

Holly Rachel Smith, Esq.  
Hitt Business Center  
3803 Rectortown Road  
Marshall, VA 20115  
holly@raysmithlaw.com

Ryan L. Kelly, USB #9455  
Kelly & Bramwell, P.C.  
11576 South State Street Bldg.203  
Draper, UT 84020  
(801) 495-2559  
ryan@kellybramwell.com

*Attorneys for Wal-Mart Stores, Inc. and Sam's West, Inc.*

---

**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

---

<b>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.</b>	<b>Docket No. 09-035-23</b>  <b>POST-HEARING BRIEF OF WAL-MART STORES, INC. AND SAM'S WEST, INC.</b>
---	--

Wal-Mart Stores, Inc. and Sam's West, Inc. (collectively, "Wal-Mart") hereby offers its post-hearing brief in the above-captioned matter.

**I. INTRODUCTION**

Wal-Mart is a large retailer with more than 45 facilities in RMP's Utah service territory. These facilities include both store locations and distribution centers. Thus, Wal-Mart is a large retail customer of RMP. Wal-Mart is also a leader in energy efficiency and deployment of demand side management technology. Wal-Mart is an intervenor in the above-captioned case. In the Phase I portion of this case, Wal-Mart sponsored the testimony and exhibits of Steve W. Chriss, Wal-Mart's

Manager of State Rate Proceedings. The following post-hearing brief is organized as follows: First, we provide a summary of the testimony sponsored by Wal-Mart that was admitted into evidence in this proceeding. Second, we highlight Wal-Mart's position on key issues raised in the issue matrix filed in this docket on December 2, 2009.

## **II. Summary of the Direct and Rebuttal Testimonies of Steve W. Chriss on Behalf of Wal-Mart**

On October 8, 2009, Wal-Mart caused to be filed the Direct Testimony of Steve W. Chriss. *See* Wal-Mart Hearing Exhibit No. 1. Wal-Mart Witness Steve Chriss in his Direct Testimony addressed issues related to cost of service and revenue allocation, responding specifically to the testimonies of Rocky Mountain Power ("RMP" or "the Company") witnesses William R. Griffith and C. Craig Paice. *See* Wal-Mart Hearing Exhibit No. 1. In his Direct Testimony, Mr. Chriss did not take a position on the Company's proposed cost of service model but recommended that:

- 1) Revenue should be allocated in accordance with the approved cost of service model in this docket; and
- 2) Any rate mitigation mechanism put in place should attempt to move each customer class closer to rates based on its cost of service. Additionally, the mechanism should ensure that if a cost-based increase for a customer class falls within the banded range of percentage increases approved by the Commission, the increase for that customer class is set no higher than the cost-based increase. *Id* at p. 3, lines 5-16.

According to Mr. Chriss, rates should be set based on the utility's cost of service. This produces equitable rates that reflect cost causation, send proper price signals, and minimize price distortions. *Id* at lines 19-21. Mr. Chriss took issue with the Company's initial rate spread proposal because the "Company has proposed a rate spread that differs significantly from the customer class revenue increases that result from the Company's cost of service study." *Id* at p. 5, lines 7-9. Mr. Chriss concluded that the Commission should reject the Company's initial rate spread proposal

because the proposed rate spread results in significant over- and under-collections of the revenue requirement increase for the major rate classes. *Id* at p. 5, lines 20 to p. 6, line 4. Were the Commission to adopt RMP's initial rate spread proposal, amongst the Residential, General Service, and Irrigation classes, classes from which revenues are over-collected will experience over-collections of approximately \$24 million and classes from which revenues are under-collected will experience under-collections of approximately \$11 million. *Id*.

According to Mr. Chriss, rates should be set such that the utility recovers from each class 100 percent of its cost of service per the approved cost of service model and revenue requirement in this docket. Were the Commission to adopt a rate spread mitigation mechanism, the Commission should focus on the following two principles: 1) to attempt to move each customer class closer to rates based on its cost of service and 2) ensure that if a cost-based increase for a customer class falls within the banded range of percentage increases approved by the Commission the increase for that customer class is set no higher than the cost-based increase. *See id* at p. 6, lines 15-20.

On November 12, 2009, Wal-Mart caused to be filed the Rebuttal Testimony of Steve W. Chriss. *See* Wal-Mart Hearing Exhibit No. 2. Through this testimony, Mr. Chriss requested that the Commission consider two additional points related to special contracts. First, the Commission should require RMP to unbundle the special contract subsidy revenues and collect those revenues on a new rate schedule separate from the existing base rate schedules. Second, the Commission should require RMP to update this new rate schedule as renewed special contracts take effect. Wal-Mart Hearing Exhibit 2, at p. 2, lines 5-9.

More specifically, Mr. Chriss noted that after reviewing the direct testimonies of the other intervenor witnesses, that he had concerns that the treatment of special contract revenues would negatively impact the ability of the Company to set rates based on cost of service. *Id* at p. 3, lines

10-15. Mr. Chriss is concerned that three customers on “special contracts” are currently paying rates lower than their cost of service in the total amount of \$16.3 million dollars and that the Company proposes to recover this shortfall only from the other customer classes, in a manner that is inconsistent with cost causation principles. *Id* at p. 3, line 16 to p. 4, line 5.

Mr. Chriss proposes that the Commission require the Company to unbundle the special contract subsidy revenues and collect those revenues on a new rate schedule separate from the existing base rate schedules that is then updated as renewed special contracts take effect. He enumerates the benefits of such a proposal. *See id* at p. 5, line 14 to p. 6, line 12. First, the cross-subsidy revenues collected from RMP’s customer classes for the special contract revenue shortfall are explicitly and transparently represented in rates. This means that price distortions are minimized, as cross subsidy revenues are no longer mixed in with base rate revenues. *Id*. Second, unbundling the shortfall revenue rates from base rates allows the Company to easily change the shortfall revenue rates as renewed special contracts take effect without having to recalculate base rates or file a full general rate case. *Id*.

This sums up the Direct and Rebuttal testimonies of Steve W. Chriss, on behalf of Wal-Mart.

### **III. Issues Identified by the Parties for Commission Resolution**

#### **A. Use of Company Direct vs. Rebuttal Cost of Service Study as a Guide for Rate Spread Purposes**

In testimony, Wal-Mart did not take a position on the use of the Company’s update of its cost of service study that it sponsored in its rebuttal case. However, after reviewing the filings and participating in the hearings in this matter, Wal-Mart believes that the Company’s rebuttal cost of service study provides better information than its initial study. More specifically, in the Company’s direct case, the Company selected the load research results for the forecast peak dates. Wal-Mart

agrees that it is more appropriate to utilize load research results for the actual peak day for each month in the historical period and to apply those results to the forecast energy amounts in the test period to project the class monthly peak. This is because the relationships among the classes on the peak day are retained in the forecast test period. Thus, Wal-Mart agrees with the Company that rate spread should be guided by the most recently filed cost of service study.

### **B. Rate Spread Design and Rate Spread Proposal**

Wal-Mart's rate spread proposal in this docket really amounts to following its rate design principle, to allocate revenues according to the Commission-approved cost of service study in this docket. Should a rate mitigation mechanism be employed to avoid imposing a large rate increase to a particular class or classes, Wal-Mart advised that the Commission follow these parameters:

Any rate mitigation mechanism put in place should attempt to move each customer class closer to rates based on its cost of service. Additionally, the mechanism should ensure that if a cost-based increase for a customer class falls within the banded range of percentage increases approved by the Commission, the increase for that customer class is set no higher than the cost-based increase. Wal-Mart Hearing Exhibit 1 at p. 3, lines 5-16.

After participating in the lively hearing, and reviewing the testimony and exhibits of the other participants, Wal-Mart supports the rate spread proposal of UAE witness Kevin Higgins because his proposal is more consistent with the above rate mitigation principle than any other proposal. Witness Higgins proposed a rate spread that recognizes differential rate increases within a modest bandwidth of plus or minus one half a percentage point of either side of the system average rate increase, excluding special contracts. Under rate spread in which schedule 6 and lighting classes would receive an increase that is one half percent below the system average, and schedules 9 and 10 would receive an increase that is one half percent above the system average. All other rate schedules would receive a uniform percentage increase that is approximately in the middle. Witness Higgins

supported this basic approach at whatever overall revenue change is approved in this case.

### **C. Special Contract Revenues**

Wal-Mart has entered unrefuted evidence into the record regarding the treatment of special contract revenues; specifically special contracts negatively impact the ability of the Company to set rates based on cost of service because these contracts cause more than a \$16 million revenue shortfall that is covered by non-special contract customers. Wal-Mart Hearing Exhibit No. 2 at p. 3, lines 10-15. As such, the Commission should require the Company to unbundle the special contract subsidy revenues and collect those revenues on a new rate schedule separate from the existing base rate schedules. This new rate schedule should be updated as renewed special contracts take effect. Under this new rate schedule, cross-subsidy revenues collected from RMP's customer classes for the special contract revenue shortfall would be explicitly and transparently represented in rates. This approach minimizes price distortions because cross subsidy revenues are no longer mixed in with base rate revenues. *See id* at p. 5, line 14 to p. 6, line 12. Second, unbundling the shortfall revenue rates from base rates allows the Company to easily change the shortfall revenue rates as renewed special contracts take effect, without having to recalculate base rates or file a full general rate case. *Id.*

### **D. Classification and Allocation of Green Tags and Renewable Energy Credits**

The Department has asked that in this docket the Commission associate cost and benefits associated with wind, specifically renewable energy credits (REC) and green tag revenues, should be classified and allocated consistently with wind resources. *See* DPU Hearing Exhibit No. 5.0 SR (Mancinelli Surrebuttal) at p. 18-19, lines 344-349. Wal-Mart would like to take this opportunity to remind the Commission of its approval of the *Stipulation in Cost of Service, Rate Spread and Rate Design, Phase II* in Commission Docket 07-35-93 ("07-35-38 Stipulation), which provided that the

issue of acquisition or retaining of renewable energy certificates should “be addressed by a Commission rulemaking docket as prescribed in SB202 or in another appropriate proceeding.” *See Report and Order on Cost of Service and Rate Design*, PSC Docket 07-35-38 (Nov.6, 2008).

The rulemaking or other appropriate docket contemplated in the 07-35-38 Stipulation has not yet commenced. Since parties here have asked the Commission to allocate or specify the classification or allocation of RECs, in fairness to all parties to the 07-35-38 Stipulation, the Commission should consider that there are outstanding requests for determinations concerning RECS. Wal-Mart urges that the Commission expeditiously commence the REC rulemaking referenced in the 07-35-38 Stipulation.

#### **IV. CONCLUSION**

Wal-Mart respectfully requests that this Commission carefully consider the testimony that Wal-Mart has sponsored in this proceeding, as well as Wal-Mart’s positions on the issues contained in the party position matrix.

DATED this 11th day of January, 2009.

**HOLLY RACHEL SMITH, PLLC**

---

Holly Rachel Smith  
*Attorneys for Wal-Mart Stores, Inc. and Sam’s West, Inc.*

## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by email this 11<sup>th</sup> day of January, 2010, to the following:

Mark C. Moench (2284)  
Yvonne R. Hogle (7550)  
Rocky Mountain Power  
201 South Main Street, Suite 2300  
Salt Lake City, Utah 84111  
Tel. 801.220.4459  
Fax 801.220.4058  
[mark.moench@pacificorp.com](mailto:mark.moench@pacificorp.com)  
[yvonne.hogle@pacificorp.com](mailto:yvonne.hogle@pacificorp.com)

Paul J. Hickey  
Hickey & Evans, LLP  
P.O. Box 467  
1800 Carey Avenue, Suite 700  
Cheyenne, Wyoming 82003-0467  
Tel. 307.634.1525  
Fax 307.638.7335  
[phickey@hickeyevans.com](mailto:phickey@hickeyevans.com)

Paul Proctor  
Assistant Attorney General  
Utah Office of Consumer Services  
Heber M. Wells Bldg., 5<sup>th</sup> Floor  
160 East 300 South  
Salt Lake City, UT 84111  
[pproctor@utah.gov](mailto:pproctor@utah.gov)

Kevin Higgins  
Neal Townsend  
Energy Strategies  
39 Market Street, Suite 200  
Salt Lake City, UT 84101  
[khiggins@energystrat.com](mailto:khiggins@energystrat.com)  
[ntownsend@energystrat.com](mailto:ntownsend@energystrat.com)

Gary A. Dodge  
Hatch James & Dodge  
10 West Broadway, Suite 400  
Salt Lake City, UT 84101  
[gdodge@hjdllaw.com](mailto:gdodge@hjdllaw.com)

Katherine A. McDowell  
McDowell & Rackner, P.C.  
520 SW 6<sup>th</sup> Avenue, Suite 830  
Portland, OR 97204  
Tel. 503.595.3924  
Fax 503.595.3928  
[Katherine@mcd-law.com](mailto:Katherine@mcd-law.com)

William Powell  
Philip Powlick  
Division of Public Utilities  
Heber M. Wells Building  
160 East 300 South, 4<sup>th</sup> Floor  
Salt Lake City, UT 84111  
[wpowell@utah.gov](mailto:wpowell@utah.gov)  
[philippowlick@utah.gov](mailto:philippowlick@utah.gov)

Cheryl Murray  
Michele Beck  
Utah Office of Consumer Services  
160 East 300 South, 2<sup>nd</sup> Floor  
Salt Lake City, UT 84111  
[cmurray@utah.gov](mailto:cmurray@utah.gov)  
[mbeck@utah.gov](mailto:mbeck@utah.gov)

Betsy Wolf  
Salt Lake Community Action Program  
764 South 200 West  
Salt Lake City, UT 84101  
[bwolf@slcap.org](mailto:bwolf@slcap.org)

Dennis Miller  
Division of Public Utilities  
Heber M. Wells Building  
160 East 300 South, 4<sup>th</sup> Floor  
Salt Lake City, UT 84111  
[dennismiller@utah.gov](mailto:dennismiller@utah.gov)

Michael Ginsberg  
Patricia Schmid  
Assistant Attorney General  
Utah Division of Public Utilities  
Heber M. Wells Bldg., 5<sup>th</sup> Floor  
160 East 300 South  
Salt Lake City, UT 84111  
[mginsberg@utah.gov](mailto:mginsberg@utah.gov)  
[pschmid@utah.gov](mailto:pschmid@utah.gov)

Roger J. Ball  
Utah Ratepayers Association  
1375 Vintry Lane  
Salt Lake City, Utah 84121  
[Ball.roger@gmail.com](mailto:Ball.roger@gmail.com)

F. Robert Reeder  
William J. Evans  
Vicki M. Baldwin  
Parsons Behle &, Latimer  
201 South Main Street, Suite 1800  
Salt Lake City, Utah 84111  
[bobreeder@parsonsbehle.com](mailto:bobreeder@parsonsbehle.com)  
[bevans@parsonsbehle.com](mailto:bevans@parsonsbehle.com)  
[vbaldwin@parsonsbehle.com](mailto:vbaldwin@parsonsbehle.com)

Gerald H. Kinghorn  
Jeremy R. Cook  
Parsons Kinghorn Harris, P.C.  
111 East Broadway, 11th Floor  
Salt Lake City, Utah 84111  
[ghk@pkhlawyers.com](mailto:ghk@pkhlawyers.com)  
[jrc@pkhlawyers.com](mailto:jrc@pkhlawyers.com)

Gregory B. Monson  
Stoel Rives LLP  
201 South Main Street, Suite 2300  
Salt Lake City, Utah 84111  
[gbmonson@stoel.com](mailto:gbmonson@stoel.com)

Leland Hogan  
Utah Farm Bureau Federation  
9865 South State Street  
Sandy, UT 84070  
[Leland.hogan@fbfs.com](mailto:Leland.hogan@fbfs.com)

Howard Geller  
SWEEP  
2260 Baseline Road  
Boulder, CO 80302  
[hgeller@swenergy.org](mailto:hgeller@swenergy.org)

Steven Michel  
Penny Anderson  
Nancy Kelly  
Western Resource Advocates  
2025 Senda de Andres  
Santa Fe, NM 87501  
[smichel@westernresources.org](mailto:smichel@westernresources.org)  
[penny@westernresources.org](mailto:penny@westernresources.org)  
[nkelly@ida.net](mailto:nkelly@ida.net)

Arthur F. Sandack  
8 East Broadway, Ste 510  
Salt Lake City, Utah 84111  
801-595-1300 office  
801-363-1715 fax  
[asandack@msn.com](mailto:asandack@msn.com)  
Peter J. Mattheis  
Eric J. Lacey  
Brickfield, Burchette, Ritts & Stone, P.C.  
1025 Thomas Jefferson Street, N.W.  
800 West Tower  
Washington, D.C. 2007  
[pjm@bbrslaw.com](mailto:pjm@bbrslaw.com)  
[elacey@bbrslaw.com](mailto:elacey@bbrslaw.com)

Michael L. Kurtz, Esq.  
Kurt J. Boehm, Esq.  
Boehm, Kurtz & Lowry  
36 East Seventh Street, Suite 1510  
Cincinnati, Ohio 45202  
[mkurtz@BKLawfirm.com](mailto:mkurtz@BKLawfirm.com)  
[kboehm@BKLawfirm.com](mailto:kboehm@BKLawfirm.com)

Dale Gardiner  
Van Cott, Bagley, Cornwall & McCarthy  
36 South State Street, Suite 1900  
Salt Lake City, UT 84111  
[dgardiner@vancott.com](mailto:dgardiner@vancott.com)

Sarah Wright  
Executive Director  
Utah Clean Energy  
1014 2nd Avenue  
Salt Lake City, UT 84103  
[sarah@utahcleanenergy.org](mailto:sarah@utahcleanenergy.org)

Rich Collins  
[rcollins@westminstercollege.edu](mailto:rcollins@westminstercollege.edu)

*/s/ Holly Rachel Smith*