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**BEFORE THE PUBLIC SERVICE  
COMMISSION OF UTAH**

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In the Matter of the Application of  
Rocky Mountain Power for Approval of its  
Proposed Energy Cost Adjustment Mechanism

Docket No. 09-035-15

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**PREFILED SURREBUTTAL TESTIMONY OF NANCY L KELLY**

**Phase II, Part 2**

**ON BEHALF OF**

**WESTERN RESOURCE ADVOCATES**

**AND**

**UTAH CLEAN ENERGY**

**October 13, 2010**

1 **I. INTRODUCTION**

2 **Q: Please state your name, employer and present position.**

3 A: My name is Nancy L Kelly. I am employed by Western Resource Advocates (WRA) in  
4 its Energy Program as a Senior Policy Advisor.

5 **Q: Have you previously filed testimony in this docket?**

6 A: Yes. On behalf of WRA, I filed Direct Testimony on November 16, 2009 and Surrebuttal  
7 Testimony on January 5, 2010 in Phase I of this docket. On behalf of WRA and Utah  
8 Clean Energy (UCE) I filed Direct Testimony on June 16, 2010 and Surrebuttal  
9 Testimony on August 10, 2010 in Phase II, Part 1. On behalf of both organizations I filed  
10 Direct Testimony on August 4, 2010 and Rebuttal Testimony on September 15, 2010 in  
11 Phase II, Part 2.

12 **Q: On whose behalf are you submitting rebuttal testimony today?**

13 A: WRA and UCE.

14 **Q: What is the purpose of your testimony?**

15 A: To respond to issues raised by PacifiCorp witnesses, Mr. Gregory N. Duvall and Dr. Karl  
16 A McDermott, and DPU witness, Mr. Charles Peterson in Rebuttal testimony filed  
17 September 15, 2010 in Phase II, Part 2 of this ECAM docket.

18 **Q: What issues do you address?**

19 A: First I address Mr. Duvall's claims that the inclusion of sharing bands in an ECAM  
20 design is unnecessary, punitive, and results in unjust and unreasonable rates. Second, I

21 respond to Dr. McDermott's claim to have dismissed the notion that an ECAM shifts risk  
22 to customers. Third, I respond to Dr. McDermott's discussion of my previous testimony  
23 regarding the input biasing effect of an ECAM. In particular he addresses testimony that  
24 I presented in Phase I Surrebuttal (referenced in my Phase II, Part 2 Direct Testimony)  
25 and Phase II, Part 1 Surrebuttal. Finally I address both Mr. Duvall's and Mr. Peterson's  
26 critique of my proposal to make implementation of an ECAM contingent on risk  
27 mitigating resource procurement.

28

29 **II. SHARING BANDS AND OPERATIONAL INCENTIVES**

30 **Q: Which Company witness addresses the incentive effect of sharing bands?**

31 A: Mr. Duvall addresses this issue.

32 **Q: Please summarize Mr. Duvall's conclusions regarding the inclusion of sharing bands**  
33 **as part of the design of an ECAM.**

34 A: Mr. Duvall claims that sharing bands are unnecessary, punitive, and incentivize the  
35 wrong behavior. He provides a numerical example to illustrate the above points.<sup>1</sup> He  
36 further claims that including a sharing band in an ECAM design would result in unjust  
37 and unreasonable rates.<sup>2</sup>

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<sup>1</sup> Docket No. 09-035-15, Rebuttal Testimony of Gregory N. Duvall – Phase II-2 at 104-132.

<sup>2</sup> Ibid at 81-90.

38 **Q: Please review Mr. Duvall's numerical example.**

39 A: Mr. Duvall provides an example of average market costs changing by \$200 million over a  
40 12-month period. First he assumes average market costs increase by \$200 million, "but  
41 through the extraordinary and prudent efforts" of Company personnel, the Company  
42 limits the cost increase to a \$50 million increase, avoiding a \$150 million cost. Given a  
43 70/30 sharing, customers would assume \$35million of the \$50 million increase and  
44 shareholders, despite their "extraordinary efforts to mitigate cost increases" would be  
45 "out-of pocket" \$15 million.

46 He then assumes a case where average market costs decline by \$200 million. He notes  
47 that the Company could do nothing to try to better the situation and simply "ride the  
48 market down." In this situation customers would be better off by \$140 million and  
49 shareholders would retain the remaining \$60 million.

50 Mr. Duvall claims that earning \$60 million for doing nothing while foregoing \$15 million  
51 when undertaking extraordinary efforts to limit price increases does not provide the right  
52 incentive.

53 **Q: How do you respond to Mr. Duvall's example?**

54 A: I think Mr. Duvall's example provides an excellent illustration of why the 70/30 sharing  
55 mechanism is necessary and how it provides needed financial incentives to maintain  
56 operational efficiency when average market costs increase and when average market  
57 costs decline.

58 Let's begin by assuming the situation in which average market costs increase by \$200  
59 million. In addition, assume the Company does not have an ECAM in place and is  
60 between rate cases. Under these conditions, the Company would bear the full \$200  
61 million increase. However, through its "extraordinary" efforts it can save itself \$150  
62 million. Clearly the Company has a \$150 million incentive to assure that its "power  
63 traders and fuel negotiators who must fulfill the obligation to serve customers"<sup>3</sup> are  
64 incentivized to make the extraordinary effort to contain costs while fulfilling the  
65 obligation to serve.

66 Now let's again assume the same \$200 million average cost increase. But in this case,  
67 let's further assume the Company has an ECAM in place that does not provide for a  
68 sharing between ratepayers and shareholders. In this situation, the Company would bear  
69 none of the \$200 million cost increase. The Company's financial position would be  
70 unchanged whether it passed through the \$200 million increase or undertook  
71 extraordinary efforts to limit the increase to \$50 million. The Company has no financial  
72 incentive to contain costs.

73 However with a 70/30 sharing mechanism in place, shareholders would be responsible  
74 for \$60 million of the \$200 million increase. By undertaking extra efforts to limit the  
75 average cost increase to \$50 million, the Company can reduce its exposure to \$15  
76 million. The difference between \$60 million and \$15 million is \$45 million. The  
77 Company has a \$45 million incentive to contain costs.

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<sup>3</sup> Ibid at 123-124.

78 Now let's suppose the opposite situation in which average costs decline by \$200 million,  
79 and for purposes of symmetry with the previous example, let's assume that with  
80 extraordinary effort, the Company can further reduce costs by an additional \$150 million.

81 Without an ECAM, if the Company rides the market down, it makes \$200 million. If it  
82 undertakes extraordinary efforts, its average power costs could decline by \$350 million.  
83 In this case the efforts of the Company result in \$350 million to be retained by the  
84 Company. The Company has a significant financial incentive to manage costs when  
85 costs are declining as well as increasing.

86 Now assume an ECAM with no sharing bands. If the Company does nothing other than  
87 ride the market down, customers will receive the \$200 million dollar reduction in costs;  
88 the Company retains nothing. If the Company makes an extraordinary effort, customers  
89 will receive a \$350 million reduction in costs; again, the Company retains no reward for  
90 its efforts. It has no financial incentive to make the extraordinary effort.

91 However, with 70/30 sharing bands, the Company's financial position would be  
92 improved if it made the extra effort. The Company would retain 30% of the \$150 million  
93 as well as 30% (\$60 million) of the \$200 million. So the Company has an additional \$45  
94 million incentive to increase efficiency when costs are falling as well as when costs are  
95 rising.

96 Clearly a 70/30 sharing mechanism provides a financial incentive to manage costs that is  
97 not present without it.

98 **Q: How do you respond to Mr. Duvall's claim that a prudence review is the most**  
99 **effective incentive?**

100 A: In light of the illustration above, it is my opinion that a prudence review would not  
101 provide an effective incentive to spur the Company to extraordinary efforts. If  
102 PacifiCorp's net power costs rise and fall generally commensurate with the market  
103 average, I believe the Company is unlikely to have costs disallowed in an ECAM review,  
104 because it would be highly resource intensive for intervenors to make the case that any  
105 costs should be disallowed if PacifiCorp's costs are rising and falling with average  
106 market costs. Indeed, Mr. Duvall does not suggest that the Company would have costs  
107 disallowed in the case that it "did nothing more than ride the market down."

108 A prudence review clearly does not provide as strong of a financial incentive as a  
109 significant sharing band.

110 **Q: Does any other witness address the incentive effect of a prudence review?**

111 A: Yes. Dr. McDermott states, "it is undeniable that prudence reviews provide utilities with  
112 a strong incentive to act in a prudent manner. Utilities that do not act prudently are at  
113 risk for disallowance."<sup>4</sup>

114 **Q: Do you believe the risk of prudence disallowance is as strong of an incentive as a**  
115 **sharing band?**

116 A: No. As I stated above, a prudence review clearly does not provide the same financial  
117 incentive to maintain operational efficiency as sharing bands.

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<sup>4</sup> Docket 09-035-15, Rebuttal Testimony of Karl A. McDermott – Phase II-2 at 232-234.

118 **Q: How do you respond to Mr. Duvall's contention that sharing bands are punitive by**  
119 **penalizing the Company when it has done nothing wrong?<sup>5</sup>**

120 A: I find this response puzzling. Under the current net power cost recovery mechanism, a  
121 mechanism requested by the Company in which Mr. Duvall was a witness, shareholders  
122 pay 100% of average market cost increases and retain 100% of average market decreases  
123 between rate cases. How reducing the Company's cost exposure (when average market  
124 costs increase) and retained benefits (when average market costs decrease) from 100% to  
125 30% (rather than to 0%) can be punitive eludes me.

126 **Q: How do you respond to Mr. Duvall's contention that sharing bands would result in**  
127 **unjust and unreasonable rates?<sup>6</sup>**

128 A: My response to this question is similar to my response to the previous question. Given  
129 Mr. Duvall's logic, if sharing bands, by keeping Company "skin in the game," result in  
130 unjust and unreasonable rates, then so does the current normalized approach to net power  
131 cost recovery. Given that premise, rates have been unjust and unreasonable ever since  
132 the Commission granted PacifiCorp's request to terminate the previous Energy Balancing  
133 Account (EBA) in Docket No. 90-035-06. The logic that sharing bands result in unjust  
134 and unreasonable rates seems to be a bit of a stretch.

135 In my opinion, sharing bands are not only just and reasonable, they are an essential  
136 component of an ECAM design if the Commission determines an ECAM is in the public  
137 interest.

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<sup>5</sup> Duvall Rebuttal Phase II-2 at 128-129.

<sup>6</sup> Ibid at 82.



138 **Q: Do you have any other remarks regarding sharing bands?**

139 A: Yes. I have one remark related to the Division's proposal to limit sharing beyond a 30%  
140 cost deviation of actual net power cost from base net power cost. I agree with the Office  
141 of Consumer Services (Office) and the Utah Association of Energy Users (UAE) that if  
142 an ECAM is adopted, a limit on the Company's exposure should not be part of the  
143 ECAM design.

144 **Q: What do you recommend regarding sharing bands?**

145 A: If the Commission decides to move forward with an ECAM, I recommend the  
146 Commission adopt a simple 70/30 sharing band.

147

148 **III. RISK SHIFTING**

149 **Q: Dr. McDermott claims to have rebutted in Phase I of this docket the notion that an**  
150 **ECAM shifts risk to customers; he states in his current testimony that it should**  
151 **therefore "have no bearing on the Commission's decision on the design of an**  
152 **ECAM."**<sup>7</sup> **How do you respond?**

153 A: I will repeat my response from my Phase I Surrebuttal Testimony which rebutted his  
154 position.<sup>8</sup> Other parties also rebutted his assertions.

155 **Q: Which witness responds to intervenors testimony regarding the risk**  
156 **shifting effect of an ECAM?**

157 A: Professor McDermott.

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<sup>7</sup> Ibid at 268-270.

<sup>8</sup> Docket No. 09-035-15, Phase I Prefiled Surrebuttal Testimony of Nancy L Kelly at 65-88.

158 **Q: What is his position?**

159 A: He says he refutes the notion that an ECAM would somehow shift risk  
160 from utility shareholders to customers. He says the risk shifting argument  
161 is a distraction or a decoy that cannot withstand careful scrutiny and  
162 should be rejected by the Commission. He further says that the term risk  
163 is a “nebulous imprecise term” that has not been defined carefully in  
164 testimony. (McDermott Rebuttal at 443 to 475)

165 **Q: How do you respond?**

166 A: I will use the testimony of Mr. Verl Topham from the EBA case to  
167 respond. Mr. Topham was President of Utah Power and Light and  
168 Executive Vice President of PacifiCorp Electric Operations Group at the  
169 time. He defines the risk of an ECAM as “the risk of fluctuating power  
170 costs.” He believes an ECAM places this risk, as well as inappropriate  
171 rate volatility which thereby distorts price signals, on customers. The  
172 following is taken from his testimony.

173 “Q: The EBA is a mechanism which places the risk of fluctuating  
174 power costs on the customer. If the EBA were terminated, the risk  
175 of fluctuating power costs would be placed on the Company. Why  
176 is the Company willing to accept this risk?”

177 I previously quoted Mr. Topham’s response in my direct testimony:

178 “A: The Company is willing to accept this risk because we believe  
179 it is manageable. The Company believes in placing the risk of  
180 management practices on those that make the business decisions –  
181 management – not customers.”<sup>9</sup>

182 In conclusion, Mr. McDermott’s assertions that an ECAM does not shift risk to  
183 customers was well rebutted in Phase I by several parties. Therefore, the shifting  
184 of risk and its affect on the Company’s incentive structure should be considered  
185 by the Commission both in considering whether an ECAM is in the public interest  
186 and in considering a potential ECAM design.

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<sup>9</sup> Docket No. 90-035-06, May 1990, Prefiled Direct Testimony of Verl R. Topham at p. 13: 17-26.

187 **IV. RESOURCE ACQUISITION INCENTIVES**

188 **Q: Which witness responds to your testimony regarding the effect of an ECAM on**  
189 **resource acquisition?**

190 A: Dr. McDermott.

191 **Q: What approach does he take?**

192 A: First he attempts to rebut my use of Mr. Graves Rebuttal testimony in my Surrebuttal  
193 testimony in Phase I of this proceeding.<sup>10</sup> Then he addresses the literature review I  
194 provided in Surrebuttal testimony in Phase II, Part I of this proceeding.<sup>11</sup>

195 **Q: Is Dr. McDermott correct that you cited Mr. Frank C. Graves' Phase I Rebuttal**  
196 **testimony as lending support to the concept of an input bias?**

197 A: Yes.

198 **Q: Please review the quote from Mr. Graves.**

199 A: The following quote was taken from lines 449 to 459 of Mr. Graves Rebuttal testimony in  
200 Phase I.<sup>12</sup> I thought then and I think now that this quote describes well the input bias  
201 effect of an ECAM, although I disagreed then and still disagree with the direction of bias  
202 suggested.

203 This no-ECAM approach implicitly encourages a utility to favor, utility-  
204 owned assets or fixed-cost supply contracts over resources and  
205 procurement strategies with more variable costs, even if the latter might be  
206 less expensive, on average. This incentive arises because the utility is  
207 exposed to risks from fuel and short term power costs that are quite

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<sup>10</sup> McDermott Rebuttal Phase II-2 at 281-294.

<sup>11</sup> Ibid at 295-360.

<sup>12</sup> Docket No. 09-035-15, Phase I Rebuttal Testimony of Frank C. Graves at 449-459.

208 volatile, difficult to forecast, and largely uncontrollable. There is less risk  
209 and more financial certainty from assets put into ratebase with an allowed  
210 return, compared to operating costs that must be forecasted with inevitable  
211 variances from forecasts (often large, as was demonstrated in section 1 of  
212 this rebuttal testimony). **This bias towards lower risk assets that results**  
213 **from lack of an ECAM** is different than the bias sometimes noted for  
214 utilities of increasing the investment in ratebased assets.<sup>13</sup>

215 **Q: What does Dr. McDermott say regarding Mr. Graves' testimony?**

216 A: He claims that Mr. Graves "makes clear" that the concept of input bias "rest[s] in the  
217 theoretical world and not the practical world of utility operation." (283-285)

218 **Q: Do you agree that Mr. Graves was speaking theoretically?**

219 A: Absolutely not. The opposite is the case.

220 **Q: Please explain.**

221 A: The discussion I quoted was taken from a section of testimony in which Mr. Graves  
222 describes his understanding of the existing system of regulation, or as Dr. McDermott  
223 puts it, "the practical world." The full response to place my quotation in context follows.

224 **Q: Please elaborate on each of these, beginning with how the existing**  
225 **system may include some incentives that are also not necessarily ideal.**

226 A: The existing system involves reviewing all utility cost items  
227 concurrently at *ad hoc* intervals, and relying on occasional, possibly  
228 frequent, updates to fuel and power market forecasts in order to adjust  
229 rates (but not true-up for any past over- or under-recovery of operating  
230 costs).

231 This no-ECAM approach implicitly encourages a utility to favor, utility-  
232 owned assets or fixed-cost supply contracts over resources and  
233 procurement strategies with more variable costs, even if the latter might be  
234 less expensive, on average. This incentive arises because the utility is  
235 exposed to risks from fuel and short term power costs that are quite

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<sup>13</sup> Ibid (emphasis added).

236 volatile, difficult to forecast, and largely uncontrollable. There is less risk  
237 and more financial certainty from assets put into ratebase with an allowed  
238 return, compared to operating costs that must be forecasted with inevitable  
239 variances from forecasts (often large, as was demonstrated in section 1 of  
240 this rebuttal testimony). This bias towards lower risk assets that results  
241 from lack of an ECAM is different than the bias sometimes noted for  
242 utilities of increasing the investment in ratebased assets. The former is  
243 just related to moving toward safer assets to avoid riskier fuel procurement  
244 while the latter is to increase earned returns.

245 In addition, the no true-up aspect of the current approach means that  
246 customers are at risk for paying amounts considerably different than actual  
247 costs. For the past several years, this has tended to occur in customers'  
248 favor, but there is no reason to believe that will be systematically true.  
249 Indeed, if it were systematically true, it would be evidence of a bias in the  
250 way forecast are being made or set, which the utility should be entitled to  
251 correct.<sup>14</sup>

252 **Q: What do you conclude regarding Mr. Graves' recognition of the input**  
253 **biasing effect of an ECAM?**

254 A: Mr. Graves clearly acknowledges the input biasing effect of an ECAM. As I  
255 stated in my Phase I Surrebuttal,

256 While Mr. Graves characterizes a lack of an ECAM as causing an  
257 inappropriate incentive favoring long-term fixed contracts and Company-  
258 owned generation, and I characterize an ECAM as distorting planning by  
259 inappropriately favoring resources with volatile prices and uncertain cost  
260 consequences, the effect we are discussing is the same.<sup>15</sup>

261 **Q: How does Dr. McDermott address the literature review pertaining to ECAM-**  
262 **like adjustment mechanisms?**

263 A: He attempts to discredit it by highlighting differences between PacifiCorp's  
264 proposed ECAM and the adjustment clauses of utilities evaluated in the empirical  
265 studies. He prepared an exhibit (KAM-Phase II 2-4) describing the type of study,

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<sup>14</sup> Ibid at 443-467

<sup>15</sup> Docket No. 09-035-15, Phase I Prefiled Surrebuttal Testimony of Nancy L Kelly at p. 6: 107-110.

266 the time period considered, and the articles' conclusions. He provides his own  
267 commentary and quotations that he considers significant.

268 **Q: How do you respond?**

269 A: I agree with Dr. McDermott that the existing literature on this subject is old. I  
270 also agree that the specifics of any one study are difficult to apply directly to any  
271 one utility because differences in the particulars will generally exist. However, I  
272 do not believe this discredits the academic literature. I find the conclusions  
273 column of Dr. McDermott's exhibit to be informative.

274 Most significantly, my primary point did not rest on the academic literature and  
275 stands on its own.

276 **Q: Please restate you primary point.**

277 My fundamental point remains unaltered and unrebutted. Throughout this proceeding my  
278 essential point has been that the method of cost recovery and the incentive structure are  
279 intertwined. When the method of cost recovery is changed so is the incentive structure.  
280 Whether it is in the public interest to change the cost recovery mechanism depends, at  
281 least in part, on the effect on the incentive structure.

282 The testimony of Company witnesses in this case as well as in the EBA case underscores  
283 this point.

284 In Phase I testimony, Dr. McDermott strongly cautioned against including some, but not  
285 all, categories of net power cost in an ECAM, claiming that if you treat one set of costs

286 one way and another set of costs another way perverse incentives can result.<sup>16</sup> His  
287 caution arises from implicit acknowledgment that the method of cost recovery and the  
288 incentive structure are intertwined.

289 Dr. McDermott's caution is at the heart of my essential point. Throughout this  
290 proceeding my fundamental concern has been that an ECAM treats capital costs one  
291 way—recovered through a rate case or a single item rate procedure—and treats variable  
292 costs another—recovered through a balancing account—thereby, creating a long-run  
293 planning incentive that is not in the public interest, given current economic conditions  
294 and climate concerns.

295 Mr. Graves' discussion of regulatory recovery with and without an ECAM highlights this  
296 same point that the incentive structure changes when the method of cost recovery  
297 changes.

298 Finally, my purpose in including Mr. Topham's discussion from the EBA case in my  
299 Phase I testimony was to demonstrate that the regulatory cost recovery mechanism has  
300 influenced this Company's choice of resource acquisition in the past. This is not simply  
301 an academic argument.

302 Therefore, my main point that the incentive structure changes with the cost recovery  
303 mechanism remains valid and is in fact supported by Company witness testimony.

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<sup>16</sup> Docket No. 09-135-15, Phase I Rebuttal Testimony of Karl A. McDermott at 379-381.

304 **Q: Did any Company witness attempt to rebut the second half of your fundamental**  
305 **concern that the manner in which the incentive structure changes is not in the**  
306 **public interest given current economic conditions and climate concerns?**

307 A: No. No one did.

308

309 **V. RISK MITIGATION MEASURES**

310 **Q: Which witnesses address your proposal to link implementation of an ECAM to**  
311 **compliance with a resource acquisition strategy that best manages cost and risk as**  
312 **demonstrated through the Commission's 3-Step approach to evaluating risk and**  
313 **uncertainty?**

314 A: Mr. Duvall and Mr. Peterson.

315 **Q: Please summarize Mr. Duvall's conclusion.**

316 A: Mr. Duvall claims that a 3-Step Portfolio does not exist and therefore my proposal is  
317 undefined. He also claims that even if the 3-Step Portfolio was defined, my proposal  
318 would be inconsistent with current use of the integrated resource planning process. He  
319 further claims that all PacifiCorp states would have to accept the 3-Step Portfolio.<sup>17</sup>

320 **Q: How do you respond?**

321 A: First, I do not agree with Mr. Duvall that a 3-Step Portfolio could not be defined. The  
322 Commission has made clear the process it would like to see applied to evaluate risk and  
323 uncertainty. PacifiCorp followed the Commission's Three-Step approach in the last IRP,

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<sup>17</sup> Duvall Rebuttal Phase II-2 at 494-498.



324 but did not use the results of the process to identify its preferred resource acquisition  
325 strategy.

326 Second, I agree with Mr. Duvall that the IRP process has not been used for this purpose  
327 in the past. And, in the past, the Company's stockholders have shared in the risk that the  
328 actual costs of the Company's resource acquisition strategy might be higher than  
329 anticipated at the time the decision was entered into to undertake a particular resource  
330 strategy. However, the Company is now proposing that customers bear the full risk that  
331 costs may be higher than anticipated when undertaking long-run planning. If customers  
332 are to bear this full risk, demonstrating that long-run risk is being well managed becomes  
333 ever more important. The potential downside to shareholders would no longer be a  
334 disciplining consideration allowing other Company priorities to override risk mitigation  
335 in resource selection.

336 Further, as I discussed in my August 4 Surrebuttal testimony in Phase II, Part 1, my  
337 proposal would not require a fundamental change to resource planning, replace  
338 management expertise with a prescriptive regulatory approach, or dictate to the Company  
339 what its Preferred Portfolio should be. It would simply require that the Company  
340 demonstrate that its resource acquisition strategy mitigates long-run risk in order to  
341 implement an ECAM in Utah.<sup>18</sup>

342 Finally, I do not agree that this Commission's decision to require the Company to  
343 mitigate long-run resource risk prior to allowing the implementation of an ECAM in Utah

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<sup>18</sup> Docket No. 09-035-15, Phase II, Part 1 Prefiled Surrebuttal Testimony of Nancy L. Kelly at 182-201.

344 would require “acceptance of the plan by all states receiving generation service from the  
345 Company,” since states currently do not “accept” the Company’s plan.

346 **Q: Do you have any further comments?**

347 A: Yes. While I disagree with Mr. Duvall’s characterization of my proposal and dispute his  
348 objections, as I further discuss below, I think these issues should not be decided in this  
349 docket but addressed in a new docket whose purpose is to consider the range of risk  
350 mitigation measures that would be necessary prior to implementing an ECAM.

351 **Q: Please summarize Mr. Petersons’ testimony.**

352 A: Mr. Peterson expresses sympathy with my desire to tie implementation of an ECAM to  
353 sound long-run planning, however he expresses doubt that it would be practical to  
354 implement.<sup>19</sup>

355 **Q: How do you respond?**

356 A: As expressed in my Rebuttal Testimony filed September 15, 2010, I don’t think the  
357 Commission has a sufficient record in this proceeding to undertake any of the risk  
358 mitigation measures suggested by parties, including my proposal, to counter the risk-  
359 increasing resource acquisition incentives of an ECAM. Therefore, as expressed in my  
360 rebuttal testimony, I concur with the Office that a new docket is needed, but I would  
361 expand the scope of the inquiry to include energy efficiency and renewable resource  
362 targets as risk mitigating measures.

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<sup>19</sup> Docket No. 09-035-15, Rebuttal Testimony for Phase II of Charles E. Peterson at 248-258.

363 **Q: What do you recommend?**

364 A: I recommend that the Commission open a new proceeding to evaluate and adopt risk  
365 mitigation measures prior to implementing an ECAM. Such measures would include  
366 demand side measure targets as well as renewable resource targets. How these targets are  
367 determined can be evaluated within this docket.

368 **Q: Does this conclude your testimony?**

369 A: It does.