

**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

Surrebuttal Testimony and Exhibits of

J. Robert Malko

on Test Period Selection

On behalf of

Utah Industrial Energy Consumers

March 21, 2011

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SURREBUTTAL TESTIMONY OF J. ROBERT MALKO

Q PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A J. Robert Malko. My business consulting address is 245 North Alta Street, Salt Lake City, Utah 84103.

Q ARE YOU THE SAME J. ROBERT MALKO WHO FILED REBUTTAL TESTIMONY ON BEHALF OF UTAH INDUSTRIAL ENERGY CONSUMERS (“UIEC”) IN THIS PROCEEDING?

A Yes.

Q WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY IN THIS PROCEEDING?

A My surrebuttal testimony responds to Rocky Mountain Power (“RMP” or the “Company”) witness, David L. Taylor, and Division of Public Utilities (“Division”) witness, Joni S. Zenger, concerning the selection of a test period for this proceeding.

21 **Q DO WITNESS TAYLOR AND WITNESS ZENGER APPROPRIATELY CONSIDER THE**
22 **ROLE OF ECONOMIC REGULATION IN THE SELECTION OF A TEST PERIOD FOR**
23 **THIS PROCEEDING?**

24 A No. The role of economic regulation of a monopoly is to produce the results, in a
25 reasonable manner, of a competitive market. Professor James Bonbright states the
26 following concerning this issue on page 93 of his book, Principles of Public Utility Rates
27 (1961):

28 Regulation, it is said, is a substitute for competition. Hence its
29 objective should be to compel a regulated enterprise, despite its
30 possession of complete or partial monopoly, to charge rates
31 approximating those which it would charge if free from regulation but
32 subject to the market forces of competition. In short, regulation
33 should be not only a substitute for competition, but a closely imitative
34 substitute.

35 (See Exhibit UIEC 2.1SR.) According to Professor Charles F. Phillips, Jr., on page 156
36 of his book, The Regulation of Public Utilities: Theory and Practice (1984):

37 It is only with better understanding and increased knowledge of
38 economic, political, and social factors that regulation can be an
39 efficient substitute for competition.

40 (See Exhibit UIEC 2.2SR.) According to Professor Roger A. Morin on page 1 of his
41 book, New Regulatory Finance (2006):

42 The capitalistic free-market system, which normally sets prices,
43 output levels, and general terms of trade in society, is generally
44 unworkable in the case of some services provided by public utilities
45 because utility services are largely monopolistic in nature (for
46 example, energy distribution and transmission). That is, they do not

47 experience full competition in a particular market area or in
48 dispensing a particular service. As a result, public utility regulation
49 replaces the free market system by establishing allowable prices for
50 the rendering of public services.

51 The purpose of regulation is to replicate the results that the
52 competitive market system would achieve in the way of reasonable
53 prices and profits.

54 (See Exhibit UIEC 2.3SR.)

55

56 **Q THE COMPANY AND DIVISION WITNESSES APPEAR TO TAKE THE POSITION**
57 **THAT RMP IS ENTITLED TO A ONE-FOR-ONE COST REIMBURSEMENT. DOES**
58 **THAT FIT THE CONCEPTS YOU HAVE JUST EXPRESSED?**

59 A No. Ratemaking is not a cost reimbursement scheme as the Company and Division
60 appear to suggest.

61

62 **Q WHAT ARE THE IMPLICATIONS OF ECONOMIC REGULATION CONCERNING THE**
63 **APPLICATION OF SECTION 54-4-4(3) OF THE UTAH CODE?**

64 A Within the framework of economic regulation, there is risk sharing between the regulated
65 utility (Company) and the utility ratepayers (customers). A 17-month or 20-month future
66 test period does not automatically follow when interpreting and applying this section of
67 the Utah Code. The quality and accuracy of forecasting and other risk factors need to
68 be considered and balanced by the Public Service Commission of Utah ("Commission")
69 in making a determination of a specific test period. This section of the Utah Code
70 provides choices and does not take away the right of the Commission to apply its
71 judgment in considering all relevant information and factors, including risk sharing, when
72 selecting a test period within the framework of economic regulation. The primary

73 purpose of economic regulation is to provide a reasonable substitute for competition and
74 not to reduce risk to the utility company significantly by aggressive pass-throughs to the
75 ratepayers.

76

77 **Q HOW WOULD YOU APPLY THIS CONCEPT IN THIS CASE, THEN?**

78 A In this case, RMP's risks have been significantly reduced by the Commission's recent
79 approval of an energy balancing account ("EBA") and the legislature's recent allowance
80 for cost recover for major plant additions ("MPA") outside of general rate cases. To
81 balance this risk sharing, ratepayers should be granted a test period that is closer in time
82 than that proposed by the Company.

83

84 **Q PLEASE SUMMARIZE YOUR TESTIMONY.**

85 A I conclude that the selection of the test period, Calendar Year 2011, as compared to the
86 test period, beginning July 1, 2011 and ending June 30, 2012, recommended by Mr.
87 Taylor and Dr. Zenger more effectively meets the objective of reasonable risk sharing
88 between the energy utility and its ratepayers concerning the selection of a test period
89 within the framework of economic regulation in this Utah rate case.

90

91 **Q DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?**

92 A Yes.

CERTIFICATE OF SERVICE

(Docket No. 10-035-124)

I hereby certify that on this 21st day of March 2011, I caused to be emailed, a true and correct copy of the foregoing **SURREBUTTAL TESTIMONY AND EXHIBITS OF J.**

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