

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

IN THE MATTER OF THE APPLICATION OF ROCKY MOUNTAIN POWER FOR APPROVAL OF THE 2017 PROTOCOL	DOCKET NO. 15-035-86 EXHIBIT NO. DPU 1.0R
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REBUTTAL TESTIMONY OF ARTIE POWELL, PHD

ON BEHALF OF THE

DIVISION OF PUBLIC UTILITIES

DEPARTMENT OF COMMERCE

April 20, 2016

1 **Q: Will you please identify yourself for the record?**

2 A: My name is Artie Powell. I am the manager of the Energy Section in the Division of
3 Public Utilities and my business address is in the Heber Wells Building, Fourth Floor, 160
4 East 300 South, Salt Lake City, Utah. I will be testifying on behalf of the Division in this
5 case.

6 **Q: Did you file direct testimony in this docket?**

7 A: Yes. I filed direct testimony, Exhibit No. DPU 1.0 DIR, dated March 16, 2016, on behalf
8 of the Division.

9 **Q: What is the purpose of your rebuttal testimony?**

10 A: I offer rebuttal testimony to the unsworn pre-filed comments of Kennecott concerning
11 the interpretation or application of Section X.B, Utah Eligible Customer, of the 2017
12 Protocol. In general Kennecott's comments regarding the interpretation of Section X.B
13 are inconsistent with the Division's understanding and, in our view, the intent of the
14 current language.

15 **Q: Has Kennecott to your knowledge intervened in the current proceeding?**

16 A: No, not to my knowledge. However, on or about March 16, 2016, Kennecott filed what
17 it characterized as comments on Section X.B. Given Kennecott's view is counter to the
18 Division's and assuming the Commission will treat Kennecott's remarks as public
19 comments, the Division offers its view of Section X.B for the record.

20 **Q: Would you please explain the Division's view on the paragraph in question?**

21 A: The Division believes the language is and was intended to be neutral regarding potential
22 costs arising from a Utah eligible customer taking service from a third party. The 2017
23 Protocol states,

24 If, pursuant to Utah Code Annotated Section 54-3-32, an eligible
25 customer in Utah transfers service to a non-utility energy supplier, the
26 Public Service Commission of Utah will make determinations under
27 Utah law as contemplated therein. The Company will inform the State
28 Commissions and the Parties of the Public Service Commission of
29 Utah’s determinations. (Paragraph X.B, Utah Eligible Customer
30 Program, p. 9)

31 The Division’s position is that Section X.B neither prescribes nor prohibits the allocation
32 of costs to Utah as a result of a Utah eligible customer taking service from a third party
33 under UCA Section 54-3-32. The Commission will determine in an appropriate future
34 proceeding which if any costs are imposed on Utah rate payers through the inter-
35 jurisdictional allocation process or method as a result of Kennecott choosing to take
36 service from a “nonutility energy supplier.” Once the Commission makes its
37 determination, the Company will inform the other states of Utah’s decision.

38 **Q: In its comments, Kennecott states, “the 2017 Protocol does not impose costs on Utah**
39 **in the event an eligible customer transfers service from RMP to a non-utility supplier.”**
40 **Do you agree?**

41 A: Yes, the 2017 Protocol does not impose costs on Utah. However, it also does not
42 prohibit costs from being imposed on Utah as a result of Kennecott or another eligible
43 customer leaving the system. Again the intent is neutrality—the Commission will decide
44 in an appropriate forum which costs if any result from Kennecott’s actions.

45 **Q: Hypothetically, how might an eligible customers leaving the system impose costs on**
46 **Utah through the 2017 Protocol?**

47 A: If the customer’s load is included in Utah’s load for allocation purposes, the 2017
48 Protocol would, through the dynamic allocation factors, impose uncompensated or
49 unmatched costs on Utah ratepayers. Suppose for example, contrary to Kennecott’s

50 claim, the Commission concludes that the Company actually plans for Kennecott's load.
51 The Commission may find under this circumstance that for fairness Kennecott's load
52 should, at least for a limited period, be included in the dynamic, load based allocations,
53 thus imposing costs on Utah.

54 **Q: Kennecott also claims "the 2017 Protocol does not require or recommend the**
55 **allocation of costs to Utah as a consequence of Kennecott transferring service."**
56 **Would you agree?**

57 A: Again, the 2017 Protocol does not require or recommend any allocation of costs arising
58 from an eligible customer's actions. On the other hand, it does not prevent or prohibit
59 such allocations either.

60 **Q: Kennecott states that it believes, "that the 2017 Protocol assists the Commission in**
61 **making the determination required under section 54-3-32(6) by clearly stating**
62 **whether there will be 'costs or credits allocated to Utah.'" How would you respond?**

63 A: I believe the language in Section X.B speaks for itself. If the Commission finds assistance
64 in that language so be it.

65 **Q: Kennecott claims, "Unlike Section X.A, there is no provision in X.B for allocating costs**
66 **to Utah upon an eligible customer transferring service." Do you agree?**

67 A: No. Technically, except for situs treatment of specific ratepayer payments, there is no
68 provision for allocating costs in either Sections X.A or X.B. For the most part,
69 Appendices B and C specify cost allocations. What is in Section X.A is the treatment of
70 Oregon loads that opt for retail access. The Commission may find under a 54-3-6
71 determination that the treatment of loads specified in Section X.A (or a similar
72 treatment) is reasonable to apply to the loads of a Utah eligible customer. Thus the
73 same provisions of cost allocations under Section X.A (via Appendices B and C) might
74 apply to Section X.B.

75 **Q: Kennecott states, “Section X.B of the 2017 Protocol thus leaves it to the Utah**
76 **Commission to find simply that Section X.B says nothing about costs being allocated to**
77 **Utah. In short, there is no requirement, recommendation or even suggestion in the**
78 **2017 Protocol that any costs should be imposed on Utah resulting from Kennecott’s**
79 **transfer of service.” How would you respond?**

80 A: The Language in Section X.B is as it was intended, neutral. There is no requirement but
81 there is also no prohibition of costs being imposed on Utah as a result of an eligible
82 customer taking electric service from a third party under Utah Code Annotated § 54-3-
83 32.

84 **Q: Kennecott says that it “supports Section X.B to the extent it means that the**
85 **interjurisdictional allocation methodology described in the 2017 Protocol would**
86 **impose no costs on Utah as a result of Kennecott’s transferring service.” Please**
87 **respond.**

88 A: Section X.B of the 2017 Protocol does not necessarily impose costs on Utah. However,
89 costs may be imposed on Utah depending on the Commission’s determination under an
90 investigation pursuant to Utah Code Annotated § 54-3-32. Again, Section X.B is neutral
91 and does not dictate the outcome of the proceeding yet to be held before the
92 Commission.

93 **Q: Kennecott requests that the Commission “acknowledge that the 2017 Protocol does**
94 **not require or allow costs to be allocated to Utah as a result of Kennecott’s**
95 **transferring service under Section 54-3-32.” Does the Division support Kennecott’s**
96 **request?**

97 A: No, the language in Section X.B is neutral, it neither requires nor prohibits the allocation
98 of costs to Utah as a result of Kennecott or any other eligible customer transferring
99 service under 54-32-6. As I previously stated, the Division’s position is that the
100 Commission will determine in an appropriate future proceeding which if any costs

101 would be imposed on Utah rate payers as a result of Kennecott choosing to take service
102 from a “nonutility energy supplier.” If Kennecott then leaves, Utah and other states
103 would address the departure’s effects on state-by-state allocations.

104 **Q. Does that conclude your rebuttal testimony?**

105 **A:** Yes it does.