

BEFORE THE
PUBLIC SERVICE COMMISSION OF UTAH

IN THE MATTER OF THE)
APPLICATION OF ROCKY)
MOUNTAIN POWER FOR APPROVAL)
OF ITS PROPOSED ENERGY COST)
ADJUSTMENT MECHANISM)
_____)

DOCKET NO. 09-035-15

Direct Testimony of

Maurice Brubaker

On behalf of

Utah Industrial Energy Consumers

REDACTED VERSION

Project 9124
August 4, 2010



BRUBAKER & ASSOCIATES, INC.
CHESTERFIELD, MO 63017

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Direct 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 WHAT IS YOUR OCCUPATION?**

5 A I am a consultant in the field of public utility regulation and President of Brubaker &
6 Associates, Inc., energy, economic and regulatory consultants.

7 **Q PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND EXPERIENCE.**

8 A This information is included in Appendix A to my testimony.

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

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

1 **Q WHAT SUBJECTS ARE ADDRESSED IN YOUR TESTIMONY?**

2 A I discuss the change in incentives that occurs, and the shifting in risk from the utility
3 to the customer, when an adjustment clause mechanism, such as the proposed
4 Energy Cost Adjustment Mechanism (ECAM) is substituted for recovery of all costs
5 through base rates.

6 In subsequent testimony I may comment upon, and perhaps adopt, proposals
7 advanced by other parties. In addition, responses to a number of UIEC's data
8 requests are pending, and it may be appropriate to refer to those responses in
9 subsequent testimony.

10 **Q PLEASE SUMMARIZE YOUR FINDINGS AND RECOMMENDATIONS.**

11 A My findings and recommendations may be summarized as follows:

- 12 1. The incentive to be efficient and control costs is reduced when a utility is allowed
13 to pass through all, or substantially all, of its incurred costs to customers.
- 14 2. Although market forces play a large role, there are many factors that influence the
15 level of fuel and purchased power costs, many of which can be managed by the
16 utility.
- 17 3. One way to protect customers from a deterioration of performance if an ECAM is
18 adopted is to include in the ECAM certain minimum performance requirements for
19 RMP's lowest cost resources.
- 20 4. The low cost resources, which should be subject to a performance standard,
21 include RMP's coal fleet, generation from wind resources and output from RMP's
22 owned or controlled coal mines.
- 23 5. The performance standard could be implemented by requiring RMP's
24 performance in each area not to be less than its historic performance with respect
25 to these key parameters. My recommendation is to establish the benchmark at a
26 five-year average using the five calendar years prior to the adoption of an ECAM.
- 27 6. Anytime that an ECAM reconciliation is filed, RMP would be required to establish
28 that it prudently operated, maintained, and managed its resources, and to the
29 extent it experienced a shortfall below the performance standards, it acquired
30 appropriate substitute resources on a least cost basis.

1 **Q WHAT DOES RMP PROPOSE IN THIS PROCEEDING?**

2 A Currently, all fuel and purchased power related costs and revenues from off-system
3 sales are set in a general rate proceeding. RMP proposes to replace this regulatory
4 mechanism with the ECAM mechanism, which allows for changes in cost to be
5 passed through to customers outside of general rate cases.

6 **Q WILL YOU ADDRESS ALL THE ISSUES PRESENTED BY RMP'S PROPOSED**
7 **ECAM?**

8 A No. My testimony is limited to a discussion of the changes in incentives that occur,
9 and the shift in risk to customers that occurs, when cost recovery is changed from
10 base rates to an adjustment clause. In that regard, I will make recommendations
11 designed to mitigate the adverse effects of this change on customers. And, as noted
12 above, I may comment on, and perhaps adopt, proposals advanced by other parties.

13 **Q WHAT HAPPENS TO THE INCENTIVES WHEN COST RECOVERY MOVES FROM**
14 **BASE RATES TO AN ADJUSTMENT CLAUSE?**

15 A The incentive to be efficient and control costs is less when a utility is allowed to
16 pass-through all, or substantially all, of its incurred costs to its customers. When the
17 utility must retain these costs and manage them in base rates, the incentive which the
18 utility has is maximized because any increases or decreases in the level of costs are
19 retained by stockholders.

20 **Q CAN A UTILITY REALLY INFLUENCE ITS NET FUEL COSTS?**

21 A Yes. There are many factors that influence the level of fuel and purchased power
22 costs. Some of these are: (1) the skill of the utility in negotiating its fuel and

1 purchased power contracts; (2) the skill of the utility in taking advantage of purchases
2 and sales in the economy market; (3) the skill and diligence of a utility in maintaining
3 its generation facilities and in restoring efficient units to service after unexpected
4 outages; (4) the skill of the utility in planning and managing its maintenance outages;
5 (5) the skill and success of the utility in hedging transactions for its fuel supplies; and
6 (6) the management decisions regarding the type, size and timing of facilities added
7 to the utility's generation portfolio. Clearly, there are many factors that influence the
8 ultimate level of fuel costs incurred by a utility. Certainly, there are factors beyond the
9 control of the utility, but there are many factors that the utility can manage.

10 **Q CAN YOU GIVE AN EXAMPLE OF WHERE, WITH AN ECAM TYPE OF**
11 **MECHANISM, THE INTEREST OF THE UTILITY'S CUSTOMERS AND ITS**
12 **STOCKHOLDERS MAY DIVERGE, WHILE THEY WOULD BE CONGRUENT**
13 **WITHOUT AN ECAM?**

14 A Yes. Consider the circumstance where an efficient base load generating unit
15 unexpectedly goes out of service. Assume that the utility can restore the unit to
16 service more quickly if it spends \$50,000 on overtime labor, expedited parts delivery,
17 etc. Assume also that by expending these additional funds for maintenance, the
18 utility would reduce fuel cost by \$75,000. Clearly, the rational economic decision is to
19 spend the extra dollars for maintenance in order to bring the unit back into service
20 more quickly.

21 Consider now what happens under two different scenarios. If the utility does
22 not have an ECAM, it experiences the full cost of the additional maintenance, but it
23 retains the full benefit of the reduced fuel cost, making it better off as a result of
24 incurring this extra maintenance cost. With an ECAM mechanism that allows the

1 utility to pass-through all, or substantially all, of its fuel-related costs, foregoing the
2 extra maintenance would benefit stockholders by \$50,000, while the utility would be
3 allowed to collect the additional fuel cost (or substantially all of it) from customers
4 through the ECAM. Should the utility choose this route, customers clearly would be
5 worse off than if there had not been an ECAM.

6 **Q AREN'T UTILITIES HELD TO A PRUDENCY STANDARD?**

7 A Of course, utilities are held to the prudence standard, but it is very difficult to conduct
8 a detailed audit of all of the decisions that go into a utility's procurement of fuel and
9 purchased power, the maintenance of its generating fleet, and other factors that
10 influence the level of these costs. The complexity of auditing the utility's generation
11 function is overwhelming in comparison to the more limited analysis required for the
12 Purchased Gas Adjustment (PGA) filings of the gas utilities. The number of decisions
13 required to be investigated in the case of a PGA is relatively small. However, in the
14 case of an electric utility, there are hourly transactions involving purchases and sales,
15 decisions respecting acquisition of various kinds of fuel supplies in different markets,
16 preventive maintenance practices, speed and cost of recovering from forced outages
17 and similar decisions and actions. Thus, a rigorous audit of electric utility generation
18 and purchased power costs is much more difficult to accomplish than a PGA audit.

19 **Q IS THERE A WAY TO PROTECT CUSTOMERS AGAINST A DETERIORATION OF**
20 **PERFORMANCE IN THE EVENT THAT AN ECAM IS ADOPTED?**

21 A Yes. One approach is to include in the ECAM minimum performance requirements
22 for RMP's lowest cost resources. These include generation by RMP's coal fleet,

1 generation from wind resources and output from RMP owned or controlled coal
2 mines.

3 **Q HOW COULD THIS BE IMPLEMENTED?**

4 A The concept is to require that RMP's performance not be less than its historic
5 performance with respect to these key parameters. That is, performance under an
6 ECAM should not deteriorate to the detriment of customers.

7 **Q HOW COULD THIS BE IMPLEMENTED?**

8 A By adding a requirement that for any time period when actual incurred costs are
9 compared to costs included in RMP's base rates for purposes of applying an ECAM
10 adjustment:

- 11 1. If the total MWh net generation from RMP's coal fleet is less than the average
12 annual generation for the previous five years, RMP may not collect the cost
13 incurred to replace the output shortfall unless it establishes that it operated and
14 maintained its generation fleet prudently and acquired appropriate substitute
15 resources on a least cost basis.
- 16 2. If the total MWh net generation from RMP's owned and purchased wind
17 generation is less than 90% of the level (on a combined basis) used to justify the
18 acquisitions, RMP will not be allowed to recover the cost to replace the output
19 shortfall unless it establishes that it was prudent in operating and maintaining its
20 own resources, in managing its purchase power contracts, and acquired
21 appropriate substitute resources on a least cost basis.
- 22 3. If the total output in tons of RMP owned or controlled coal mines is less than the
23 five-year average output, RMP will not be permitted to collect from customers any
24 additional cost incurred to acquire coal from other sources unless it establishes
25 that its operation and maintenance practices were prudent, and that it acquired
26 appropriate substitute resources on a least cost basis.

1 **Q IN APPLYING THESE PROVISIONS, WOULD RMP HAVE THE BURDEN OF**
2 **PROOF TO ESTABLISH THAT ITS ACTIONS WERE PRUDENT?**

3 A Yes. As indicated in each of the above provisions, RMP would be required to
4 establish that it operated, maintained, and managed its resources appropriately, and
5 to the extent that it experienced a shortfall below the performance standards acquired
6 appropriate substitute resources on a least cost basis. If RMP meets its burden of
7 proof, there would not be any disallowances as a result of falling short.

8 **Q WHAT HAS BEEN THE LEVEL OF OPERATION OF RMP'S COAL FLEET?**

9 A Key statistics are summarized on Confidential Exhibit ____ (UIEC-1). This
10 information was taken from RMP's response to UIEC's Data Request No. 6.1. It
11 shows total net dependable capacity, annual net generation, annual capacity factor
12 and equivalent forced outage rates for the generation of fleet. (Statistics for individual
13 units and for individual years appear in the workpapers.) RMP has relatively
14 consistently operated its coal-fired generation fleet at a high capacity factor and,
15 overall, experienced a reasonable level of forced outages.

16 **Q WHAT LEVEL OF PRODUCTION FROM RMP OWNED OR CONTROLLED MINES**
17 **WOULD CORRESPOND TO THIS FIVE-YEAR AVERAGE?**

18 A This is shown on Exhibit ____ (UIEC-2). This information was taken from RMP's
19 response to UIEC's Data Request No. 6.5. Over this period of time, the output of
20 these mines has averaged approximately 7.9 million tons of coal on an annual basis.

1 **Q WHAT IS THE BASIS FOR SELECTING THESE PERFORMANCE TARGETS FOR**
2 **RMP'S COAL-FIRED GENERATION FLEET AND ITS OWNED OR CONTROLLED**
3 **MINES?**

4 A These performance targets reflect the level of operation that RMP was able to
5 achieve during a time when it was completely at risk for any subpar performance, as
6 compared to what occurred during rate cases. At the same time, it stood to gain if it
7 could turn in a better performance than was assumed in establishing base rates.

8 Thus, the concept of these minimum performance standards is to try to
9 provide some assurance to customers that operating performance will not degrade
10 under a regulatory paradigm which includes an ECAM.

11 **Q WHAT OUTPUTS WOULD BE REQUIRED FROM WIND RESOURCES?**

12 A This is shown on Confidential Exhibit ____ (UIEC-3). This information comes from
13 RMP's response to UIEC's Data Request No. 7.2-1, and from PacifiCorp's renewable
14 energy flyer available on its website.

15 **Q WHY DO YOU BASE THE WIND GENERATION PERFORMANCE TARGET ON**
16 **THE CAPACITY FACTOR ASSUMED BY RMP WHEN IT ACQUIRED THE**
17 **RESOURCES?**

18 A Most of these resources have been added to the system just recently. Accordingly,
19 there is very little actual experience to go by. In any event, testing RMP's
20 performance, at least initially, against the representations that it made when it
21 decided to acquire the resources simply establishes their planning estimates as a soft
22 cap in testing performance. It may be appropriate to also consider actual
23 performance after sufficient experience is gained.

1 Q DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

2 A Yes, it does.

Qualifications 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 PLEASE STATE YOUR OCCUPATION.**

5 A I am a consultant in the field of public utility regulation and President of the firm of
6 Brubaker & Associates, Inc. (BAI), energy, economic and regulatory consultants.

7 **Q PLEASE SUMMARIZE YOUR EDUCATIONAL BACKGROUND AND**
8 **EXPERIENCE.**

9 A I was graduated from the University of Missouri in 1965, with a Bachelor's Degree in
10 Electrical Engineering. Subsequent to graduation I was employed by the Utilities
11 Section of the Engineering and Technology Division of Esso Research and
12 Engineering Corporation of Morristown, New Jersey, a subsidiary of Standard Oil of
13 New Jersey.

14 In the Fall of 1965, I enrolled in the Graduate School of Business at
15 Washington University in St. Louis, Missouri. I was graduated in June of 1967 with
16 the Degree of Master of Business Administration. My major field was finance.

17 From March of 1966 until March of 1970, I was employed by Emerson Electric
18 Company in St. Louis. During this time I pursued the Degree of Master of Science in
19 Engineering at Washington University, which I received in June, 1970.

20 In March of 1970, I joined the firm of Drazen Associates, Inc., of St. Louis,
21 Missouri. Since that time I have been engaged in the preparation of numerous

1 studies relating to electric, gas, and water utilities. These studies have included
2 analyses of the cost to serve various types of customers, the design of rates for utility
3 services, cost forecasts, cogeneration rates and determinations of rate base and
4 operating income. I have also addressed utility resource planning principles and
5 plans, reviewed capacity additions to determine whether or not they were used and
6 useful, addressed demand-side management issues independently and as part of
7 least cost planning, and have reviewed utility determinations of the need for capacity
8 additions and/or purchased power to determine the consistency of such plans with
9 least cost planning principles. I have also testified about the prudence of the actions
10 undertaken by utilities to meet the needs of their customers in the wholesale power
11 markets and have recommended disallowances of costs where such actions were
12 deemed imprudent.

13 I have testified before the Federal Energy Regulatory Commission (FERC),
14 various courts and legislatures, and the state regulatory commissions of Alabama,
15 Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia,
16 Guam, Hawaii, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Missouri,
17 Nevada, New Jersey, New Mexico, New York, North Carolina, Ohio, Pennsylvania,
18 Rhode Island, South Carolina, South Dakota, Texas, Utah, Virginia, West Virginia,
19 Wisconsin and Wyoming.

20 The firm of Drazen-Brubaker & Associates, Inc. was incorporated in 1972 and
21 assumed the utility rate and economic consulting activities of Drazen Associates, Inc.,
22 founded in 1937. In April, 1995 the firm of Brubaker & Associates, Inc. was formed. It
23 includes most of the former DBA principals and staff. Our staff includes consultants
24 with backgrounds in accounting, engineering, economics, mathematics, computer
25 science and business.

1 Brubaker & Associates, Inc. and its predecessor firm has participated in over
2 700 major utility rate and other cases and statewide generic investigations before
3 utility regulatory commissions in 40 states, involving electric, gas, water, and steam
4 rates and other issues. Cases in which the firm has been involved have included
5 more than 80 of the 100 largest electric utilities and over 30 gas distribution
6 companies and pipelines.

7 An increasing portion of the firm's activities is concentrated in the areas of
8 competitive procurement. While the firm has always assisted its clients in negotiating
9 contracts for utility services in the regulated environment, increasingly there are
10 opportunities for certain customers to acquire power on a competitive basis from a
11 supplier other than its traditional electric utility. The firm assists clients in identifying
12 and evaluating purchased power options, conducts RFPs and negotiates with
13 suppliers for the acquisition and delivery of supplies. We have prepared option
14 studies and/or conducted RFPs for competitive acquisition of power supply for
15 industrial and other end-use customers throughout the United States and in Canada,
16 involving total needs in excess of 3,000 megawatts. The firm is also an associate
17 member of the Electric Reliability Council of Texas and a licensed electricity
18 aggregator in the State of Texas.

19 In addition to our main office in St. Louis, the firm has branch offices in
20 Phoenix, Arizona and Corpus Christi, Texas.

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