

**BEFORE THE  
PUBLIC SERVICE COMMISSION OF UTAH**

**In the Matter of the Application of  
Rocky Mountain Power for Authority  
to Increase its Retail Electric Utility  
Service Rates in Utah and for Approval  
of its Proposed Electric Service  
Schedules and Electric Service  
Regulations, Consisting of a General  
Rate Increase of Approximately \$161.2  
Million Per Year, and for Approval of a  
New Large Load Surcharge**

**Docket No. 07-035-93**

Surrebuttal Testimony of

**Maurice Brubaker**

On behalf of

**Utah Industrial Energy Consumers**

May 23, 2008  
Project 8923



**BRUBAKER & ASSOCIATES, INC.**  
ST. LOUIS, MO 63141-2000

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**Surrebuttal Testimony of Maurice Brubaker**

- 1   **Q     PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**
- 2   A     Maurice Brubaker. My business address is 1215 Fern Ridge Parkway, Suite 208,  
3     St. Louis, Missouri 63141-2000.
- 4   **Q     HAVE YOU PREVIOUSLY FILED TESTIMONY IN THIS PROCEEDING?**
- 5   A     Yes. I filed revenue requirement direct testimony and schedules on April 7, 2008.
- 6   **Q     ARE YOUR QUALIFICATIONS SET FORTH IN THAT TESTIMONY?**
- 7   A     Yes. They are set forth in Appendix A to that testimony.

8

## **INTRODUCTION**

9 **Q WHAT SUBJECT MATTER WILL YOU ADDRESS IN YOUR SURREBUTTAL**  
10 **TESTIMONY?**

11 A I will address the rebuttal testimony of Rocky Mountain Power Company's (RMP)  
12 witness Mark Tallman on certain wind-related issues, and the testimony of RMP's  
13 witness A. Richard Walje concerning growth and the Utah jurisdictional allocation  
14 factor. The fact that I do not address other positions taken by these witnesses, or the  
15 testimony of other witnesses, should not be construed as an endorsement of those  
16 other positions.

17

## **WIND ISSUES**

18 **Q DOES MR. TALLMAN AGREE WITH YOUR RECOMMENDATIONS CONCERNING**  
19 **THE ISSUES ASSOCIATED WITH THE WIND PROJECTS THAT WERE**  
20 **PRESENTED IN YOUR DIRECT TESTIMONY?**

21 A No. He offers rebuttal with respect to my comments concerning wind project capacity  
22 factors, receipt of Production Tax Credits (PTC), and the treatment of renewable  
23 energy credits (REC).

### **Wind Capacity Factors**

25 **Q BEFORE RESPONDING TO MR. TALLMAN, PLEASE SUMMARIZE YOUR**  
26 **POSITION IN YOUR DIRECT TESTIMONY WITH RESPECT TO THE CAPACITY**  
27 **FACTOR OF WIND PROJECTS.**

28 A In my direct testimony (pages 10-11), I observed that most of the wind projects are  
29 only slightly break-even for customers and that even a very small shortfall in the  
30 capacity factor from what was assumed in the present value revenue requirement

31 analysis would cause the projects to become uneconomic. I then noted that because  
32 of the importance of the capacity factor and the difficulty of accurately projecting it  
33 over a long period of time, it would be appropriate to have a procedure whereby RMP  
34 would periodically file and distribute to the parties a report showing the actual  
35 generation from each wind project. I then said:

36 With this information a subsequent evaluation can be made as to  
37 whether any adjustment to revenue requirements is warranted such  
38 as, for example, imputing additional generation to the wind resource in  
39 setting rates in the future.

40 Accordingly, my recommendation is a reporting requirement for information to  
41 be considered in future cases. There is no revenue requirement impact of this  
42 recommendation in this case.

43 **Q DOES MR. TALLMAN VIEW YOUR PROPOSAL AS BEING MORE THAN**  
44 **REPORTING REQUIREMENTS?**

45 **A** Yes. In an effort to rebut my recommendation, he has carried it way beyond anything  
46 that the words suggest, or were intended to suggest. He finds it necessary to accuse  
47 me of offering a proposal that is "...not symmetrical..." (Tallman at page 7) and  
48 tantamount to recommending that the Commission "...revisit the prudence of the  
49 Company's decision to pursue the resource during a future rate proceeding..."  
50 (Tallman at page 9) and to accuse me of developing a "...new form of regulation"  
51 (Tallman at page 10).

52 **Q IF IN THE FUTURE WIND GENERATION TURNED OUT TO BE LESS THAN**  
53 **WHAT WAS ASSUMED BY RMP IN JUSTIFYING THE PROJECT, WOULD IT**  
54 **NECESSARILY FOLLOW THAT A REVENUE REQUIREMENT DISALLOWANCE**  
55 **WOULD BE MADE?**

56 A No. As in all matters, the Commission would need to view the facts with care and  
57 apply reasoned judgment. For example, if on occasion some projects fell slightly  
58 below the assumed level, that certainly would not require a revenue requirement  
59 adjustment. On the other hand, if the future performance of the wind generators  
60 would be such that the capacity factors achieved were substantially below the  
61 represented values, and the result was that customers were adversely impacted, then  
62 there would be a stronger basis for some revenue requirement adjustments in order  
63 to hold RMP accountable for its representations. Whether there actually would be  
64 one, and if so its form and magnitude, is a matter that would be decided in the future.

65 **Q IS THE CONCEPT OF “SYMMETRY” AN ASPECT OF THIS ISSUE?**

66 A No. Under cost-based ratemaking, the utility requests to be compensated for its  
67 reasonably incurred costs. Unless there is some performance plan that explicitly  
68 provides enhanced compensation for achieving results that are superior, there is no  
69 basis for compensating the utility for anything more than its costs. At the same time,  
70 given the cost-based nature of regulation, the utility’s franchise and the fact that RMP  
71 represented that these projects would reduce (or at least not increase) costs to  
72 customers, a failure to achieve that objective in a significant way certainly should give  
73 rise to careful scrutiny of the utility’s assumptions and operations.

74 It would be rare, indeed, for a Commission to allow a new project to enter rate  
75 base on the basis of represented performance and results, and never take another

76 look at whether the performance and results came anywhere close to what the  
77 Company represented they would be.

78 **Q DOES YOUR PROPOSAL CONSTITUTE A “REVISIT” OF THE PRUDENCE OF**  
79 **THE DECISION TO BUILD A RESOURCE?**

80 A No.

81 **Q PLEASE EXPLAIN.**

82 A First, it should be noted that these projects have not previously received approval by  
83 the Commission. So, in this case, there is no basis for any kind of a claim of revisiting  
84 the issue. Monitoring the performance of generation facilities in the future is just good  
85 regulatory policy and does not constitute a “revisit” of prudence. When a Commission  
86 looks at performance of an approved project in a subsequent year, it is reviewing the  
87 project to ensure that customers are not burdened by substandard performance. This  
88 is just part of holding RMP accountable for its representations, not a prudency review.

89 **Q WOULD ADOPTION OF YOUR RECOMMENDATION SET THE STAGE AND**  
90 **OBLIGATE THE COMMISSION TO REVISIT “...SUCH DECISION IN THE FUTURE**  
91 **AND IMPUTE A PENALTY UPON THE COMPANY IF THE ACTUAL**  
92 **PERFORMANCE OF THE ASSET IS DIFFERENT THAN EXPECTED WHEN THE**  
93 **DECISION WAS TAKEN...” (TALLMAN AT PAGES 9 AND 10)?**

94 A No, not at all. Again, in an effort to make my proposal look extreme, Mr. Tallman is  
95 trying to stretch it far beyond what it is and what it is intended to be. Mr. Tallman’s  
96 characterization is inaccurate.

97 Furthermore, it is not a “...new form of regulation for which there is no sound  
98 basis...” (Tallman at page 10); it is merely a recommendation that the Commission

99 review whether the performance of the wind generators is similar to what RMP had  
100 represented.

101 **Production Tax Credits**

102 **Q BEFORE ADDRESSING MR. TALLMAN'S REBUTTAL, PLEASE SUMMARIZE**  
103 **YOUR RECOMMENDATION WITH RESPECT TO PTCS.**

104 A In my direct testimony, I noted that RMP's own economic studies clearly demonstrate  
105 that receipt of the expected PTCs is absolutely critical to making the wind projects  
106 viable. In the absence of the PTCs, these wind projects would be a substantial  
107 burden on customers, as shown on line 10 of UIEC \_\_\_\_ (MEB-1) attached to my  
108 direct testimony.

109 I went on to note that in light of the construction schedules of several of these  
110 projects, and the fact that under current law eligibility to receive the PTCs terminates  
111 at the end of calendar year 2008, that the Commission should include in revenue  
112 requirements, in future cases, the value of the PTCs that would have been received  
113 had the wind projects gone in service as expected, and as RMP had assumed in  
114 justifying the projects.

115 **Q WOULD THESE RECOMMENDATIONS IMPLY ANY REVENUE REQUIREMENT**  
116 **ADJUSTMENTS IN THIS CASE?**

117 A No. In this case, it is assumed that the December 31, 2008 date will be met and that  
118 the PTCs will be received. The Company's revenue requirement calculations in this  
119 case assume a revenue requirement offset for the PTCs during the expected period  
120 of time in 2008 that these projects would be in service. Thus, to the extent any  
121 adjustments are required, it would be in future years.

122 **Q DO YOU AGREE WITH MR. TALLMAN THAT YOUR RECOMMENDATION IS**  
123 **“...RETROACTIVE RATEMAKING...” (TALLMAN AT PAGE 11)?**

124 **A** No, not at all.

125 Retroactive ratemaking essentially means setting rates to charge customers  
126 for current costs plus additional amounts for past usage, or for requiring a utility to  
127 make refunds when the approved rates did not provide for such adjustments.  
128 Accordingly, Mr. Tallman’s criticism does not apply to my proposal at all.

129 **Q HE ALSO SAYS YOU VIOLATE THE PRINCIPLE OF GENERATING COSTS**  
130 **“...GOING INTO RATES AT COST...” (TALLMAN AT PAGE 11). DO YOU?**

131 **A** No. Again, Mr. Tallman’s criticisms are wide of the mark. I am not aware of any  
132 principle that requires the Commission to ignore the facts. I am only recommending  
133 that RMP be held accountable for the representations it made to secure project  
134 approval.

135 **Q AT PAGE 13 OF HIS TESTIMONY, MR. TALLMAN ONCE AGAIN ALLEGES THAT**  
136 **YOU HAVE DEVELOPED A REVISED VERSION OF THE REGULATORY**  
137 **COMPACT – ONE THAT IS NOT BASED ON COST OF SERVICE REGULATION.**  
138 **IS HE ACCURATE?**

139 **A** No. In his zeal to levy as many criticisms at my proposal as he can, he continues to  
140 stretch well beyond the concepts embodied in my proposal, and completely  
141 misconstrues the basic regulatory paradigm.

142 **Q PLEASE EXPLAIN.**

143 **A** While it is generally true that assets go into rate base at cost, the Commission is not  
144 required to put on blinders looking at what those costs are, and the extent to which



145 the utility failed to secure for the projects the significant credits that are absolutely  
146 essential for them to be economical.

147 Under the regulatory paradigm, the Company is expected to fulfill its  
148 obligations and meet its representations. Mr. Tallman would have the Commission  
149 turn its back, and allow the utility to collect in rates all costs associated even with  
150 projects that are not economical, and are a substantial burden to the customers. And  
151 note again, my proposal requires no more than for the utility to meet its own  
152 self-determined construction schedule so as to qualify to receive the PTCs.

153 Mr. Tallman observes that weather and other factors may have an impact on  
154 in-service dates, that is true, but it is clearly Rocky Mountain Power Company, and  
155 not the customers, that decided when to begin the project, who to hire as contractors,  
156 what contingency plans to have, what form of contractual penalties, warranties and  
157 guarantees to have with the contractors and vendors, and every other aspect of  
158 managing the construction project to completion in time to qualify for the PTCs.

159 **Q AT PAGES 14 AND 15 OF HIS TESTIMONY, MR. TALLMAN SPECULATES**  
160 **ABOUT THE POSSIBILITY THAT SOME KIND OF RPS REQUIREMENT WILL BE**  
161 **APPLICABLE TO THE COMPANY'S LOAD SERVICE OBLIGATIONS IN UTAH.**  
162 **DOES THAT HAVE ANY BEARING ON THIS ISSUE?**

163 **A** No. Mr. Tallman is engaging in pure speculation here. He has no idea what RPS  
164 requirements, if any, may be adopted.

165 It is my understanding that Utah recently established portfolio targets (not  
166 requirements) starting in 2025 that are subject to a cost-effectiveness standard.  
167 What other states do is not relevant.

168 Q HE ALSO MENTIONS A CALIFORNIA "PRICE REFERENT," WHICH APPEARS  
169 TO BE A SAFE HARBOR PURCHASE PRICE. IS THIS RELEVANT?

170 A No. There is no indication that this so-called referent price bears any relationship to  
171 cost or to market value.

172 **RECs Associated with Goodnoe Hills Wind Project**

173 Q PLEASE BRIEFLY SUMMARIZE YOUR POSITION ON THE VALUE OF RECs  
174 FROM THE GOODNOE HILLS PROJECT.

175 A As I pointed out in my direct testimony, in its long-term present value revenue  
176 requirement analysis for Goodnoe Hills, RMP had to assume a value of over \$6/MWh  
177 for RECs (substantially higher than is assumed for the other projects, and  
178 substantially higher than the Company recognized as revenues in the test year) in  
179 order to make the project "break-even."

180 Q DOES THE FACT THAT REC VALUES MAY FLUCTUATE OVER TIME  
181 INFLUENCE YOUR RECOMMENDATION?

182 A No, not at all. Mr. Tallman explicitly admits on page 16 of his rebuttal that RMP  
183 needed to assume \$6.37/MWh in order for the project just to achieve break-even  
184 status.

185 Had RMP not assumed these inflated REC revenues from Goodnoe Hills, it  
186 would have shown the project to be a net loser for the customers. Given that RMP  
187 has chosen to build the project, it should not now be heard to complain that  
188 customers want to have the benefit of the revenues that it assumed would be  
189 received in order for the project to break-even.

190 Q HOW ELSE DOES MR. TALLMAN ATTEMPT TO DEFEND THE COMPANY'S  
191 PROPOSAL?

192 A On page 17 of his rebuttal testimony, Mr. Tallman speculates about the potential cost  
193 of non-compliance under a non-existent RPS standard, and references non-  
194 compliance penalties in California and Washington. Apparently, he wants us to  
195 believe that because these numbers are higher than the current price at which the  
196 Company sells RECs, and higher than what they had to assume to make Goodnoe  
197 Hills look good, that no adjustment is warranted.

198 Q DO YOU AGREE?

199 A No. Even putting aside the speculative nature of the non-existent federal RPS  
200 standard, the fact that penalties in some states may be at a particular level is not an  
201 appropriate benchmark. There is no reason Utah ratepayers should face penalties  
202 that may be imposed by other states. Furthermore, Mr. Tallman provides no  
203 information about the actual cost of compliance or about the market value of the  
204 RECs, other than the \$3.50 revenue stream that RMP has assumed in putting  
205 together its revenue requirement case. Since that revenue stream continues to be  
206 substantially lower than what RMP had to assume to make the Goodnoe Hills project  
207 break-even for customers, imputation of the higher revenues in determining RMP's  
208 revenue requirements in this case is essential to deliver to customers the benefit of  
209 the project that RMP represented would be available to them.

210 **UTAH GROWTH AND THE JURISDICTIONAL ALLOCATION FACTORS**

211 **Q WHAT DOES RMP'S WITNESS WALJE SAY ABOUT UTAH GROWTH?**

212 A At page 2 of his rebuttal testimony, Mr. Walje states that in the first quarter of 2008,  
213 Utah load was above the level forecasted for the first quarter of 2008.

214 **Q DOES THIS TELL US ANYTHING USEFUL FOR PURPOSES OF**  
215 **JURISDICTIONAL COST ALLOCATION?**

216 A No. Mr. Walje has simply compared actual results, which embody actual weather, to  
217 the forecasted results which embody weather-normalized sales.

218 **Q IF UTAH'S ACTUAL FIRST QUARTER 2008 SALES ARE**  
219 **WEATHER-NORMALIZED AND COMPARED TO THE FORECASTED LEVEL, IS**  
220 **UTAH ABOVE OR BELOW THE FORECAST?**

221 A The information necessary to make this determination was provided in RMP's Second  
222 Supplemental Response to UIEC Data Request No. 8.6.

223 The following table shows on both a forecasted basis (which is  
224 weather-normalized) and a weather-normalized actual basis, the first quarter 2008  
225 sales to Utah customers, and to the entire RMP system. As this table shows, when  
226 Utah's actual first quarter 2008 sales are appropriately weather-normalized, the sales  
227 are below the forecasted level. Furthermore, Utah sales as a percentage of total  
228 RMP sales is less than forecasted.

229 More specifically, the Company had forecasted that in the first quarter of 2008  
230 Utah sales would be 41.3% of system sales. In fact, the actual results in the first  
231 quarter of 2008, after normalization by RMP, amount to 40.4% of total RMP sales,  
232 considerably below what the forecast suggested.

<u>Description</u>	<u>First Quarter 2008 Sales</u>	
	<u>Forecasted GWh</u>	<u>Weather Adjusted Actual GWh</u>
Total RMP	13.342	13.277
Utah	5.506	5.363
Utah as a Percent of Total	41.3%	40.4%

Source: RMP's Second Supplemental Response to UIEC Data Request No. 8.6.

233 **Q WHAT DO YOU CONCLUDE FROM THIS COMPARISON?**

234 A I conclude that when an apples-to-apples comparison is made of the sales volumes,  
235 that Utah is falling short of RMP's ambitious growth forecasts. Utah sales are lower  
236 than forecasted, and Utah sales as a percentage of total RMP sales are lower than  
237 forecasted.

238 **Q HAS CUSTOMER GROWTH KEPT UP WITH RMP'S FORECAST?**

239 A No. In my direct testimony (pages 15-16), I noted that from July 2007 through  
240 January 2008 RMP had forecasted to add 13,200 residential customers in Utah but  
241 actually only added 6,570 customers.

242 RMP's updated response to UIEC Data Request No. 8.3 shows that the Utah  
243 residential customer additions in February and March 2008 were only 1,689 as  
244 compared to a forecast of 2,680 new customers. Thus, growth continues to be below  
245 forecasted levels.

246 Q DOES THIS COMPLETE YOUR SURREBUTTAL TESTIMONY?

247 A Yes, it does.

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**CERTIFICATE OF SERVICE**

(Docket No. 07-035-93)

I hereby certify that on this 23rd day of May, 2008, I caused to be e-mailed, a true and correct copy of the foregoing SURREBUTTAL TESTIMONY OF MAURICE BRUBAKER to:

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