



**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 ) **Docket No. 10-035-124**  
Approval of its Proposed Electric )  
Service Schedules and Electric )  
Service Regulations )  
\_\_\_\_\_)

**Rebuttal Testimony of Maurice Brubaker**

1 **Q PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A Maurice Brubaker. My business address is 16690 Swingley Ridge Road, Suite 140,  
3 Chesterfield, MO 63017.

4 **Q ARE YOU THE SAME MAURICE BRUBAKER WHO PROVIDED DIRECT**  
5 **TESTIMONY ON MARCH 9, 2011?**

6 A Yes, I am.

7 **Q ON WHOSE BEHALF ARE YOU APPEARING IN THIS PROCEEDING?**

8 A I am appearing on behalf of the Utah Industrial Energy Consumers ("UIEC").  
9 Members of UIEC purchase substantial quantities of electricity from Rocky Mountain  
10 Power Company ("RMP") in Utah, and are vitally interested in the outcome of this  
11 proceeding.

1 **Q WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

2 A I will respond to the direct testimony submitted by the Utah Division of Public Utilities  
3 (“Division”) witnesses Croft, Wheelwright and Zenger, as well as the testimony of  
4 RMP witness Taylor.

5 **Response to Division**

6 **Q TURNING FIRST TO THE TESTIMONY OF DIVISION WITNESS CROFT, WHAT IS**  
7 **THE SUBJECT OF HIS TESTIMONY?**

8 A His testimony contains comparisons between forecasted plant balances and actual  
9 plant balances in five previous rate matters. He compares forecasted to actual using  
10 several different bases. His basic findings are set forth on page 3 of testimony as  
11 follows:

- 12 “1) From an adjusted and weighted average perspective, the  
13 Company has over forecasted its plant additions in the previous  
14 five rate case filings.<sup>1</sup>  
15 2) From a non-adjusted but weighted average perspective, the  
16 Company has over forecasted its plant additions in three of the last  
17 five rate case filings.<sup>2</sup>  
18 3) Eight of the ten weighted average scenarios performed in this  
19 analysis yielded an absolute dollar deviation between forecasted  
20 and actual plant additions that increased over time.<sup>3</sup> [Footnotes  
21 omitted.]

22 Despite these findings, Mr. Croft goes on to the bold conclusion, not  
23 supported by the evidence, that the amounts of over-forecasting are not material  
24 enough to reject the 24-month forecast period proposed by RMP.

25 **Q DO YOU HAVE CONCERNS ABOUT MR. CROFT’S ANALYSIS?**

26 A Yes, I do. First, I would note that only one of the sets of comparisons of actual to  
27 forecasted plant additions was for a 24-month forecast period. All of the others  
28 include a shorter 18-month period. As a result, 80% of the test data that Mr. Croft

1 has presented does not address the forecasting period proposed by RMP in this  
2 case, which might suggest that his results would prove even worse for RMP's  
3 accuracy than he claims.

4 **Q WHAT IS THE BASIS FOR MR. CROFT'S CONCLUSION THAT THE REVENUE**  
5 **REQUIREMENT IMPACT IS SMALL ENOUGH TO BE IGNORED?**

6 A He calculates this on Exhibit DPU 2.1 as the revenue requirement effect of the return  
7 on the difference in gross plant between the forecast and a measure of actual. As he  
8 notes on page 6 of his testimony in Footnote 4, this is a simplified calculation, and  
9 deals only with return. It does not include depreciation expense, property taxes or  
10 operation and maintenance expense that would be associated with these capital  
11 additions. As such, and as he admits, his calculation of difference in revenue  
12 requirement is understated. Notably, even though not mentioned in his testimony, in  
13 each case that he includes in his average, customers are worse off because of the  
14 error in forecasting.

15 Also, note that in connection with the July 2007 through December 2008  
16 period (line 12 on Exhibit DPU 2.1), the calculated adverse impact on Utah customers  
17 is \$6 million, or 50% greater than the \$4 million average that Mr. Croft apparently  
18 relied upon in reaching his conclusions. And, if Mr. Croft's observation on page 6 that  
19 the absolute value of a deviation is more important than whether it is positive or  
20 negative is heeded, the potential impact on Utah customers is as much as \$14  
21 million. (See line 3 of Exhibit DPU 2.1.)

1 Q DO YOU HAVE ANY OTHER COMMENTS WITH RESPECT TO MR. CROFT'S  
2 TESTIMONY?

3 A Yes. Mr. Croft also overlooks the fact that once costs are included in rates they  
4 cannot be removed regardless of whether the expenditures are prudent or when or if  
5 the investment goes into service and is determined to be used and useful in providing  
6 electric service to customers. Once these costs are passed through to rates,  
7 customers have paid them and the clock cannot be turned back. Accordingly, it is  
8 extremely important that care be taken not to include in rates the revenue  
9 requirement associated with investments that may not meet these criteria.

10 Q HAVE YOU REVIEWED THE TESTIMONY OF DIVISION WITNESS  
11 WHEELWRIGHT?

12 A Yes. Mr. Wheelwright spends approximately six pages reporting on his analysis of  
13 RMP's net power cost proposal and his analysis of the trends and various  
14 components of net power costs over the last several years. On page 8 he states the  
15 following:

16 "...DPU Exhibit 3.2 is a review and comparison of the actual July 2008  
17 through June 2010 net power cost results compared to the forecast  
18 July 2010 through June 2012. This analysis compares the previous  
19 two years of actual results to the forecast but is broken into six month  
20 time periods. Significant changes were noted in the forecast for total  
21 storage and exchange, qualified facilities purchases, electric swaps  
22 and system balancing purchases. It should also be noted that  
23 historical information on electric swaps, gas swaps and the wind  
24 integration charges are not provided (i.e., not called out) by the  
25 Company in the actual results. The items that appear to have variation  
26 from the historical information have been color coded in yellow in  
27 Exhibit 3.2. Items that appear to be a concern in the last six months of  
28 the test period have been color coded in orange. While the areas  
29 identified are a concern and require further examination, these issues  
30 could be resolved with adjustments.

1 **Q: Are there other differences in the last 6 months of the**  
2 **Company's test period?**

3 A: The Company has not included some of the QF contracts for the  
4 last six months of the test period. The contracts that have been  
5 excluded mature December 2011 and historically have been  
6 renewed on an annual basis. The exact amount of these contracts  
7 may not be known at this time but it is unlikely that these contracts  
8 will not be renewed and amounts should be included at either  
9 historic levels or valued based on the forward price curve. Chart 4  
10 is a review of the historical and projected cost for the QF contracts.

11 **Chart 4 [omitted]**

12 As can be seen in Chart 4, the Company's forecast of the QF  
13 contracts is noticeably different from the trend. Including the QF  
14 contracts that can reasonably be assumed to be renewed would  
15 bring the forecast more in line with the historical trend."

16 His ultimate recommendation appears on page 10 of his testimony as  
17 follows:

18 "The Company provided information for the test year ending June 2012  
19 which includes the forecast for net power cost on a monthly basis.  
20 When the forecast has been compared to the historical results there  
21 are items of variation that will need further review and explanation.  
22 While there are items of concern in the last six months of the proposed  
23 test period, it is likely that any of these items can be handled with  
24 regular adjustments. The Division staff will continue to review this  
25 information as part of this general rate case. In addition, the Division  
26 has hired an outside consultant to review the net power cost in this  
27 Docket."

28 **Q DO YOU AGREE WITH MR. WHEELWRIGHT'S ASSESSMENT THAT THE**  
29 **APPARENT OMISSIONS AND UNEXPLAINED TRENDS IN RMP'S NET POWER**  
30 **COSTS CAN BE HANDLED WITH "...REGULAR ADJUSTMENTS"?**

31 A No. I do not agree with this conclusion.

32 **Q PLEASE EXPLAIN WHY YOU DO NOT AGREE.**

33 A First, the trend line analysis used by Mr. Wheelwright is suspect given that RMP has  
34 said that the changes in cost are related to the availability of power for sale and the

1 increase in load. Given those changes in circumstances, it is to be expected that a  
2 “trend” analysis would not be particularly revealing of the propriety of RMP’s proposed  
3 NPC.

4 **Q WHAT OTHER PROBLEMS ARE THERE WITH RMP’S NPC CLAIMS THAT**  
5 **WOULD MAKE IT DIFFICULT TO HANDLE THE NPC ISSUES WITH “REGULAR**  
6 **ADJUSTMENTS”?**

7 A A major problem with RMP’s NPC claims is that many components are based on  
8 assumed replacement of contracts and changes in circumstances that are not now  
9 known and likely will not be known by the time that hearings in this case take place.  
10 This puts these claims and adjustments into the speculative category. Mr.  
11 Wheelwright’s statement that the problem can be cured with adjustments based on  
12 trends essentially amounts to saying that a different speculation could be included in  
13 the NPC forecast, not that a more accurate and better number can be derived in the  
14 context of RMP’s proposed test year, within the time frame of this proceeding, which  
15 would better comport with the evidentiary requirement. Accordingly, I strongly  
16 disagree with Mr. Wheelwright’s contention that the problem can be solved by making  
17 different adjustments.

1 **Q DO YOU HAVE ANY OTHER COMMENTS ABOUT MR. WHEELWRIGHT'S**  
2 **CONCLUSIONS?**

3 A Yes. The Commission should keep in mind that once customers are charged with  
4 particular costs, for example, costs associated with swaps which are included in base  
5 rates in accordance with the Commission's EBA Order, customers can never be  
6 relieved of the burden of these costs regardless of whether they are prudent. Once  
7 these costs go into rates, customers pay them and there is no turning back the clock.

8 **Q DOES MR. WHEELWRIGHT ADDRESS THE ISSUE OF HOW TO ESTABLISH**  
9 **BASE RATE COSTS FOR THE RECENTLY APPROVED EBA?**

10 A No, he does not. RMP has been given the right to implement an EBA tracking  
11 mechanism beginning with the Commission's Order and the effectiveness of rates in  
12 this case. Setting the rates and the base in the EBA using the 12 months ending  
13 December 31, 2011 has the benefit of using costs that are relatively current, and also  
14 provides a basis for tracking increases or decreases in the level of the included costs  
15 subsequent to the establishment of rates in this case. A calendar year test period  
16 also coordinates well with the Commission's declaration that reconciliations of actual  
17 costs to costs included in base rates should take place on a calendar year basis. A  
18 test year that is not on a calendar year basis invites potential problems of overlapping  
19 test years and difficulties in determining what costs were included in base rates, and  
20 what costs were not.

21 The existence of the EBA and the Commission's approval of its effectiveness  
22 beginning at the conclusion of this rate case makes it unnecessary to incorporate  
23 speculative future values into base rates, since the EBA will operate to true-up  
24 collections to actual costs, with interest on the over/under-collections. There no  
25 longer is any reason for either customers or shareholders to face 100 percent of the



1 risk. Both customers and shareholders are benefitted to have the test year closer in  
2 time, like the 2011 calendar year. This protects both RMP and customers and avoids  
3 the need to forecast NPC levels far into the future.

4 **Q HAVE YOU REVIEWED THE DIRECT TESTIMONY OF DIVISION WITNESS**  
5 **ZENGER?**

6 A Yes, I have. Dr. Zenger takes information from the testimony of witnesses Croft and  
7 Wheelwright, and combines it with her own policy analysis of test year selection, and  
8 says that the Division “does not object” to RMP’s proposed test year. Without  
9 providing factual evidence relevant to this specific case, most of her testimony is  
10 devoted to explaining why she believes that utilities in general, and RMP in particular,  
11 are entitled to have increases in rates as soon as possible after new investment goes  
12 in service.

13 Completely lacking from her analysis is any appreciation for the risk to  
14 customers if the test year extends out excessively, and it would permit the inclusion in  
15 rate base of investments, and their related expenses, that may not be in service when  
16 the test year concludes. In addition, her testimony inadequately considers the risk to  
17 customers of the speculation inherent in RMP’s forecast of net power costs. Her  
18 testimony downplays the risk to customers of allowing these unwarranted investments  
19 and expenses into the revenue requirement, and hence the rates.

20 I believe her testimony overlooks the fact that regulation exists primarily to  
21 protect the customers, while treating the utility fairly and providing an opportunity to  
22 recover costs and earn a fair and reasonable return. After all, the regulatory compact  
23 that allows a utility to have a monopoly franchise territory requires the utility to take  
24 appropriate steps to provide safe, reliable and adequate service to its customers at  
25 the lowest overall reasonable cost. This means that the utility, in return for protection

1 against competition, is obligated to undertake the investments and incur the  
2 expenses that are necessary to fulfill this obligation. This requires a careful balancing  
3 of the interests between customers and stockholders, and must consider many  
4 factors in addition to those noted by Dr. Zenger.

5 **Q IS IT YOUR UNDERSTANDING THAT A FINDING THAT A PROPOSED TEST**  
6 **YEAR IS “NOT OBJECTIONABLE” IS CONSISTENT WITH THE STATUTORY**  
7 **REQUIREMENT TO CONSIDER THE “BEST EVIDENCE” FOR A TEST YEAR?**

8 A I do not believe that they are the same. There is no indication that Dr. Zenger went  
9 beyond this generalization to examine the proposed test year in the context of what I  
10 am advised are the requirements under UCA 54-4-4 (3) to establish a test year that is  
11 based on the “best evidence” of the appropriateness of a particular 12-month period  
12 as a test year in a rate case.

13 **Q DR. ZENGER TALKS ABOUT UTILITY INVESTMENT THAT MAY GO INTO**  
14 **SERVICE PRIOR TO BEING RECOGNIZED IN RATES. ARE THERE ANY**  
15 **OFFSETTING FACTORS THAT ALSO NEED TO BE CONSIDERED?**

16 A Yes. Two major offsetting factors include the reduction in rate base as a result of the  
17 increase in accumulated reserve for depreciation and the increase in accumulated  
18 deferred income taxes, as well as the fact that post test year growth in sales provides  
19 a margin that goes directly to the utility’s bottom line without being shared with  
20 customers.

21 Regulation does not contemplate, and certainly does not require, a “dollar for  
22 dollar” pass through to its customers of all additional costs incurred by the utility. A  
23 balanced consideration of test year revenues, expenses and investment, especially  
24 when coupled with the major plant addition (“MPA”) opportunity and the recently

1 conferred energy balancing account (“EBA”), clearly provide cost recovery  
2 opportunities for the utility without reaching far out in time for a test year as RMP has  
3 proposed in this case.

4 **Q DR. ZENGER MENTIONS THE POSSIBILITY OF A “TRACKER” AT PAGE 9 OF**  
5 **HER TESTIMONY. APPARENTLY THIS WOULD ALLOW COST RECOVERY**  
6 **ONCE PARTICULAR PLANT ADDITIONS ARE PLACED INTO SERVICE,**  
7 **APPARENTLY WITHOUT THE NEED FOR A GENERAL RATE CASE OR AN MPA**  
8 **FILING. DO YOU HAVE ANY COMMENTS ABOUT THIS?**

9 A Yes. First, there is absolutely no detail provided with respect to this potential  
10 consideration. It would seem to have no place whatsoever in the selection of the test  
11 year in this proceeding, and should be given no weight. Dr. Zenger does not cite any  
12 statutory authority for such a mechanism. Moreover, Dr. Zenger has not offered any  
13 testimony which would support the desirability of such a tracker.

#### 14 **Response to RMP**

15 **Q HAVE YOU REVIEWED THE TESTIMONY SUBMITTED BY RMP WITNESS**  
16 **TAYLOR?**

17 A Yes. In his testimony he basically repeats arguments advanced in the direct  
18 testimony of other RMP witnesses. To a large extent, the theme of his testimony  
19 follows that of Dr. Zenger’s, and claims an entitlement to recover additional costs  
20 without considering the offsets and the need to balance the interests of the customers  
21 with those of the stockholders. Beyond that, he has not raised any points or made  
22 any arguments that were not addressed in my direct testimony.

1 Q ARE YOU FAMILIAR WITH RMP'S FILING FOR A GENERAL RATE CASE IN  
2 WYOMING?

3 A Yes.

4 Q IS THE REASONING PROVIDED BY RMP IN THE WYOMING FILING IN  
5 SUPPORT OF A CALENDAR YEAR 2011 TEST YEAR APPLICABLE TO THIS  
6 UTAH CASE?

7 A Yes. Specifically, Mr. Brian Dickman, who is manager of revenue requirements at  
8 RMP, filed testimony in the Wyoming proceeding and argued in support of a calendar  
9 year 2011 test year. In that case, filed two months prior to the Company's filing in this  
10 case, the rate effective date is September 22, 2011, which is one day after the rate  
11 effective date in this case. (See Exhibit UIEC \_\_\_\_ (MEB-TP1.1R) at 7, lines 18-19.)  
12 At page 5 of his testimony, he explains why the Company chose a calendar year  
13 2011 test period for Wyoming and he states:

14 "The Company's primary objective in determining a test period is to  
15 develop normalized results of operations based on a period of time  
16 that will best reflect the conditions during which the new rates will be in  
17 effect. . . . The Company's proposed test period in this case balances  
18 the need for adequate recovery of prudent costs with these other  
19 considerations."<sup>1</sup>

20 For informational purposes, I have attached Exhibit UIEC \_\_\_\_ (MEB-TP1.1R)  
21 which consists of the first nine pages of Mr. Dickman's Wyoming testimony.

22 Q DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

23 A Yes.

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<sup>1</sup>Direct Testimony of Brian S. Dickman, Wyoming Public Service Commission, Docket No. 20000-384-ER-10, page 5, lines 11-13.

**CERTIFICATE OF SERVICE**

(Docket No. Docket No. 10-035-124)

I hereby certify that on this 17th day of March 2011, I caused to be emailed, a true and correct copy of the foregoing **REBUTTAL TESTIMONY AND EXHIBIT OF MAURICE**

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