

BEFORE THE UTAH PUBLIC SERVICE COMMISSION

IN THE MATTER OF THE REQUEST OF ROCKY
MOUNTAIN POWER FOR A SIGNIFICANT ENERGY
RESOURCE DECISION AND FOR A CERTIFICATE OF
CONVENIENCE AND NECESSITY

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DOCKET NO. 08-035-95

DPU EXHIBIT 1.0

PRE-FILED DIRECT TESTIMONY OF

DR. WILLIAM A. POWELL

ON BEHALF OF THE

UTAH DIVISION OF PUBLIC UTILITIES

February 5, 2009

PRE-FILED DIRECT TESTIMONY
DR. ARTIE POWELL
UTAH DIVISION OF PUBLIC UTILITIES

1 **Introduction**

2 **Q: Would you please state your name, employer, and position?**

3 A: My name is Dr. William or Artie Powell. I am the manger of the energy section
4 within the Division of Public Utilities (Division).

5 **Q: Would you please summarize your education and experience?**

6 A: I hold a doctorate degree in economics from Texas A&M University. Prior to
7 joining the Division, I taught courses in economics, regression analysis, and
8 statistics both for undergraduate and graduate students. I joined the Division in
9 1996 and have since attended several professional courses or conferences dealing
10 with a variety of regulatory issues including, the NARUC Annual Regulatory
11 Studies Program (1995) and IPU Advanced Regulatory Studies Program (2005).
12 Since joining the Division, I have testified or presented information on a variety of
13 topics including, electric industry restructuring, incentive based regulation,
14 decoupling, energy conservation, comparison of alternative projects, and the cost of
15 capital.

16 **Q: What is the purpose of your testimony in this proceeding?**

17 A: Regarding the application of Rocky Mountain Power (“RMP” or “Company”) in
18 this docket, I will introduce the Division witnesses, summarize the Division’s
19 recommendations, and address any policy issues as needed.

20 **Q: Would you please indentify the witnesses for the Division in this matter?**

21 A: In addition to myself, Dr. Thomas Brill, a technical consultant with the Division,
22 will address the time line of the Company’s request for proposals; and Mr. Doug
23 Wheelwright, a utility analyst, will address aspects of the Company’s application
24 for approval of a significant resource.

25 **Q: Please proceed with your summary.**

26 A: Thank you. The Division has several recommendations in this matter. In general,
27 the Division believes that the Lake Side 2 plant is needed to meet electricity
28 demand in Utah and will benefit Utah ratepayers. Therefore, we recommend the
29 approval of the Company’s application subject to the other conditions or
30 recommendations identified in the Division’s testimony.

31 As detailed in Dr. Brill’s and Mr. Wheelwright’s testimonies, the Division
32 has several concerns with the Company’s management of the 2012 RFP process
33 and with some of the Related Costs indentified as part of the total cost of the Lake
34 Side 2 plant. These concerns form the basis of the Division’s additional
35 recommendations. First, the Division recommends that the Commission disallow
36 recovery of any penalties or fees arising from delays in the project due to, but not
37 limited to, a delay in obtaining necessary permits. Second, the Division

38 recommends that the Commission allow only partial recovery of any costs
39 associated with terminating the project between the dates for the Limited and Final
40 Notice to Proceed. Part of these costs include the purchase of emission credits,
41 which the Division believes would have value whether or not the project moves
42 forward and would recommend recovery of these specific costs. Third, the
43 Division recommends that the Commission require the Company to provide
44 additional details relating to the Related Costs of this project, as identified in
45 Company witness Mr. Bird's testimony and discussed in Mr. Wheelwright's
46 testimony for the Division. The Division's general recommendation of approval
47 does not include at this time recovery of these costs. The Division reserves the
48 right to make a final recommendation pending the Company providing sufficient
49 detailed data for parties to understand the nature of these costs upon which to base
50 a recommendation. Fourth, the Division recommends that the Company proceed
51 with the Limited Notice To Proceed ("LNTP") and move forward with
52 construction. Given the critical nature of the timing of the air permit, and the
53 uncertainty of its issuance in a timely manner for the Company to proceed, we
54 recommend that the Commission review this issue on May 18, 2009 to determine
55 its status.¹ Fifth, the Division states clearly, for the record, that it is reserving the
56 right to audit fully all Lake Side 2 costs when these costs are finally booked.
57 Finally, the Division strongly recommends that the Commission direct the

¹ The May 18th date is approximately two weeks before the June 1st deadline for the Company to issue its final notice to proceed, but after the deadline for the limited notice to proceed. Reviewing the status at this time would potentially limit ratepayer and Company exposure.

58 Company to better manage future RFP processes. In particular, the Division
59 recommends that in future RFPs that the Company develop and propose realistic
60 schedules, schedules allowing for complete unhurried regulatory review (where
61 practicable), ensure timely completion of all schedule components, and not rely on
62 unrealistic or overly optimistic expectations.

63 **Q: Do you have any final comments?**

64 A: Yes. As illustrated in Dr. Brill's testimony (and in reports submitted by the Utah
65 Independent Evaluator), the 2012 RFP process has experienced numerous delays
66 partially due to the Company's management of the process. The Division is
67 concerned that these delays, and the formulation of the Company's application,
68 unnecessarily shift significant risk to ratepayers. Thus, the Division recommends
69 that fees and penalties arising from any delays be borne by the Company and its
70 shareholders. The Division also recommends only partial recovery of any costs
71 arising from early termination of the project. Additionally, the Company's
72 application and response to certain data requests lack sufficient detail, upon which
73 one would expect to base an unqualified recommendation. In particular, several
74 hundred million dollars appear to be unsubstantiated at this time. Thus, the
75 Division has recommended that the Company provide additional detail before the
76 Division finalizes its recommendation concerning these costs in this case.

77 In formulating these recommendations, the Division faces a difficult
78 dilemma. On the one hand, based on the quality of the application, the Division

79 could simply recommend disapproval of the application or at least disallowance of
80 the Related Costs requested by the Company. Either recommendation if adopted
81 by the Commission could likely prompt the Company to cancel the project. The
82 Company's cancellation of the project could, one way or another, potentially harm
83 ratepayers and the public interest. For example, cancellation of the project, given
84 Utah's demonstrated future needs, could expose ratepayers to unnecessarily high
85 market costs and price volatility. Of course, there is no guarantee that these
86 additional costs would be recoverable, and thus the stage would be set for a very
87 contentious litigated process. On the other hand, based on the information
88 provided by the Company, an unqualified recommendation of approval is not
89 justifiable. Thus, the Division's approach represents a middle ground. Based on
90 the need for resources and the evaluation of the bids in the RFP process, we believe
91 that completion of the project would be in the public interest; however, before the
92 Division can make an unqualified recommendation of approval, the Company
93 needs to provide sufficient detail to warrant the recovery of all the costs it is
94 requesting in its application.

95 **Q: Does this complete your testimony.**

96 A: Yes.