

Representative Carl R. Albrecht proposes the following substitute bill:

ENERGY BALANCING ACCOUNT AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carl R. Albrecht

Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:

This bill provides a mechanism for an interim rate as a part of the energy balancing account process.

Highlighted Provisions:

This bill:

- ▶ provides the process for establishing an energy balancing account;
- ▶ describes the process for requesting an interim rate as a part of the energy balancing account process;
- ▶ establishes a timeline for the interim rate to be requested and granted;
- ▶ establishes a timeline for finalizing the energy balancing account; and
- ▶ subjects an interim rate to the commission's authority to order a refund or a surcharge.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



26 **54-7-13.5**, as last amended by Laws of Utah 2019, Chapters 61 and 88

27

28 *Be it enacted by the Legislature of the state of Utah:*

29 Section 1. Section **54-7-13.5** is amended to read:

30 **54-7-13.5. Energy balancing accounts.**

31 (1) As used in this section:

32 (a) "Base rates" means the same as that term is defined in Subsection **54-7-12(1)**.

33 (b) "Energy balancing account" means an electrical corporation account for some or all
34 components of the electrical corporation's incurred actual power costs, including:

35 (i) (A) fuel;

36 (B) purchased power; and

37 (C) wheeling expenses; and

38 (ii) the sum of the power costs described in Subsection (1)(b)(i) less wholesale
39 ~~revenues~~ revenue.

40 (c) "Gas balancing account" means a gas corporation account to recover on a
41 dollar-for-dollar basis, purchased gas costs, and gas cost-related expenses.

42 (2) (a) The commission may authorize an electrical corporation to establish an energy
43 balancing account.

44 (b) An energy balancing account shall become effective upon a commission finding
45 that the energy balancing account is:

46 (i) in the public interest;

47 (ii) for prudently-incurred costs; and

48 (iii) implemented at the conclusion of a general rate case.

49 (c) An electrical corporation:

50 (i) may, with approval from the commission, recover costs under this section through:

51 (A) base rates;

52 (B) contract rates;

53 (C) surcredits; or

54 (D) surcharges; and

55 (ii) shall file a reconciliation of the energy balancing account with the commission at
56 least annually with actual costs and ~~revenues~~ revenue incurred by the electrical corporation.

57 (d) [~~Beginning June 1, 2016, for~~] For an electrical corporation with an energy
58 balancing account established before January 1, 2016, the commission shall allow an electrical
59 corporation to recover 100% of the electrical corporation's prudently incurred costs as
60 determined and approved by the commission under this section.

61 (e) [~~At~~] Except in the case of an interim rate request made in accordance with
62 Subsection (2)(k), an energy balancing account may not alter:

63 (i) the standard for cost recovery; or

64 (ii) the electrical corporation's burden of proof.

65 (f) The collection method described in Subsection (2)(c)(i) shall:

66 (i) apply to the appropriate billing components in base rates; and

67 (ii) be incorporated into base rates in an appropriate commission proceeding.

68 (g) The collection of costs related to an energy balancing account from customers

69 paying contract rates shall be governed by the terms of the contract.

70 (h) [~~Revenues~~] Revenue collected in excess of prudently incurred actual costs shall:

71 (i) be refunded as a bill surcredit to an electrical corporation's customers over a period
72 specified by the commission; and

73 (ii) include a carrying charge.

74 (i) Prudently incurred actual costs in excess of [~~revenues~~] revenue collected shall:

75 (i) be recovered as a bill surcharge over a period to be specified by the commission;

76 and

77 (ii) include a carrying charge.

78 (j) The carrying charge applied to the balance in an energy balancing account shall be:

79 (i) determined by the commission; and

80 (ii) symmetrical for over or under collections.

81 (k) (i) The commission may consider an interim rate request made as a part of an
82 electrical corporation's filing an energy balancing account.

83 (ii) The commission, on the commission's own initiative or in response to an interim
84 rate request by an electrical corporation or another party:

85 (A) shall hold a hearing on an interim rate; and

86 (B) if the electrical corporation or the other party makes the showing required by

87 Subsection (2)(k)(iii), may allow any rate increase or decrease, or a reasonable part of the rate

88 increase or decrease, to take effect on an interim basis, subject to the commission's right to
89 order a refund or surcharge.

90 (iii) The electrical corporation or the other party shall make an adequate prima facie
91 showing that:

92 (A) the proposed interim rate appears consistent with prior years' filings; and

93 (B) the interim rate requested is more likely to reflect actual power costs than the
94 current base rates;

95 (l) The commission may issue a final order establishing and fixing the electrical
96 corporation's energy balancing account:

97 (i) after a hearing; and

98 (ii) before the expiration of 300 days after the day on which the electrical corporation
99 files a complete filing.

100 (m) (i) If the commission in the commission's final decision on an electrical
101 corporation's energy balancing account finds that the interim rate ordered under Subsection
102 (2)(k)(ii) exceeds the rate finally determined in the energy balancing account, the commission
103 shall order the electrical corporation to refund the excess revenue generated by the interim rate
104 to customers.

105 (ii) If the commission in the commission's final decision on an electrical corporation's
106 energy balancing account finds that the interim rate ordered under Subsection (2)(k)(ii) is lower
107 than the rate finally determined in the energy balancing account, the commission shall order the
108 electrical corporation to charge a surcharge to customers to recover the revenue not recovered
109 during that period.

110 (3) (a) The commission may:

111 (i) establish a gas balancing account for a gas corporation; and

112 (ii) set forth procedures for a gas corporation's gas balancing account in the gas
113 corporation's commission-approved tariff.

114 (b) A gas balancing account may not alter:

115 (i) the standard of cost recovery; or

116 (ii) the gas corporation's burden of proof.

117 (4) (a) All allowed costs and [~~revenues~~] revenue associated with an energy balancing
118 account or gas balancing account shall remain in the respective balancing account until charged

119 or refunded to customers.

120 (b) The balance of an energy balancing account or gas balancing account may not be:

121 (i) transferred by the electrical corporation or gas corporation; or

122 (ii) used by the commission to impute earnings or losses to the electrical corporation or
123 gas corporation.

124 (c) An energy balancing account or gas balancing account that is formed and
125 maintained in accordance with this section does not constitute impermissible retroactive
126 ratemaking or single-issue ratemaking.

127 (5) This section does not create a presumption for or against approval of an energy
128 balancing account.

129 (6) (a) An electrical corporation that has established an energy balancing account under
130 this section shall report to the Public Utilities, Energy, and Technology Interim Committee
131 before December 1 of each even numbered year[~~, beginning in 2020~~].

132 (b) The report required in Subsection (6)(a) shall provide information regarding:

133 (i) the continued 100% recovery of the electrical corporation's prudently incurred costs
134 related to the energy balancing account; and

135 (ii) any determination by the [~~Public Service Commission~~] commission of costs not
136 prudently incurred.