

BEFORE THE
PUBLIC SERVICE COMMISSION OF UTAH

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)
_____)

Docket No. 10-035-124

Rebuttal Testimony and Exhibit of

J. Robert Malko

on Test Period Selection

On behalf of

Utah Industrial Energy Consumers

March 17, 2011

1 Q WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY IN THIS
2 PROCEEDING?

3 A My rebuttal testimony responds to the discussion of test period issues presented in
4 the direct testimony of Division of Public Utilities (“Division”) witness Joni S. Zenger.

5

6 Q PLEASE SUMMARIZE YOUR REBUTTAL TESTIMONY.

7 A I conclude that the selection of the test period, Calendar Year 2011, as compared to
8 the test period, beginning July 1, 2011 and ending June 30, 2012, recommended by
9 Dr. Zenger, more effectively meets the objective of reasonable risk sharing between
10 the energy utility and its ratepayers concerning the selection of a test period in this
11 Utah rate case.

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13 Q WHAT IS THE BASIS FOR YOUR CONCLUSION?

14 A Dr. Zenger places inadequate significance on the fundamental objective of risk
15 sharing between the energy utility and its ratepayers when selecting a test period.

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RESPONSE TO DR. ZENGER

Q HAVE YOU REVIEWED DR. ZENGER’S TESTIMONY REGARDING TEST YEAR IN THIS CASE?

A Yes, I have.

Q WHAT DOES DR. ZENGER PROPOSE IN HER DIRECT TESTIMONY CONCERNING THE TEST PERIOD FOR THIS CASE?

A Dr. Zenger concludes that the Division recommends that the Public Service Commission of Utah (“Commission”) approve the test period proposed by RMP beginning July 1, 2011 and ending June 30, 2012.

Q. WHAT IS THE BASIS OF DR. ZENGER’S CONCLUSION?

A Dr. Zenger on pages 3-4, lines 57-69 of her direct testimony presents the following discussion of the basis for the Division’s test period determination in this case:

In determining the appropriate test period, the Division specifically looked to the best evidence it could find without any presumption for or against a particular test period. The Division determined that the Company’s proposed test period complied with Utah’s statute and previous Commission orders. In the Commission’s 2004 Test Period Order, the Commission identified several factors that the Division considered in this case in determining the appropriate test period. The factors include: the general level of inflation; changes in the utility’s investment, revenues or expenses; changes in utility services; the availability and accuracy of data to the parties; the ability to synchronize the utility’s investment, revenues and expenses; whether the utility is in a cost increasing or cost declining status; incentives to efficient management and operation; and length of time the new rates are expected to be in effect. Additionally, in this case the Division considered the current economic climate, the projected recovery from the recession, and the ability of parties to effectively analyze the Company’s forecast.

1 **Q WHAT DO YOU BELIEVE DR. ZENGER HAS FAILED TO CONSIDER?**

2 A. Dr. Zenger does not mention the importance of, and does not appear to even
3 consider the importance of, the objective of risk sharing between the energy utility
4 and its ratepayers relating to the regulatory treatment of the test period. Moreover,
5 Dr. Zenger fails to adequately address how risk sharing between RMP and its
6 ratepayers is effectively considered in the application of her framework for the
7 determination of the appropriate test period for this proceeding.

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9 **Q WHY WOULD YOU EXPECT DR. ZENGER TO CONSIDER THIS?**

10 A Dr. Zenger was a lead author on this very subject in an article entitled “The Utah
11 Test”, which appeared in the May 2010 issue of Public Utilities Fortnightly, which is
12 attached to my testimony as Exhibit UIEC TP 2.1R. In this article, Dr. Zenger has
13 explained that the regulatory treatment of the test period involves significant
14 consideration of the objective of risk sharing between the energy utility and its
15 ratepayers. Economic issues and debates concerning assumptions of forecasts,
16 accuracy of forecasts, and updates of forecasts clearly play a role in the selection and
17 application of a test period. Risk sharing and balancing provide an effective
18 regulatory approach to address these issues and meet public interest concerns. The
19 defining and balancing of multiple objectives for addressing economic issues in utility
20 rate cases is an established approach used by regulatory commissions.

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22 By examining risk sharing and risk shifting issues associated with the selection of a
23 test period, a regulatory commission is addressing and balancing public interest
24 issues, including interests of utility investors and utility ratepayers.

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1 Q HOW WILL DR. ZENGER'S SUGGESTED USE OF THE COMPANY'S PROPOSED
2 TEST YEAR AFFECT RISK SHARING IN THIS CASE?

3 A It will result in shifting greater risk to ratepayers concerning forecasted capital
4 investments and forecasted energy costs. Risk sharing and balancing between RMP
5 and its ratepayers is not being effectively addressed by Dr. Zenger for the
6 determination of a reasonable test period in this case.

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8 Q DOES DR. ZENGER ADDRESS THE INCONSISTENCY BETWEEN RMP'S
9 PROPOSED TEST PERIOD FOR WYOMING AND RMP'S PROPOSED TEST
10 PERIOD FOR UTAH IN CURRENT RATE CASES WITH SIMILAR TIMEFRAMES?

11 A No.

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13 Q WHAT IS RMP'S PROPOSAL FOR A TEST PERIOD FOR ITS CURRENT
14 WYOMING CASE?

15 A RMP has proposed a Calendar Year 2011 test period for its current rate case in
16 Wyoming filed on November 22, 2010. The forecasted start of rate effective period in
17 Utah is similar to the forecasted start of September 2011 in Wyoming. RMP witness
18 Brian Dickman in the current Wyoming case on page 5, lines 11 to 19 of his direct
19 testimony states the following:

20 *The Company's primary objective in determining a test*
21 *period is to develop normalized results of operations based*
22 *on a period of time that will best reflect the conditions during*
23 *which the new rates will be in effect. Beyond satisfying this*
24 *fundamental ratemaking principle, the company also*
25 *considers the statutory constraints of the jurisdiction, issues*
26 *addressed in previous regulatory proceedings and*
27 *collaboration with intervenors in those cases, the current*
28 *regulatory environment, and the need for transparency with*
29 *customers and regulators. The Company's proposed test*
30 *period in this case balances the need for adequate recovery*
31 *of prudent costs with these other considerations.*

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2 This demonstrates that RMP recognizes the importance of the risk sharing principles
3 and has chosen to use them in Wyoming but ignores them in Utah.

4

5 **Q IN CONCLUSION, HOW DOES DR. ZENGER'S PROPOSAL ON TEST YEAR**
6 **COMPORT WITH HER ARTICLE'S RISK SHARING CONCEPT?**

7 A Her proposal on the test period is significantly one-sided in favor of RMP when
8 considering the objective of risk sharing and balancing between RMP and its
9 ratepayers.

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11 **Q DOES THIS CONCLUDE YOUR TESTIMONY?**

12 A Yes.

13

1 **QUALIFICATIONS OF J. ROBERT MALKO**

2 **Q. PLEASE STATE YOUR NAME, ADDRESS AND OCCUPATION.**

3 A. My name is J. Robert Malko. I am a Professor of Finance in the Huntsman
4 School of Business at Utah State University located in Logan, Utah. My business
5 consulting address is 245 North Alta Street, Salt Lake City, Utah 84103.

6 **Q. PLEASE SUMMARIZE YOUR EDUCATIONAL BACKGROUND AND**
7 **ACADEMIC POSITIONS.**

8 A. I received my Bachelor's degree, cum laude, in economics and mathematics
9 from Loyola College in Baltimore, Maryland. I received my Master's and
10 Doctorate degrees in economics from the Krannert Graduate School of
11 Management at Purdue University in West Lafayette, Indiana. I have also taken
12 graduate courses in corporate finance and investment theory at the University of
13 Wisconsin at Madison. I was a Visiting Scholar in industrial engineering at
14 Stanford University in Palo Alto, California. At Utah State University, I teach
15 undergraduate level and graduate level courses in Corporate Finance and
16 Applied Microeconomics.

17 **Q. PLEASE DESCRIBE SOME OF YOUR PRIOR WORK EXPERIENCE.**

18 A. I served during the periods 1975-1977 and 1981-1986 as the Chief Economist for
19 the Public Service Commission of Wisconsin. During this time, I also served as
20 Chair and Vice-Chair of the National Association of Regulatory Utility
21 Commissioners ("NARUC") Staff Subcommittee on Economics and Finance.
22 From 1977-1981, I was Project Manager, and then Program Manager, for The

1 Electric Utility Rate Design Study. This study was housed at the Electric Power
2 Research Institute (“EPRI”) in Palo Alto, California and prepared for NARUC. In
3 1981-1982, I was the Senior Staff Advisor to the NARUC Ad Hoc Committee on
4 Utility Diversification. I assisted the Committee in the preparation and publication
5 of their Final Report in 1983. I served on the Board of Directors at the National
6 Regulatory Research Institute (“NRRI”), located at the Ohio State University,
7 between 1997 and 2003. I have served on the Board of Directors of the Society
8 of Utility and Regulatory Financial Analysts (SURFA) between 1988 and 1996
9 and 2002 to 2010. I am also a Certified Rate of Return Analyst which is certified
10 by SURFA. I currently serve on the Advisory Council for the Center of Public
11 Utilities at New Mexico State University.

12 **Q. HAVE YOU PREVIOUSLY TESTIFIED IN REGULATORY PROCEEDINGS?**

13 A. Yes. I have testified on behalf of state regulatory commissions, state offices of
14 consumer counsel, energy utilities and customer groups. I have presented
15 testimony before the Arizona Corporation Commission, the Connecticut Public
16 Utilities Control Authority, District of Columbia Public Service Commission, the
17 Federal Energy Regulatory Commission, the Hawaii Public Utilities Commission,
18 the Illinois Commerce Commission, the Maryland Public Service Commission,
19 the Minnesota Public Utilities Commission, the New Hampshire Public Utilities
20 Commission, the New Jersey Board of Public Utilities, the Nevada Public Service
21 Commission, the New York Public Service Commission, the Pennsylvania Public
22 Utility Commission, the Public Service Commission of Wisconsin, the Public

1 Service Commission of Utah, Utah State Tax Commission, and the Virginia State
2 Corporation Commission.

3 **Q. PLEASE SUMMARIZE YOUR PUBLICATIONS CONCERNING REGULATION**
4 **AND PUBLIC UTILITY ISSUES.**

5 A. I have written (co-authored) approximately 170 articles on public utility
6 economics and finance that have been published in books and journals including,
7 Forum For Applied Research and Public Policy; Journal of Business
8 Administration; Journal of Energy Law and Policy; The Journal of Energy and
9 Development; Energy: The International Journal; and Wisconsin Law Review. I
10 am co-editor of Electric Utilities Moving Into The 21st Century published by PUR
11 in 1994, Reinventing Electric Utility Regulation published by PUR in 1995, and
12 Customer Choice: Finding Value in Retail Electricity Markets published by PUR
13 in 1999.

CERTIFICATE OF SERVICE

(Docket No. Docket No. 10-035-124)

I hereby certify that on this 17th day of March 2011, I caused to be emailed, a true and correct copy of the foregoing **REBUTTAL TESTIMONY AND EXHIBIT OF J. ROBERT MALKO ON TEST PERIOD SELECTION** to:

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