

BEFORE THE UTAH PUBLIC SERVICE COMMISSION

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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 )

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DPU EXHIBIT 1.OSR  
DOCKET No. 10-035-124  
TEST PERIOD

Pre-filed Surrebuttal Testimony

Of

Joni S. Zenger, PhD

On Behalf of

Utah Division of Public Utilities

March 21, 2011

Test Period

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Joni S. Zenger, PhD  
Surrebuttal 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 in these proceedings and did you file testimony previously in this proceeding?**

A. I am testifying on behalf of the Division. I previously submitted direct and rebuttal testimony identified respectively as DPU Exhibits 1.0 and 1.0R in this matter.

**Q. What is the purpose of your surrebuttal testimony in this matter?**

A. While the Division is not changing its recommendation as presented in rebuttal testimony, I would like to respond to several points filed in rebuttal testimony by intervenors in this case. Silence on any particular subject does not imply agreement or disagreement on my part.

## **Dr. J. Robert Malko**

**Q: What is the first point of surrebuttal that you wish to respond to?**

A. On page 2, lines -11, UIEC witness Dr. Malko states (bold added):

I conclude that the selection of the test period, Calendar Year 2011, as compared to the test period, beginning July 1, 2011 and ending June 30, 2012, recommended by Dr. Zenger, more effectively meets **the objective** of reasonable risk sharing

27                   between the energy utility and its ratepayers concerning the  
28                   selection of a test period in this Utah rate case.  
29

30                   However, it is important to note that there is not only one factor depicting risk and the  
31                   selection of the appropriate test year. Unlike Dr. Malko, the Commission has identified  
32                   several factors that should be considered (each of which addresses risk) in the selection  
33                   of an appropriate test period: <sup>1</sup>

34                   In the Commission's 2004 Test Period Order, the Commission  
35                   identified **several factors that the Division considered in this case**  
36                   in determining the appropriate test period. The factors include:  
37                   the general level of inflation; changes in the utility's investment,  
38                   revenues or expenses; changes in utility services; the availability  
39                   and accuracy of data to the parties; the ability to synchronize the  
40                   utility's investment, revenues and expenses; whether the utility is  
41                   in a cost increasing or cost declining status; incentives to efficient  
42                   management and operation; and length of time the new rates are  
43                   expected to be in effect.  
44

45                   In fact I noted in my Direct Testimony that this list was not all inclusive, and the Division  
46                   considered many other factors in its test period determination. The Division's primary  
47                   objective was to meet the statutory requirement of selecting the test period that best  
48                   mirrors the conditions the utility will encounter in the rate effective period.

49                   Finally, Dr. Malko cites my Public Utilities Fortnightly article the following  
50                   statement (bold added):

51                   The defining and balancing of **multiple objectives** for addressing  
52                   economic issues in utility rate cases is an established approach  
53                   used by regulatory commissions.<sup>2</sup>  
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<sup>1</sup> Rebuttal Testimony of Dr. J. Robert Malko on behalf of UIEC, p. 4, lines 19-20.

<sup>2</sup> *Id.*, at p. 4, lines 19-20.

55 The approach the Division used in its test period analysis addressed multiple objectives  
56 and considered many factors, as stated above.

57

58 **Q. Is risk sharing between the energy utility and its ratepayers one of the objectives that**  
59 **the Division considered in making its test period determination?**

60 A. Yes, although the Division did not specifically use the word “risk” the Company faces or  
61 the “risk” that ratepayers face, it considered risk both for the Company and for the  
62 ratepayers in its test period determination. In addition to the factors directed by the  
63 Commission, I address risk to consumers in both my Direct and Rebuttal Testimony on  
64 numerous occasions by stating that the Division will fully investigate or audit the details  
65 of the case and make various adjustments to the test period if warranted. This is so that  
66 ratepayers are not faced with the risk of paying for costs that the Division or intervenors  
67 find are inappropriate.

68 The Division believes that its auditors and other staff can  
69 appropriately make adjustments to the test period revenue  
70 requirement proposed by the Company for any appropriate  
71 reason, including, but not limited to, forecasting issues. This  
72 could include modifying or reducing the expenses or rate base  
73 from that proposed by the Company in the event of forecasting  
74 error or a lack of sufficient evidence supporting the proposed  
75 revenue or expense.<sup>3</sup>  
76

77 . . . it is the Division’s position that the information filed in this  
78 case can be adjusted appropriately such that the Company’s  
79 requested test period can be reasonably reflective of the  
80 conditions the Company will face in the rate effective period.<sup>4</sup>  
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<sup>3</sup> Direct Testimony of Joni S. Zenger, PhD, p. 3, lines 48-53.

<sup>4</sup> Rebuttal Testimony of Joni S. Zenger, pp. 1-2, lines 200-23.

82           In addition to the Division’s ability to make adjustments to the Company’s test  
83           period, the Division also addresses ratepayer risk in its consideration of one or more  
84           tracker mechanisms for distribution or other plant. This addresses the risk of ratepayers  
85           overpaying for upcoming capital investments in distribution plant, which is expected to  
86           continue, not just in this test period, but for the foreseeable future. A tracking  
87           mechanism such as something similar to Questar’s feeder line tracking mechanism  
88           would ensure that ratepayers are not paying for capital projects that are not serving  
89           them or that are over-forecasted. The details of any such mechanism will have to wait  
90           until the Division can complete its due diligence in these areas. However, the reason for  
91           mentioning them at this stage of the case was to demonstrate that there are means to  
92           address the risks both to the Company and to ratepayers other than simply eliminating  
93           potentially needed plant, over which the Company may have little or no discretion in  
94           pursuing, without completing a thorough review.

95           In addition, below I reference several examples in my Direct and Rebuttal  
96           Testimony that illustrated the Division’s consideration of ratepayer risk in making its test  
97           period determination:

98           On the other hand, the Division recognizes that ratepayers have  
99           to be protected from paying for capital projects that may not go  
100           into service as projected or for costs that exceed the actual initial  
101           project cost.<sup>5</sup>

102  
103           On the other hand, if because a closer-in test period is used, the  
104           Company postpones the investments to the detriment of  
105           reliability or other failures, customers may not be well served. In

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<sup>5</sup> Direct Testimony of Joni S. Zenger, PhD, p. 9, lines 175-177.

106 either case, the public interest may not be met with a closer-in  
107 test period.<sup>6</sup>

108  
109 The Division understands that many of these additions are related  
110 to distribution or environmental protection equipment. As  
111 discussed previously, dismissing these investments out-of-hand by  
112 choosing a closer-in test year may not meet the public interest  
113 standard for setting reasonable rates.<sup>7</sup>

114  
115 Finally, the Division considered the risk to ratepayers of certain capital projects  
116 not being completed in its preliminary determination that, without further due  
117 diligence, many of the Company's large capital investments that are in this case need to  
118 be made for the safety and reliability of service to Utah customers.<sup>8</sup> The Division noted  
119 the strict reliability standards that must be adhered to as well as other standards to  
120 ensure the safety and reliability of the bulk electric system. Again, the Division does not  
121 believe that eliminating such plant by simply cutting back the test period would be in  
122 the public interest—while customers may win in the short-run through lower rates, they  
123 may lose in the long-run if customer service or reliability suffers; and the Company may  
124 be put in a position where it has little or no opportunity to earn a reasonable return.

125

126 **Q. What is the last point you wish to respond to with respect to Dr. Malko's rebuttal**  
127 **testimony?**

128 A. Dr. Malko incorrectly states that the Division failed to consider the Company's filed test  
129 period in Wyoming. The Division not only addressed the Wyoming rate case, but the

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<sup>6</sup> Direct Testimony of Joni S. Zenger, PhD, p. 5, lines 101-104.

<sup>7</sup> Id. at p. 9, lines 169-173.

<sup>8</sup> Direct Testimony of Joni S. Zenger, PhD, p. 5 lined 87-204.

130 Division has been the only party to date that asked data requests regarding this  
131 particular topic (DPU 6.30-6.31).

132

133 **Mr. Kevin C. Higgins**

134 **Q. What is the point you wish to address with respect to Mr. Higgins' rebuttal testimony?**

135 A. Mr. Higgins cites certain events that have transpired that he admits no party could  
136 predict: "This type of change is very difficult for any party to predict and defend in a  
137 general rate case."<sup>9</sup> This goes to Mr. Higgins' point on the tautological argument that  
138 the future will always best reflect the future.<sup>10</sup> I would argue that Mr. Higgins' positing  
139 of selecting a test period that is "closer in time" as the most appropriate test period in  
140 every instance is inconsistent with the stated intent of the legislature that allows the  
141 Company's forecast test period to extend 20 months into the future

142 Mr. Higgins also states in rebuttal: "I don't share Dr. Zenger's optimism about  
143 setting rates using a test period that extends nearly one and a half years into the  
144 future."<sup>11</sup> This begs the question of whether Mr. Higgins would ever support, as the  
145 legislature provides for, a test period that extends 20 months into the future. The  
146 legislature clearly anticipated that a test year might last many months into the future as  
147 reflected by the number of forward months allowed by the statute.

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<sup>9</sup> Id., lines 150-151.

<sup>10</sup> Id., at pp. 6-7, lines 122-127.

<sup>11</sup> Id., at p. 8, lines 151-153.

148 **Mr. Steven R. McDougal**

149 **Q. Do you have any surrebuttal points you wish to make regarding Mr. McDougal's**  
150 **Rebuttal Testimony?**

151 A. Yes, I have one comment regarding Mr. McDougal's testimony where he asks for the  
152 Commission to address whether the Company can file a MPA case simultaneously (or at  
153 least overlapping) with a rate case.<sup>12</sup> This seems to be a legal interpretation of the  
154 statute and I believe should be briefed (or may be argued at the hearing). Utah Code §  
155 54-7-13.4 (2) states:

156           “. . . an electrical corporation may file with the commission a  
157 complete filing for cost recovery of a major plant addition if the  
158 commission has . . . entered a final order in a general rate case . . .  
159 within 18 months of the projected service date of a major plant  
160 addition.

161           (3)(a) . . . an electrical corporation may not file for cost recovery  
162 of a major plant addition more than 150 days before the  
163 projected in-service date of the major plant addition.

164  
165 What the Company seems to suggest is that if the Commission has not yet issued an  
166 order from the rate case, the Company can file for recovery of a major plant addition as  
167 long as the filing is within the 150 day window. The Division's analysis implicitly  
168 assumed that the Company filed after the Commission issued an order. This appears to  
169 be a difference in interpretation of the statute and, rightly, a legal matter.

170           As the Division mentioned in rebuttal testimony, if the Commission chooses a  
171 2011 test year, one of the Naughton scrubbers would be eliminated; the Company  
172 would then have to decide where to seek recovery of the second Naughton scrubber--in

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<sup>12</sup> Test Period Rebuttal Testimony of Steven R. McDougal, pp. 2-3, lines 43-48.

173 the re-filed case or as a MPA. While the Division recognizes the Company's need for  
174 clarification on this matter in the event the Commission orders a 2011 calendar test  
175 period, the Division recommends not delaying the test period decision and treat this  
176 issue on a separate although expedited schedule.

177 **Conclusion**

178 **Q. Has the Division changed its position on its test period determination as originally**  
179 **filed?**

180 A. No.

181 **Q. Does that conclude your surrebuttal testimony?**

182 A. Yes, it does.