Utah Power's. Therefore, we have declined to adjust the revenue requirement found herein by the amounts proposed by the Division as well as those adjustments proposed by Utah Power, as they relate to sales for resale and energy costs.

33. The Commission concludes that it would be reasonable and in the public interest for Utah Power to establish an energy balancing account which is designed to track the actual annual costs and revenues attributable to these items. ~~making estimates thereof unnecessary~~ in future cases. The Commission has previously approved a balancing account in its February 1977 Cal-Pac Order.



The net energy clause formula proposed by the Division's witness Duree appears to be reasonable and provides a basis for such a balancing account. That formula is as follows:

(a) The net energy clause/balancing account process shall provide for monthly entries to the Balancing account based on a monthly determination of net energy cost per KWH of sales equal to the difference between the net energy cost per KWH of sales in the base period and in the current month:

$$\text{Adjusted factor per KWH} = \frac{F_m}{S_m} - \frac{F_b}{S_b}$$

Where: "F" is the expense of fossil and nuclear fuel in the base (b) and current (m) month; and "S" is the KWH sales in the base and current periods, all as defined below:

(b) Fuel costs (F) shall be the cost of:

(i) Fossil and nuclear fuel consumed in the utility's own plants, and the utility's share of fossil and nuclear fuel consumed in jointly owned or leased plants.

(ii) The actual identifiable fossil and nuclear fuel costs associated with energy purchased for reasons other than identified in paragraph (b)(iii) of this section.

(iii) The net energy cost of energy purchases, exclusive of capacity or demand charges (irrespective of the designation assigned to such transaction) when such energy is purchased on an economic dispatch basis. Included therein may be such costs as the charges for economy energy purchases and the charges as a result of scheduled outage, all such kinds of energy being purchased by the pover to substitute for its own higher cost energy; and less

(iv) The revenue recorded as a result of all non-tariff sales for resale. However, non-tariff sales for resale revenue directly related to capacity costs or charges shall be excluded from this deduction.

(c) Sales (S) shall be all KWH's recorded as income in the current month, excluding all non-tariff sales for resale.

(d) Average system losses are to be assumed unless otherwise ordered by the Commission.

(e) The cost of fossil fuel shall include no items other than those listed in Account 151 of the FERC Uniform System of Accounts for Public Utilities

and licensees. The cost of nuclear fuel shall be that as shown in Account 518, except that if Account 518 also contains any expense for fossil fuel which has already been included in the cost of fossil fuel, it shall be deducted from this account. (Paragraph C of Account 518 includes the costs of other fuels used for ancillary steam facilities.)

(f) Where the cost of fuel includes fuel from Company-owned or controlled sources, no changes in the manner of determining cost shall be flowed through this formula to the energy clause/balancing account without prior approval of the Commission. All new or modified contracts with respect to Company-owned or controlled sources must be approved by the Commission prior to recognizing the cost of such fuel under this energy clause.

The account resulting from this clause shall be audited every six months by the Division. As required, the Company may file for recovery of revenue deficiencies substantiated by this account. Conversely, where refunds are appropriate, Utah Power shall petition therefor. In evaluating the operation of this account, the Commission will be concerned not only with determining whether the account has solved the problems of predicting the extent of its energy costs and non-tariff resale revenues, but also whether the clause tends to promote inefficiency or to pass on to customers unjustified costs. Accordingly, all increases charged to the balancing account will be subject to scrutiny, and any charges that are deemed inappropriate will be deleted. Furthermore, the Commission will monitor closely Utah Power's efforts to obtain as much inexpensive purchased power as it possibly can, it being unquestionably in the interests of both the public and Utah Power to keep overall rates as low as possible.

34. In adopting this net energy clause/balancing account, the Commission notes not only that the Division proposed and supported the account with testimony from the witness Duree, but also that Utah Power's witness Bryner stated that there was a close relationship between purchase power, sales for resale, and

fuel costs. Under these circumstances, an account which nets these various expense and revenue items is appropriate. Moreover, the Commission feels that the adoption of the energy balancing account will eliminate time and expenditures in future rate cases. There remains to be established a base year cost figure. Utah Power will be ordered to develop the cost following the formula outlined above and be prepared to implement a balancing account by January 1, 1980. Utah Power may petition the Commission for any necessary modifications or adjustments required to make the formula and/or accounting workable before implementation of the clause.

#### INTERIM RELIEF

35. The Commission notes that briefs on the rate spread and rate design portion of this case are due on August 10, 1979. Significant issues have been raised in that proceeding. A final resolution of the rate spread and rate design issues can be expected from that portion of these proceedings. In the interim, to avoid distortion in the relationships among classes of service, the increase in revenues allowed herein should be allocated among the various classes of service and rate schedules using the cost of service study underlying Utah Power's proposed Tariff 21, as modified, as a guide. Each rate class should receive the increase approved by this Order in proportion to the original revenue increase requested by Utah Power.

36. As to the residential class of customers, the additional revenue requirement should be spread within the class on a uniform cents per kilowatt hour basis, except as to the senior citizen rate. The first 400 kilowatt hours for senior citizens under schedules 25, 26 and 32 A, B, and C will be exempted from the increase. This approach is in recognition of the fact that the

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application of UTAH POWER & LIGHT COMPANY for Approval of Its Proposed Electric Rate Schedules and Electric Service Regulations to Implement an Energy Balancing Account. )

CASE NO. 83-035-04

ORDER

By the Commission:

On April 1, 1983, Utah Power & Light Company ("Utah Power" or "Company") filed an application to implement an energy charge adjustment in the Energy Balancing Account ("EBA" or "Account") and Electric Service Schedule No. 35. On April 20, 1983, the Commission gave notice that the matter would be heard on Tuesday, May 24, 1983. Notice of the hearing was duly published and an Affidavit of Publication was filed with the Commission.

The Company submitted testimony in favor of the proposed rate reduction and submitted that the same be implemented over a six-month period. The Division of Public Utilities concurred with the proposed rate reduction but submitted that the same be implemented over a three-month period.

Based upon the evidence adduced at the hearing, the Commission now makes its Findings of Fact, Conclusions and Order.

FINDINGS OF FACT

1. Evidence presented to the Commission by Utah Power and particularly that information submitted in the Company's Exhibit No. 1, showed the subject Energy Balancing Account at October 1, 1983, without adjustment would have a balance of approximately \$10,371,000 due to the large amounts of surplus hydro energy that have been available to the Company, the revenue received from current sales of surplus energy and the fact that the Company's current costs of coal from Company-owned mines has declined.

2. The Company's Exhibit No. 1, further showed that in order to adjust rates to a level that was estimated to reduce the forecast balance in the Account to approximately zero as of October 31, 1983, it would be necessary to effect a reduction in the amounts being collected under Rate Schedule 35 by 2.157 mills per kilowatt hour from and after the 1st day of May, 1983.

3. The evidence showed that the availability of purchased energy and surplus sales is very unpredictable and volatile and that the EBA forecast can change dramatically in rather short periods of time.

4. The Commission requested a late-filed exhibit with the most up-to-date estimates of the balance in the EBA, and expressed its concern that a reduction in the amounts being collected now would not result in another increase in the near future, thus subjecting the ratepayer to a confusing yoyo effect of falling and rising rates.

5. Evidence submitted in Company Exhibit NO. 4 reflected the EBA as of June 24, 1983, showing actual figures through May of 1983 and a downward revision of forecasted surplus purchases through July of 1983. Said exhibit showed that in order to adjust rates to a level that was estimated to reduce the balance in the account to near zero as of October 31, 1983, it would be necessary to effect a reduction in the amounts being collected under Rate Schedule 35 by .710 mills per kilowatt hour from and after July 1, 1983. The reason for the smaller reduction was that the Company's original projections for power purchase had been optimistic and the actual power purchases through June have been somewhat less than expected.

6. The Division of Public Utilities ("Division") presented a revised Rate Schedule 35 reworded to present a more clear and concise statement of the EBA adjustment to the rate tariff. The Company agreed that the wording should be changed and agreed to do so.

7. Neither the Division nor the Committee of Consumer Services ("Committee") objected to the rate reduction proposed by the Company but both suggested that the same be effectuated over a four-month period. The Company subsequently indicated that it did not object to the account being zeroed out over a four-month period.

8. The balance in the account as of May 31, 1983, and the amount which will be zeroed out by October 31, 1983, is approximately \$5.9 million.

9. The Commission finds that because of the unpredictability of the major components of the EBA, and in order to allow better regulatory response to changes, the Company should submit to the Division for their review actual figures for each of the components of the EBA for each month as soon as actual information is available, but no later than the end of the month immediately following. The Company should also submit an updated forecast when conditions change sufficiently to require such an update.

CONCLUSIONS OF LAW

The Commission concludes, based upon the foregoing Findings of Fact, that it is just and reasonable that the Energy Balancing Account charge in Rate Schedule 35 be reduced by .710 mills per kilowatt hour from and after the 1st day of July, 1983, and that Company Schedule 35 be adjusted to reflect this reduction.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, That based upon the Findings of Fact and Conclusions contained herein: (1) the Company reduce the amount being collected under Rate Schedule 35 by .710 mills per kilowatt hour from and after July 1, 1983; and (2) the Company report to the Division on a monthly basis the

actual figures for the components of the EBA as specified in the paragraph 9 of the Findings of Fact in this Order.

DATED at Salt Lake City, Utah, this 1st day of July, 1983.

/s/ Brent H. Cameron, Chairman

(SEAL)

/s/ David R. Irvine, Commissioner

/s/ James M. Byrne, Commissioner

Attest:

/s/ Georgia B. Peterson, Secretary