

**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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	)	<b>DOCKET NO. 09-035-15</b>
<b>In the Matter of the Application</b>	)	<b>Exhibit No. DPU 5.0 R</b>
<b>of Rocky Mountain Power for</b>	)	
<b>Approval of its Proposed Energy</b>	)	<b>Rebuttal Testimony of</b>
<b>Cost Adjustment Mechanism</b>	)	<b>Charles E. Peterson</b>
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**THE DIVISION OF PUBLIC UTILITIES  
DEPARTMENT OF COMMERCE  
STATE OF UTAH**

**Rebuttal Testimony of  
Charles E. Peterson**

**November 16, 2016**

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**Q. Please state your name, business address and title.**

A. My name is Charles E. Peterson. My business address is 160 East 300 South, Salt Lake City, Utah 84114. I am a Technical Consultant in the Utah Division of Public Utilities (Division or DPU).

**Q. Did you previously file direct testimony on September 21, 2016 in this EBA Evaluation phase of this docket?**

A. Yes.

**Q. What is the purpose of your testimony?**

A. First, I will briefly comment on the recommendations made in the September 2016 testimonies filed by Office of Consumer Services (Office) witnesses Mr. Danny A. C. Martinez and Mr. Philip Hayet. Next, I will comment on recommendations made by Rocky Mountain Power (Company) witness Mr. Michael G. Wilding in his September 2016 testimony.

Finally, I will specify the Division’s proposal for dealing with the mismatch issue.

22 **Q. Please summarize your understanding of the Office’s positions as set forth in Messrs.**  
23 **Martinez’s and Hayet’s testimonies.**

24 A. The Office’s witnesses argue for a different carrying charge on EBA balances than the  
25 6 percent annual rate currently in effect. Specifically they argue for a short-term bond rate,  
26 which Mr. Hayet claims is “less than 1% at the present time.”<sup>1</sup> However, neither Mr. Hayet  
27 nor Mr. Martinez identify any particular short-term rate.

28  
29 Two other recommendations are made by Mr. Martinez. The first is that in the annual EBA  
30 true-up docket, the Company should have to wait for the time of the intervenors’ rebuttal  
31 testimony to respond to both the Division’s audit report and the intervenor direct testimony.  
32 Mr. Martinez argues that in the current situation where the Company is allowed to respond to  
33 the Division’s audit report at the time other intervenors are filing their direct testimony  
34 allows, in effect, the Company an additional round of rebuttal testimony that is not given  
35 other parties, since it can subsequently follow-up with rebuttal and surrebuttal testimony on  
36 the same schedule as everyone else.

37  
38 The final recommendation made by Mr. Martinez is for the Commission to set a schedule  
39 whereby interested parties may give input to the Commission regarding the Commission’s  
40 annual EBA report to the legislature at the end of 2017 and 2018, as mandated in SB 115.

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<sup>1</sup> Direct Testimony of Philip Hayet for the Utah Office of Consumer Services, September 21, 2016, line 103.

43 **Q. What is the Division's response to these recommendations?**

44 A. As I mentioned in my direct testimony, the Division primarily supports treating the EBA  
45 carrying charge the same as other carrying charges are treated, i.e. based upon long-term  
46 corporate bonds. But I also previously testified that a short-term rate could be justified and  
47 that the Division was not opposed to the use of some short-term rate.<sup>2</sup> The Office should  
48 specify the rate it is proposing (e.g. the average 1-year U.S. T-Bill rate for the preceding  
49 calendar year, a two-year LIBOR rate, etc.) and the source where the rate can be reliably  
50 determined.

51

52 Regarding the other two proposals made by the Office, the Division supports those proposals.

53

54 **Q. Please review your understanding of Mr. Wilding's comments and recommendations**  
55 **made on behalf of the Company.**

56 A. Mr. Wilding requests that the Commission expand the EBA to include chemical costs, start-  
57 up fuel/gas costs, and production tax credits (PTCs) to become effective on the rate effective  
58 date of the next general rate.<sup>3</sup> Mr. Wilding argues that these changes are appropriate because  
59 these costs are "volatile"<sup>4</sup> and/or exposed to "volatile market prices."<sup>5</sup>

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61 Mr. Wilding admits that these costs are not net power costs.<sup>6</sup>

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<sup>2</sup> Direct Testimony of Charles E. Peterson, September 21, 2016, lines 222-227.

<sup>3</sup> Modification Testimony of Michael G. Wilding, September 2016, lines 20-23.

<sup>4</sup> Wilding, lines 50-54.

<sup>5</sup> Ibid., lines 87-89.

<sup>6</sup> Ibid., line 48.

62 Mr. Wilding goes on to contend that the “EBA is a dynamic mechanism,”<sup>7</sup> and suggests that  
63 the Company in the future will be requesting the inclusion of additional items in the EBA.<sup>8</sup>  
64 He further claims that there are two apparently precedential instances where the Division and  
65 other parties have agreed to modify what goes into the EBA: credits to Utah customers for a  
66 change in the Company’s open access transmission tariff (OATT) and the recovery of a  
67 regulatory asset due to the closure of the Dear Creek Mine, both are allowed in the EBA until  
68 they could be included in base rates through a general rate case.<sup>9</sup>

69

70 Lastly, the Company suggests, but does not appear to directly request, that “the EBA should  
71 be made permanent and continue after 2019.”<sup>10</sup>

72

73 **Q. What is the Division’s position regarding the Company’s request to add additional**  
74 **items to the EBA?**

75 A. Consistent with the Division’s position on wholesale wheeling revenue discussed in my  
76 direct testimony in September,<sup>11</sup> the Division opposes the inclusion of any non-net power  
77 costs (NPC) in the EBA. The Division opposes the inclusion of the items proposed by the  
78 Company.

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<sup>7</sup> Ibid., lines 125-126.

<sup>8</sup> Ibid., lines 131-133.

<sup>9</sup> Ibid., lines 127-131.

<sup>10</sup> Ibid., line 33.

<sup>11</sup> Peterson, Op. Cit., lines 177-216.

80 Generally, the EBA was populated with accounts that were part of the Company's GRID  
81 model run used to estimate NPC in general rate cases. This is consistent with the statutory  
82 definition of an energy balancing account, which refers to a company's "actual power  
83 costs."<sup>12</sup> The Division believes that the EBA should be restricted to, at most, this  
84 understanding of EBA-related NPC. Beyond the fact that these are not net power costs, the  
85 Division does not believe that the mere allegation, even if true, that a cost item is  
86 "volatile,"<sup>13</sup> exposed to "market prices," and/or beyond Company management's short-term  
87 control,<sup>14</sup> necessitates a special cost recovery mechanism for that item. The Company  
88 management generally should be responsible to manage its business risks, just like non-  
89 regulated companies. This issue was discussed by the Division in its "Final Evaluation  
90 Report of PacifiCorp's EBA Pilot Program" (Final Report) filed with the Commission on  
91 May 20, 2016.<sup>15</sup>

92  
93 In the Final Report the Division also warned that the Company has the economic incentive to  
94 move costs to the extent possible to where "enhanced recovery" of those costs is provided.<sup>16</sup>  
95 That Final Report section implied that such shifting of costs would be incrementally very

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<sup>12</sup> Utah Code Ann. §54-7-13.5(1)(b) (2016).

<sup>13</sup> Mr. Wilding provides no definition of what constitutes volatile versus non-volatile costs. Absent a clear definition, any deviation in cost from, say, a budgeted amount no matter how small could be called "volatile."

<sup>14</sup> The Division believes that over intermediate to long time periods, Company management can assert at least some, and likely substantial, influence over all of its costs.

<sup>15</sup> See Final Report, item b, pages 18-20; also see UAE's comments in Attachment 1 of the Final Report, and Daymark's comments in Attachment 2. This issue was also discussed and discounted by the Division and other parties in the earlier EBA phases. For example see prior testimony in Docket No. 09-035-15 (this docket): Direct Testimony for Phase I of Charles E. Peterson, November 16, 2009, page 14, lines 308-319; Direct Testimony of Kevin C. Higgins, November 16, 2009, page 3, lines 57-61 and page 12, lines 242-252; Direct Testimony of Daniel E. Gimble (Phase II-Hedging), June 17, 2010, pages 23-24, lines 649-659; Direct Testimony of Paul Chernick, November 16, 2009, page 5, lines 116-121 and page 42, lines 1009-1923.

<sup>16</sup> Final Report. Pages 46-47.

96 small and likely slow to accumulate to some practical limit. What we have here in the  
97 Company's request is an overt attempt to shift tens of millions of dollars to enhance recovery  
98 all at once. The Commission should reject the Company's efforts to stuff the EBA with more  
99 and more items. If this pattern of shifting more and more of the utility's business to post-hoc  
100 recovery mechanisms continues, a significant downward adjustment to allowed rates of  
101 return will be warranted.

102

103 **Q. Mr. Wilding cites two times when the Division (and other parties) have allowed**  
104 **exceptions to the items passed through the EBA, implying that they set a precedent for**  
105 **a "dynamic" EBA to have non-NPC included in it. How do you respond to the citation**  
106 **of these two exceptions?**

107 A. In both cases, these exceptions were time-limited to the occurrence of the next rate case rate  
108 effective dates, and were allowed to be included as a result of the settlement of multiple  
109 issues in their respective dockets. In both cases the settlement stipulations contained  
110 language that the parties did not necessarily agree with any particular aspect of the  
111 settlement. The OATT credits in the EBA were established in the general rate case Docket  
112 No. 11-035-200<sup>17</sup> and were ended with the general rate case Docket No. 13-035-184.<sup>18,19</sup>

113

114 In the Deer Creek Mine Closure Docket No. 14-035-147, the Division in direct testimony  
115 opposed the inclusion of any additional costs in the EBA even limited to the next rate case,

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<sup>17</sup> See Docket 11-035-200, Stipulation filed August 7, 2012, paragraphs 51 and 66.

<sup>18</sup> See Direct Testimony of Steven R. McDougal, Docket No. 13-035-184, page 17, lines 372-387.

<sup>19</sup> See Docket No. 14-035-147, Settlement Stipulation filed April 16, 2015, paragraph 17.

116 which the Division expected to be filed in January 2016.<sup>20</sup> As a result of subsequent  
117 negotiations, the Division agreed that the stipulated settlement, as a package, was in the  
118 public interest.<sup>21</sup>

119

120 Unlike these exceptions cited by Mr. Wilding, the proposed additions to the EBA that he  
121 makes in behalf of the Company are permanent additions. In any case, the Division rejects  
122 the notion that the above cited OATT and Deer Creek Mine exceptions to the EBA have any  
123 precedential value.

124

125 **Q. As you cited above, Mr. Wilding may be recommending that the EBA now be made**  
126 **permanent. How do you respond to that apparent recommendation?**

127 A. The Division believes that that issue would be the subject of a major docket. The Division  
128 believes that the current process is to consider relatively minor adjustments to the current  
129 EBA pilot program. Therefore, consideration of the question of the permanence of the EBA  
130 is far outside the scope of the current docket and should not even be raised.

131

132 **Q. Do you have any additional comments?**

133 A. Yes. I said in direct testimony that the Division would make a proposal to mitigate the  
134 mismatch problem with the current EBA after having a chance to see if other parties had any  
135 solutions to propose.<sup>22</sup> None of the other parties have made any reference to the mismatch

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<sup>20</sup> Direct Testimony of Charles E. Peterson, Docket No. 14-035-147, pages 8-16.

<sup>21</sup> See Docket No. 14-035-147, Stipulation filed April 16, 2015, paragraphs 26-28.

<sup>22</sup> Peterson, September 21, 2016, lines 112-140.



136 issue in their direct testimonies even though the issue was raised by the Division as early as  
137 its 2014 preliminary EBA evaluation report and again this year in its 2016 final EBA  
138 evaluation report (included for convenience with my direct testimony in the current phase of  
139 this docket). At this time, the Division does not believe that any other suggestions will be  
140 forthcoming. Therefore, in order to give parties the opportunity to respond, the Division  
141 makes the following recommendation.

142

143 Since it has been advised that there are legal issues with updating NPC forecasts outside of  
144 general rate cases, the Division proposes that the Company be ordered to file a general rate  
145 case at least every three years and, as part of that general rate case, provide a NPC forecast  
146 for evaluation and potential adoption covering at least three full calendar years past the  
147 estimated rate effective date of the general rate case. NPC forecast rates would go into effect  
148 on the rate effective date of the general rate case and subsequent anniversary dates. Forecasts  
149 from subsequent general rate cases (which could occur more frequently than every three  
150 years) would, of course, supersede the previous NPC forecast.

151

152 Since the Company last filed a general rate case in 2013, with a rate effective date of  
153 September 1, 2014 (for Step 1), the current NPC base rates were forecast based on data over  
154 three years ago. Thus, for calendar year 2017, the base NPC was forecast in 2013, with an  
155 adjustment in 2014. Unless the Company files another rate case soon, base NPC will be more  
156 than five years stale. The Division therefore requests that the Commission order the  
157 Company to file its next general rate case no later than July 1, 2017, with the Company filing

158 subsequent rate cases at least every three years after that for the duration of the EBA or any  
159 similar future program.

160

161 **Q. Why does the Division believe that relatively frequent general rate cases with new NPC**  
162 **forecasts are desirable?**

163 A. Simply because the Division's experience is that forecasts, even those where a fair amount of  
164 effort went into making them, can quickly go out of date. An example is the Company's load  
165 forecasts that are a major driver in its Integrated Resource Plans (IRPs) and IRP Updates.  
166 Figure DPU 5.1R, attached hereto, is derived from data found in the Company's load and  
167 resource balances filed in its 2013 IRP-Update, 2015 IRP, 2015 IRP Update, and preliminary  
168 data distributed on September 20, 2016 in its as yet undocketed 2017 IRP, sets forth an  
169 example of this phenomenon. While even annual forecast updates are justifiable, the Division  
170 believes that three years between updates (and general rate cases) strikes a balance between  
171 annual updating and allowing forecasts to become too old and stale.

172

173 **Q. Are you saying that NPC forecasts follow the same pattern as the Company's IRP load**  
174 **forecasts?**

175 A. No. While there is likely some correlation between load and NPC, my only purpose here is to  
176 show that forecasts generally can become quickly out of date.

177

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179

180 **Q. What are your conclusions and recommendations?**

181 A. The Division continues to ask the Commission to support its conclusions and  
182 recommendations made in my direct testimony filed on September 21, 2016.

183

184 While the Division does not necessarily oppose the Office suggestion that the EBA carrying  
185 charge be altered to some short-term rate, the Division cannot comment further until the  
186 Office makes a more specific recommendation.

187

188 The Division recommends that the Commission reject the Company's request to expand the  
189 accounts included in the EBA.

190

191 The Division recommends that the Commission order the Company to file a general rate case  
192 no later than July 1, 2017 to include a multi-year NPC forecast; and order the Company to  
193 file a general rate case at least every three years thereafter for the duration of the EBA or any  
194 similar successor program.

195

196 **Q. Does that complete your rebuttal testimony?**

197 A. Yes.