

Effective 5/5/2021

54-7-13.5 Energy balancing accounts.

- (1) As used in this section:
 - (a) "Base rates" means the same as that term is defined in Subsection 54-7-12(1).
 - (b) "Energy balancing account" means an electrical corporation account for some or all components of the electrical corporation's incurred actual power costs, including:
 - (i)
 - (A) fuel;
 - (B) purchased power; and
 - (C) wheeling expenses; and
 - (ii) the sum of the power costs described in Subsection (1)(b)(i) less wholesale revenue.
 - (c) "Gas balancing account" means a gas corporation account to recover on a dollar-for-dollar basis, purchased gas costs, and gas cost-related expenses.
- (2)
 - (a) The commission may authorize an electrical corporation to establish an energy balancing account.
 - (b) An energy balancing account shall become effective upon a commission finding that the energy balancing account is:
 - (i) in the public interest;
 - (ii) for prudently-incurred costs; and
 - (iii) implemented at the conclusion of a general rate case.
 - (c) An electrical corporation:
 - (i) may, with approval from the commission, recover costs under this section through:
 - (A) base rates;
 - (B) contract rates;
 - (C) surcredits; or
 - (D) surcharges; and
 - (ii) shall file a reconciliation of the energy balancing account with the commission at least annually with actual costs and revenue incurred by the electrical corporation.
 - (d) For an electrical corporation with an energy balancing account established before January 1, 2016, the commission shall allow an electrical corporation to recover 100% of the electrical corporation's prudently incurred costs as determined and approved by the commission under this section.
 - (e) Except in the case of an interim rate request made in accordance with Subsection (2)(k), an energy balancing account may not alter:
 - (i) the standard for cost recovery; or
 - (ii) the electrical corporation's burden of proof.
 - (f) The collection method described in Subsection (2)(c)(i) shall:
 - (i) apply to the appropriate billing components in base rates; and
 - (ii) be incorporated into base rates in an appropriate commission proceeding.
 - (g) The collection of costs related to an energy balancing account from customers paying contract rates shall be governed by the terms of the contract.
 - (h) Revenue collected in excess of prudently incurred actual costs shall:
 - (i) be refunded as a bill surcredit to an electrical corporation's customers over a period specified by the commission; and
 - (ii) include a carrying charge.
 - (i) Prudently incurred actual costs in excess of revenue collected shall:
 - (i) be recovered as a bill surcharge over a period to be specified by the commission; and

- (ii) include a carrying charge.
- (j) The carrying charge applied to the balance in an energy balancing account shall be:
 - (i) determined by the commission; and
 - (ii) symmetrical for over or under collections.
- (k)
 - (i) The commission may consider an interim rate request made as a part of an electrical corporation's filing an energy balancing account.
 - (ii) The commission, on the commission's own initiative or in response to an interim rate request by an electrical corporation or another party:
 - (A) shall hold a hearing on an interim rate; and
 - (B) if the electrical corporation or the other party makes the showing required by Subsection (2)(k)(iii), may allow any rate increase or decrease, or a reasonable part of the rate increase or decrease, to take effect on an interim basis, subject to the commission's right to order a refund or surcharge.
 - (iii) The electrical corporation or the other party shall make an adequate prima facie showing that:
 - (A) the proposed interim rate appears consistent with prior years' filings; and
 - (B) the interim rate requested is more likely to reflect actual power costs than the current base rates.
- (l) The commission may issue a final order establishing and fixing the electrical corporation's energy balancing account:
 - (i) after a hearing; and
 - (ii) before the expiration of 300 days after the day on which the electrical corporation files a complete filing.
- (m)
 - (i) If the commission in the commission's final decision on an electrical corporation's energy balancing account finds that the interim rate ordered under Subsection (2)(k)(ii) exceeds the rate finally determined in the energy balancing account, the commission shall order the electrical corporation to refund the excess revenue generated by the interim rate to customers.
 - (ii) If the commission in the commission's final decision on an electrical corporation's energy balancing account finds that the interim rate ordered under Subsection (2)(k)(ii) is lower than the rate finally determined in the energy balancing account, the commission shall order the electrical corporation to charge a surcharge to customers to recover the revenue not recovered during that period.
- (3)
 - (a) The commission may:
 - (i) establish a gas balancing account for a gas corporation; and
 - (ii) set forth procedures for a gas corporation's gas balancing account in the gas corporation's commission-approved tariff.
 - (b) A gas balancing account may not alter:
 - (i) the standard of cost recovery; or
 - (ii) the gas corporation's burden of proof.
- (4)
 - (a) All allowed costs and revenue associated with an energy balancing account or gas balancing account shall remain in the respective balancing account until charged or refunded to customers.
 - (b) The balance of an energy balancing account or gas balancing account may not be:

- (i) transferred by the electrical corporation or gas corporation; or
 - (ii) used by the commission to impute earnings or losses to the electrical corporation or gas corporation.
- (c) An energy balancing account or gas balancing account that is formed and maintained in accordance with this section does not constitute impermissible retroactive ratemaking or single-issue ratemaking.
- (5) This section does not create a presumption for or against approval of an energy balancing account.
- (6)
 - (a) An electrical corporation that has established an energy balancing account under this section shall report to the Public Utilities, Energy, and Technology Interim Committee before December 1 of each even numbered year.
 - (b) The report required in Subsection (6)(a) shall provide information regarding:
 - (i) the continued 100% recovery of the electrical corporation's prudently incurred costs related to the energy balancing account; and
 - (ii) any determination by the commission of costs not prudently incurred.

Amended by Chapter 249, 2021 General Session