

1 **Q. Please state your name and business address.**

2 A. My name is David L. Taylor and my business address is 201 South Main, Suite
3 2300, Salt Lake City, Utah, 84111.

4 **Q. Are you the same David L. Taylor who submitted pre-filed direct testimony
5 in this proceeding?**

6 A. Yes.

7 **Purpose and Summary of Testimony**

8 **Q. What is the purpose of your test period rebuttal testimony (“Testimony”) in
9 this proceeding?**

10 A. The purpose of my Testimony is to respond to the test period testimony of the
11 Division of Public Utilities (“DPU”), Office of Consumer Services (“OCS”), Utah
12 Association of Energy Users Intervention Group (“UAE”) and the Utah Industrial
13 Energy Consumers (“UIEC”).

14 **Q. Please summarize your Testimony.**

15 A. My Testimony explains why the Company’s proposed test period from July 1,
16 2011 to June 30, 2012 better reflects the conditions the Company will experience
17 during the rate-effective period in this case than the 2011 calendar-year test period
18 proposed by UAE and UIEC. Specifically my testimony will explain why:

- 19
- 20 • The Company’s proposed test period best aligns with the rate-effective
21 period.
 - 22 • Any potential concerns or issues regarding the accuracy of the Company’s
forecasts can be dealt with using the Company’s proposed test period.

- 23 • The fact that the Company may file annual general rate cases is no excuse
24 to set rates below the prudent costs reasonably expected during the rate-
25 effective period.
- 26 • The Company has complied with the test period statute, Utah Code § 54-
27 4-4(3), and with the Commission’s rule on test period filing, Utah
28 Administrative Code R746-700-10, in good faith.
- 29 • Other issues raised by witnesses are without merit.

30 **Test Period**

31 **Q. Do any of the parties support the test period proposed by the Company?**

32 A. Yes. The DPU recommends that the Commission adopt the test period proposed
33 by the Company. The DPU witnesses raise questions about certain areas of the
34 forecasts of the Company, but state that the DPU’s auditors and staff can
35 appropriately make adjustments to the Company’s forecasts within the test period
36 proposed by the Company.¹ The witnesses for UAE and UIEC recommend that
37 the Commission adopt a 2011 calendar-year test period. The OCS witness
38 recommends that the Commission adopt a test period earlier than that proposed by
39 the Company, but does not specify a period.

40 **Q. How do you respond to this testimony generally?**

41 A. I believe the DPU has correctly analyzed the issue. The purpose of a test period is
42 to reflect the conditions that the Company will face during the rate-effective
43 period. If other parties believe that there are problems with forecasts used for the
44 test period that most closely aligns with the rate-effective period, they should, as

¹ E.g. Zenger, lines 46-53.

45 proposed by the DPU, propose adjustments to those forecasts instead of proposing
46 a test period that does not include costs that will be incurred during the rate-
47 effective period.

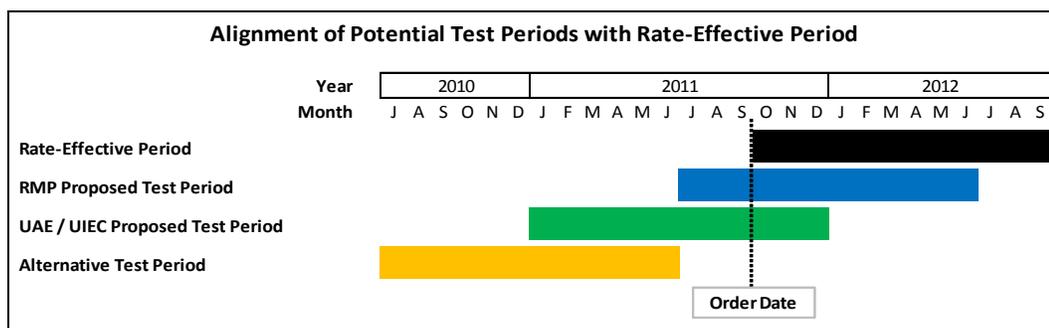
48 **Q. Mr. Kevin Higgins refers to his proposed test period starting January 1, 2011**
49 **as a fully-projected test period.² Do you agree that this is a fully-projected**
50 **test period?**

51 A. Any test period can be claimed to be fully projected if it contains pro forma or
52 known and measurable adjustments beyond the historic period. Mr. Higgins'
53 proposed test period is a fully forecast projection of costs for a period that will
54 mostly be in the past when new rates go into effect. The question is not is the test
55 period a fully-projected test period, but whether that projection is reflective of the
56 plant investment that will be in place and the costs that will be incurred to serve
57 customers during the rate-effective period that begins in September 2011 and runs
58 until September 2012 and perhaps beyond. In the case of Mr. Higgins' proposed
59 test period, the answer to that question is no.

60 As clearly shown in Table 5 of my direct testimony, and as shown below,
61 the test period from January 1, 2011 to December 31, 2011 starts nine months
62 prior to the anticipated order date in this docket. Therefore, three-fourths of the
63 test period will be historic when the new rates become effective. However, of
64 more concern to the Company is whether the underlying costs included in the test
65 period will be reflective of costs during the rate-effective period. In the case of
66 the proposed calendar-year 2011 test period, the costs do not reflect cost during
67 the rate-effective period because they ignore the significant capital additions

² Higgins, p 16, lines 397

68 included in the Company's test period, and the known changes in power costs and
 69 contracts. On the other hand, the Company's proposed test period from July 2011
 70 through June 2012 most closely aligns with the rate-effective period and starts
 71 three months prior to the order date. The test period proposed by the UAE and
 72 UIEC only overlaps with the rate-effective period in three out of the twelve
 73 months.



74 For any test period earlier in time than the rate effective-period to best
 75 reflect the costs that will be incurred to provide service to customers during the
 76 rate-effective period at least two conditions must exist. First, operating expenses,
 77 including net power costs, must be expected to remain flat, on a unit cost basis,
 78 between the selected test period and the rate-effective period. Second, net rate
 79 base must remain flat, or in other words, new capital investment beyond the test
 80 period must not be expected to exceed depreciation expense for the same time
 81 period. If Mr. Higgins believes that his proposed calendar 2011 test period meets
 82 those conditions he should present evidence to support that claim. So far he has
 83 not done that.

84 **Q. Do you agree with Mr. Higgins that his proposed test period better aligns**
85 **with the “start of the rate-effective period that RMP has requested –**
86 **September 21, 2011?”**

87 A. Whether his proposed test period or the Company’s better aligns with the start of
88 the rate-effective period is subject to debate. By using calendar year 2011, the
89 average rate base proposed by Mr. Higgins understates the values at the start of
90 the rate-effective period. Regardless, this is the wrong comparison. Rates are not
91 being set for one day, September 21, 2011, but for the entire rate-effective period.

92 Rates should not be based on the start of the rate-effective period only.
93 The standard according to Section 54-4-4(3) of the Utah Code is “best reflects the
94 conditions that a public utility will encounter during the period when the rates
95 determined by the commission will be in effect.” The statute does not refer to the
96 date the rates will change, but to the time they will be in effect. Mr. Higgins’ use
97 of the “start of the rate-effective period” conveniently excludes the entire time in
98 which the new rates will be in effect. Rates in this case will likely be set for a
99 rate-effective period of at least one year, not for a single day.

100 **Q. The direct testimony of Mr. Dan Gimble, Mr. Higgins, and Mr. Maurice**
101 **Brubaker all refer to the test period used in the Wyoming rate case as**
102 **justification for the test period Utah should choose. How do you respond?**

103 A. I have two concerns with this line of reasoning: (1) The Utah Commission should
104 choose a test period based upon Utah laws and should not choose a test period
105 simply because that period is utilized in Wyoming or any other state; and (2) the
106 witnesses conveniently ignored Oregon and California, which also use forecast

107 test periods, because the test periods in those states do not support their position.

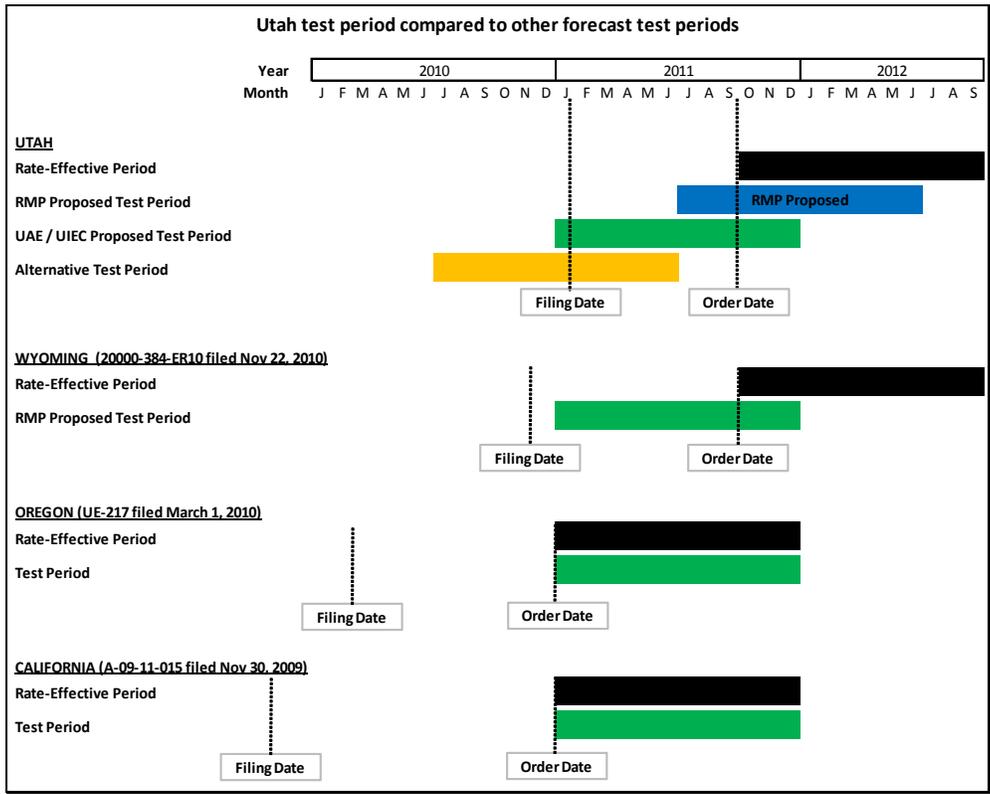
108 Related to the first point, Utah should make a decision based upon Section
109 54-4-4(3) of the Utah Code, which clearly states:

110 (a) If in the commission's determination of just and reasonable
111 rates the commission uses a test period, the commission shall select a test
112 period that, on the basis of the evidence, the commission finds best reflects
113 the conditions that a public utility will encounter during the period when
114 the rates determined by the commission will be in effect.

115 The statute then provides three test period options to select from as long as they
116 meet the objective, stated in paragraph (a) above, that it best reflects the
117 conditions during the rate-effective period. One of those options is a fully
118 forecast test period extending twenty months from the date of filing. There is no
119 similar statutory option in Wyoming. The fact that the Company filed a general
120 rate case in Wyoming in November of 2010 based on a 2011 test period does not
121 change the Utah statute which requires use of a test period that "best reflects the
122 conditions... during the period when the rates determined by the commission will
123 be in effect." There are differences in each state with regards to power cost
124 mechanisms, forecasts, ROEs, deferrals, and inter-jurisdictional allocations. It is
125 not persuasive to claim that this Commission should adopt other states' policies
126 on one issue without consideration of all issues.

127 With regard to the second point, while the Company does not believe the
128 Utah Commission should determine the appropriate test period in this case on the
129 basis of the test period utilized in other states, it is important to set the record
130 straight related to forecast test periods used in other states. The Company has
131 three other states that use forecast test periods, Wyoming, Oregon and California.

132 While the OCS, UAE and UIEC all referred to Wyoming as a standard Utah
 133 should be compared against, they ignored Oregon and California. Both Oregon
 134 and California had rate increases go into effect on January 1, 2011 that used test
 135 periods beginning on January 1, 2011 and extending through December 31, 2011.
 136 In those cases, the test period used by the commissions aligned with the rate-
 137 effective period. In addition, the Oregon case was filed on March 1, 2010, and
 138 the California case was filed on November 30, 2009. Thus, the Oregon test period
 139 extended 22 months beyond the date of filing and the California test period
 140 extended 26 months beyond the date of filing. The figure below shows the
 141 comparison between the filing dates, proposed test periods and rate-effective
 142 periods in each of the Company's jurisdictions that use forecast test periods.



143 **Q. Mr. Brubaker states that the Commission should use the 2011 test period**
144 **because the Company has contracts that have expired or will expire during**
145 **2011.³ How do you respond?**

146 A. Mr. Brubaker would have the Commission believe it is better to set rates using
147 contract values that he knows are wrong because the contracts will have expired
148 prior to new rates going into effect, rather than using the best estimates available.
149 The purpose of the test period is to set rates for the period extending
150 approximately twelve months from September 21, 2011. In establishing rates that
151 best reflect the conditions when rates will be in effect, as required by statute, the
152 Commission and intervenors cannot ignore the fact that these contracts will have
153 expired. In addition, using a test period from July 1, 2011 to June 30, 2012 does
154 not prohibit any party from offering evidence of what it believes is a better
155 estimate of the costs during the rate-effective period.

156 **Q. Mr. Higgins uses the possibility of forecast errors in loads and other**
157 **projections as further justification for his recommendation of a calendar**
158 **year 2011 test period.⁴ Do you believe potential forecasting errors justify the**
159 **use of a calendar 2011 test period?**

160 A. No. The Commission is setting rates for the period starting September 21, 2011.
161 The test period in this case should align the rate-effective period with the data
162 used to set rates. As an example, the rate-effective period will include January
163 2012. Although January 2011 load and net power cost (“NPC”) forecasts might
164 be closer to actual January 2011 data, they are clearly not the most accurate

³ Brubaker, p 13, lines 18 – 24.

⁴ Higgins, lines 316 – 317.

165 forecast of January 2012 loads and NPC unless you believe that January 2012 will
166 be just like January 2011. The evidence presented by other Company witnesses
167 demonstrates that January 2012 will not be like January 2011. Furthermore, the
168 use of a test period that includes January 2012 does not preclude Mr. Higgins
169 from offering evidence in the revenue requirement phase of this case if he
170 believes he has a better forecast for any component of revenue requirement.

171 **Q. Mr. Gimble states that if the Company is planning to file annual rate cases it**
172 **is more appropriate to use a closer in time test period.⁵ Does filing annual**
173 **rate cases justify choosing a test period that does not reflect conditions**
174 **during the rate-effective period?**

175 A. No. The Company determines the frequency and timing of rate cases based on the
176 need for rate relief to cover its costs, and does not make these decisions lightly.
177 Frequent rate cases are a result of the Company's need to meet its obligation to
178 serve customers' rising energy needs, and do not diminish the need for the
179 Company to have the opportunity to recover its prudently incurred costs. Mr.
180 Gimble's approach would justify unjust and unreasonable rates simply because
181 they will only be in effect for about one year.

182 What we can surmise from closer in time test periods is that they lead to
183 the need for more frequent rate cases and contribute to the Company earning less
184 than its authorized rate of return because rates do not reflect costs during the rate-
185 effective period.

⁵ Gimble, lines 77-78.

186 **Q. Mr. Brubaker suggests that rate cases should always use a calendar-year test**
187 **period because this will allow them to be dealt with more confidently and**
188 **expeditiously.⁶ Do you agree?**

189 A. No. Mr. Brubaker's suggestion is made in the context of his discussion of the
190 Energy Balancing Account ("EBA") recently approved by the Commission. Mr.
191 Steven R. McDougal will discuss the impact of the EBA on test-period selection
192 in his rebuttal testimony. However, more generally, in Utah the Company has
193 used a variety of test periods ending in March, June, September and December. I
194 have not noticed that any test period is easier to file, or can be dealt with more
195 expeditiously or confidently than any other. In addition, nowhere in Utah statute
196 or rules does it refer to calendar-year test periods, and the Utah rules specifically
197 call out that the alternative test period the utility is required to file if it proposes a
198 future test period in its application need not be a calendar-year period, but should
199 be "the 12-month period ending on the last day of June or December, whichever
200 is closer, following the filing date of the application." Thus, the Commission has
201 already directed that non-calendar-year test periods can be filed. In addition, even
202 if test periods were to be limited to calendar years, rates will not necessarily be in
203 effect for calendar years. Unless every general rate case is filed on May 1 with
204 new rates going into effect the following January 1, the rate-effective period will
205 not be a calendar year.

206 Trying to limit test periods to calendar years is a new argument introduced
207 in this rate case and appears to be tied to the specific timing of this case.

⁶ Brubaker, p. 6, lines 11-13.

208 **Other Issues**

209 **Q. Do you have any response to the testimony of Mr. Matthew Croft and Mr.**
210 **Douglas Wheelwright?**

211 A. Yes. Mr. Croft and Mr. Wheelwright have both raised questions regarding the
212 accuracy of Company's forecasts, but conclude that they can deal with those
213 questions in the context of the test year proposed by the Company. While the
214 Company does not agree that the issues they raise indicate problems with the
215 Company's forecasts, it does agree with their conclusion that issues regarding
216 forecasts can be addressed in the context of the Company's proposed test period.
217 Therefore, the Company will reserve its response to their forecasting issues for
218 rebuttal testimony in the revenue requirement phase of this case.

219 **Q. Why didn't the Company seek pre-approval of the test period, as suggested**
220 **by Mr. Higgins?**

221 A. Since the Company's last general rate case, the Commission has adopted new
222 filing requirements. After reviewing the filing requirements, the Company
223 determined that filing for a test period determination would likely require the
224 same or similar work as filing the general rate case, and would delay the filing of
225 the general rate case. In addition, the filing requirements do not state any definite
226 time within which a decision would be reached in a test period filing. Based on
227 the Company's rate case projections and the serious shortfall between the
228 incurrence of prudent costs and rate recovery, the Company determined that there
229 was a need to file the rate case as soon as possible.

230 **Q. Do you agree with Mr. Higgins' statement that the Company can manage**
231 **forecast risks by "delaying or cancelling investment?"**⁷

232 A. Mr. Higgins is obviously not considering the test periods he is proposing when
233 making this statement. For the alternative test period ending June 30, 2011 all of
234 the data will be historic prior to the order, and for his proposed test year starting
235 January 1, 2011, nine months will be historic prior to the order. Because the vast
236 majority of the investments will already be finished, and the majority of the
237 remainder already started, it will be impossible to delay and cancel investments in
238 the test period because of forecast differences.

239 In addition, Mr. Higgins' statement ignores the fact that the projects
240 included in this rate case have been determined on the basis of information
241 currently available to the Company to be necessary to provide safe, reliable and
242 adequate service to customers. Therefore, unless circumstances change,
243 management cannot elect to delay or cancel these projects just because a test
244 period is selected that does not cover them.

245 **Q. What about the inflammatory statements from Mr. Higgins about the**
246 **Company's intent in choosing a test period?**

247 A. Mr. Higgins uses a lot of inflammatory words such as "gamesmanship", "form
248 over substance", "brinkmanship" and "audacious"⁸ in trying to influence the
249 Commission's decision on test period. I strongly disagree with Mr. Higgins'
250 assertions. Based on statutory authority, the Company chose the test period it has
251 proposed because it believes it is the most reasonable test period that best reflects

⁷ Higgins, lines 142-144

⁸ Higgins, lines 432, 535, 539, 543

252 the conditions that the Company will encounter during the rate-effective period.
253 In choosing that test period, the Company has complied with the statute and the
254 Commission's rules. The Company simply wants an opportunity to recover its
255 prudently incurred costs during the rate-effective period. That is only possible if
256 the test period provides the best forecast of those costs during the rate-effective
257 period. The Company's proposed test period accomplishes that valid goal.

258 **Q. Does this conclude your Testimony?**

259 A. Yes.