

BEFORE THE UTAH PUBLIC SERVICE COMMISSION

IN THE MATTER OF THE APPLICATION OF ROCKY)
MOUNTAIN POWER FOR AUTHORITY TO INCREASE ITS)
RETAIL ELECTRIC UTILITY SERVICE RATES IN UTAH AND)
FOR APPROVAL OF ITS PROPOSED ELECTRIC SERVICE)
SCHEDULES AND ELECTRIC SERVICE REGULATIONS)

DPU EXHIBIT 1.0R
DOCKET No. 10-035-124
TEST PERIOD

Pre-filed Rebuttal Testimony

Of

Joni S. Zenger, PhD

On Behalf of

Utah Division of Public Utilities

March 17, 2011

Test Period

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

Joni S. Zenger, PhD
Rebuttal Test Period Testimony

Introduction

Q. Please state your name, business address, and occupation for the record.

A. My name is Joni S. Zenger. My business address is Heber Wells Building, 160 East 300 South, Salt Lake City, Utah, 84114. I am employed by the Utah Division of Public Utilities (Division) of the Utah Department of Commerce as a Technical Consultant.

Q. On whose behalf are you testifying?

A. The Division.

Q. Are you the same Joni S. Zenger who filed Direct Testimony on test period in this proceeding?

A. Yes, I am.

Q. Will you please summarize and state the purpose of your rebuttal testimony that you are now filing?

A. The purpose of my rebuttal testimony is to comment on testimony filed by other intervenors in this case. The Division does not object to the test period proposed by the Company beginning July 1, 2011 and ending June 30, 2012, as it is the Division's position that the information filed in this case can be adjusted appropriately such that the

22 Company's requested test period can be reasonably reflective of the conditions the
23 Company will face in the rate effective period.

24

25 **Rebuttal Testimony**

26 **Q. What is the first point in your Rebuttal Testimony that you wish to make?**

27 A. In my Direct Testimony I stated that in determining the appropriate test period, the
28 Division specifically looked to the best evidence it could find. This information includes
29 the Company's Application, the results of operations for the June 2012 test period, the
30 results of operations for the alternative test period ending June 2011, master data
31 requests, testimony, exhibits, and the responses to data requests. The Division is in the
32 early stages of analyzing discovery responses, but believes that the information and
33 calculations can be used to make appropriate adjustments to the Company's test year to
34 be reflective of the rate effective period.

35 In fact, the key criteria for the Commission to consider at this time is that the
36 test year, based on the evidence presented, needs to reflect the conditions that will be
37 encountered by the Company during the rate effective period. There is no guarantee
38 that any alternative 12 months selected for the test period will meet this criteria if the
39 appropriate adjustments are not made based on the best available evidence.

40 Furthermore, as stated in the Company's direct test period testimony, forecasting
41 accuracy per se is not the issue—a closer in test period may (or may not) be more
42 accurate, but will not necessarily better reflect the rate effective period (See Direct
43 Testimony of Company witness Mr. David Taylor, lines 256-259). In this regard UIEC

44 witness Mr. Maurice Brubaker appears to entirely misconstrue this point. In at least two
45 instances Mr. Brubaker alludes to “current” conditions or circumstances being the basis
46 of setting rates. (See Direct Testimony of Mr. Brubaker, p. 8, lines 8-10 and p. 11, lines
47 12-15). This is clearly inconsistent with the criteria of reflecting the rate effective
48 period.

49

50 **Q. Even with all of the evidence required by the Complete Filing Requirement rule, and**
51 **adhered to by the Company in this case, will there ever be perfect information?**

52 A. No. Unless you are classicist assuming a perfectly competitive marketplace, and even
53 then perfect information is just an assumption. In a regulated monopoly environment
54 such as we face, there are bound to be instances of imperfect information. A forecast is
55 a forecast or estimate of future conditions and will be wrong regardless of how far in
56 the future that forecast extends. Again, Mr. Brubaker misconstrues that point. On page
57 8, lines 8-10, he states, “Based on my experience, the ‘best evidence’ must pass the test
58 of being reliable and not speculative, while being reasonably reflective of current
59 circumstances.” While I agree that reliability of the data is an issue to be considered, a
60 forecast of future events is speculative regardless of how far in the future the forecast
61 extends. Intervenors can verify and make adjustments to forecasts, including
62 assumptions as deemed necessary. The Company may over-forecast at times and
63 under-forecast other times. As Division witnesses Mr. Matthew Croft and Mr. Douglas
64 Wheelwright testified, the Company’s past forecasts were within a reasonable range.
65 Based on the evidence presented thus far, the Division believes that appropriate

66 adjustments can be made to the Company's filed case to arrive at a test period that best
67 reflects the rate effective period.

68

69 **Q. UAE witness Mr. Kevin Higgins states that a test period relatively "close in time" is**
70 **better able to accommodate difficult-to-anticipate events.¹ Do you agree?**

71 A. No, a closer in time test period will not necessarily better accommodate these events;
72 the ability to accommodate these events will depend on the timing of the event in
73 relation to the test period and possibly the 240 day rate case window. While Mr.
74 Higgins makes a good point, he really only argues one side of a multi-dimensional issue.
75 Briefly, his argument is if the event, in this instance, the run-up in REC revenues, had
76 been brought forward by the Company in the prior rate case (Docket No. 09-035-23),
77 then it could have been accommodated as part of the test year and been reflected as
78 part of the Company's revenue requirement. However, this would also be true
79 regardless of the test period in that case. If the test period had been out 20 months
80 then, assuming the Company brought the event forward, the event would have been
81 part of the "base" information and could have been used to inform or adjust the test
82 period revenue requirement.

83 Alternatively, assuming the previous case had been litigated six months earlier
84 with a test year 17 months out from the filing date, as Mr. Higgins hypothesizes, the
85 event would not have been anticipated and, therefore, not included in the case. Again,
86 this is only one side of the issue. For example, following Mr. Higgins' hypothetical,

¹ Direct Testimony of Kevin C. Higgins, p. 13, lines 332-334.

87 suppose the previous rate case had been litigated six months earlier with a closer in test
88 year, say approximately 12 months from the filing date. The event, the run-up in REC
89 revenues, would still have been unanticipated and, therefore, would (still) not have
90 been incorporated into the case. In other words, regardless of the test year chosen in
91 Mr. Higgins' hypothetical, the "difficult-to-anticipate" event would not have been
92 brought into the case. The fact is, if an event is an unanticipated event, then by
93 definition, it will be difficult (if not impossible) to reflect that event in the then current
94 case. However, there are other regulatory mechanisms that can be brought to bear
95 once those events unfold. For example, with regard to the run-up in REC revenues, the
96 Commission has approved UAE's request for deferred accounting treatment of
97 incremental REC revenues. (See Report and Order, Docket No. 10-035-14). Therefore,
98 the Division concludes that Mr. Higgins's argument for a closer in test period is
99 unconvincing.

100

101 **Q. Mr. Higgins claims that the major plant addition (MPA) statute and the energy**
102 **balancing account (EBA) pilot project "ameliorate any claim by the Company that a**
103 **far-reaching test period is needed to compensate it for projected future costs."**² **Will**
104 **you please respond?**

105 A. Witnesses Mr. Brubaker, for the UIEC, and Mr. Dan Gimble, for the Office of Consumer
106 Services, make similar arguments. Therefore, my remarks are intended to address all
107 three witnesses.

² Id. at p. 11, lines 281-282.

108 While the Division believes the EBA slightly favors the argument for a closer in
109 test period, as Mr. Higgins argues, its presence cuts both ways. Mr. Higgins has a valid
110 point: the presence of the EBA should mitigate the Company's concerns over a closer in
111 time test period and its ability to recover its prudent net power costs. However, the
112 opposite is also true—the presence of the EBA should mitigate concerns over the
113 difficulty of accurately forecasting net power costs or the Company over-collecting
114 prudent net power costs and the use of a further out test period. On balance, the
115 Division believes that, everything else being equal, the presence of the EBA slightly
116 favors the argument for a closer in test period. In this case, however, things are not
117 equal.

118 To date, the Division has identified only two projects (that are not already
119 included in an MPA filing) that would qualify under the MPA statute. These projects are
120 identified in Rocky Mountain Power Exhibit RMP (SRM-3), pages 8.8, 8.8.22, and 8.8.35.
121 The first project is the Naughton U2 Flue Gas Desulfurization System (Unit 2), at
122 \$157,473,399, scheduled to come on line in November 2011; the second project is
123 Naughton U1 Flue Gas Desulfurization System (Unit 1), at \$120,326,577, scheduled to
124 come on line in May 2012. According to the Company's filing (RMP Exhibit (SRM-3), p.
125 8.8.22) the June 2012 test period values for these plants are approximately, \$95.5
126 million and \$18.5 million, respectively. If the test period were the 12 months for 2011,
127 the second project (Unit 1) would fall outside the test period, and the first project would
128 only be in the test period for two months and would receive a weight of two-thirteenths

129 (2/13). Thus, gross plant included in rate base (for these two projects) would decrease
130 by approximately \$91 million. However, this is not the end of the story—inclusion or
131 exclusion of plant effects revenue requirement through gross plant, accumulated
132 deferred income taxes, depreciation expenses, and accumulated depreciation.

133 The Division has estimated the revenue requirement recovery of these two
134 projects if they were included in a December 2011 (or June 2012 test year) as well as if
135 they were separately included in two MPA dockets. In calculating these recovery
136 amounts the Division included the effects of the increase in gross plant, accumulated
137 depreciation, depreciation expense, and accumulated deferred income taxes (including
138 bonus depreciation).³ Assuming that both projects were pulled out of a December 2011
139 test year (or a June 2012 test year) and included in two separate MPA dockets, the
140 Company would recover approximately \$4.9 million during the rate effective period
141 between this case and the next anticipated general rate case. If the projects are left in a
142 June 2012 test year, the Company will recover approximately \$4 million in the same rate
143 effective period. Thus, the Company is only about \$0.9 million better off by including
144 Units 1 and 2 in two separate MPA dockets. That \$0.9 million would not be material
145 enough to sufficiently cover the lost recovery on the reduction in plant from changing
146 from a June 2012 test year to a December 2011 test year.

147 Furthermore, while the MPA statute allows the Company to potentially recover
148 major plant additions outside of a general rate case, it does nothing to mitigate

³ For a summary of the recovery impacts as well as the detailed calculations, see DPU Exhibits 1.1R through 1.4R.

149 regulatory lag for the myriad of “small” distribution, transmission and generation
150 projects, which in the aggregate add up to large sums. Furthermore, as the Division
151 discussed in its direct testimony on test year, some plants may be necessary to address
152 reliability or other regulatory requirements. If, as the Company claims, there is little or
153 no discretion on the timing of these plants (See Company witness Mr. Darrell T. Gerrard,
154 Direct Testimony, p. 8, lines 183-191), the Division believes it would not be in the public
155 interest to dismiss these plant additions out-of-hand by choosing a closer in test period.

156

157 **Q. In Company witness Mr. David Taylor’s Direct Testimony, he identifies some of the**
158 **projects over \$20 million each that are included in the June 2012 test period. He**
159 **states that 78 percent of the \$3.6 billion in capital additions do not include plant**
160 **additions already included in major plant addition filings.⁴ Will you please comment?**

161 A. When you also remove the Unit 1 and Unit 2 projects mentioned earlier, there is
162 approximately \$2.6 billion (71 percent) in capital projects that the Company cannot
163 receive recovery for, except in the context of a general rate case like this one. The
164 Division estimates that the proposed test period capital additions include \$528,474,178
165 (13-month average) of the environmental air pollution equipment or controls (including
166 Unit 1 and Unit 2). If the Commission uses a calendar year 2011 test period in this case
167 rather than the Company’s June 2012 test period, then \$217,413,282 (13-month
168 average) of the pollution control equipment on a total Company basis and \$94,105,407

⁴ Direct Testimony of David L. Taylor, p. 15, lines 283–289.

169 (13-month average) on a Utah basis would not be included in rates.⁵ To stress the
170 importance of these emission control upgrades, on March 16, 2010, the U.S.
171 Environmental Protection Agency (EPA) proposed the first-ever national standards for
172 mercury, arsenic and other toxic air pollution from power plants. The new power plant
173 mercury and air toxics standards would require, possibly during the pendency of this
174 test period, many power plants to install pollution control technologies to cut harmful
175 emissions of mercury, arsenic, chromium, nickel and acid gases. The EPA stressed that
176 the public health and economic benefits of implementing the standards far outweigh
177 the costs of implementation. EPA estimates that for every dollar spent to reduce
178 pollution from power plants, the American public and American businesses will see up
179 to \$13 in health and economic benefits.⁶ Therefore, the costs of not allowing these
180 projects to be put into rate base is not good public policy and discourages capital
181 investments in much needed projects, such as the pollution equipment proposed in this
182 case, that will continue to be required in the near future. Again, the Division believes
183 that eliminating these plants by choosing a closer in test year without first completing
184 due diligence would not be in the public interest.

185

186 **Conclusion and Recommendations**

187 **Q. What factors should the Commission rely on in making its test period determination in**
188 **this case?**

⁵ These numbers are compiled from information with the Company's Application under Filing Requirement 700-22.B.4: Templates 6.1 & 6.2.

⁶ <http://www.epa.gov/airquality/powerplanttoxics>.

189 A. The Division believes that the test period determination should be made on a case-by-
190 case basis. Each respective case has its own considerations that need to be accounted
191 for. Considerations in previous rate cases may not be applicable to this case or to future
192 rate cases. In this case, the Division recommends the Commission consider the best
193 evidence available for this particular case, keeping in mind the legislative intent of the
194 statute's purpose—neither a presumption for or against any of the recommended test
195 periods proposed by intervenors in this case—but based on the best evidence. The
196 Company faces large capital investments in this case, some of which are needed to
197 ensure the safety, reliability, and adequacy of the Company's bulk electric system, the
198 timing of which may be nondiscretionary; and increases in net power costs. The Division
199 believes that adjustments to the Company's proposed June 2012 test year can be made
200 such that the ultimate goal of test period selection is achieved—matching the revenues,
201 expenses, and investments required to serve the ratepayers in Utah and to reflect the
202 conditions that will be in effect during the rate effective period. The Division believes
203 that the information filed in this case can be appropriately adjusted such that the
204 requested test period can be reasonably reflective of the conditions the Company will
205 face in the rate effective period. Therefore, the Division recommends that the
206 Commission approve the Company's June 2012 test period as filed in this case.

207

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

209 A. Yes, it does.