

BEFORE THE
PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application)
of RockyMountain Power for)
Approval of Changes to)
Renewable Avoided Cost)
Methodology forQualifying)
Facilities Projects Larger than)
Three Megawatts)
_____)

Docket No. 12-035-100

Rebuttal Testimony and Exhibit of

Maurice Brubaker

On behalf of

**Kennecott Utah Copper, LLC and
Tesoro Refining & Marketing Company LLC**

May 15, 2013



Project 9747

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Rebuttal Testimony of Maurice Brubaker

- 1 **Q PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**
- 2 A Maurice Brubaker. My business address is 16690 Swingley Ridge Road, Suite 140,
- 3 Chesterfield, MO 63017.

- 4 **Q ARE YOU THE SAME MAURICE BRUBAKER WHO HAS PREVIOUSLY FILED**
- 5 **TESTIMONY IN THIS PROCEEDING?**
- 6 A Yes. I have previously filed direct testimony in this proceeding.

- 7 **Q ARE YOUR EDUCATIONAL BACKGROUND AND EXPERIENCE OUTLINED IN**
- 8 **YOUR PRIOR TESTIMONY?**
- 9 A Yes. This information is included in Appendix A to my direct testimony filed on
- 10 March 29, 2013.

11 **Q ON WHOSE BEHALF ARE YOU APPEARING IN THIS PROCEEDING?**

12 A I am appearing on behalf of Kennecott Utah Copper LLC (“KUC”) and Tesoro
13 Refining & Marketing Company LLC (“Tesoro”). KUC and Tesoro purchase
14 substantial quantities of electricity from Rocky Mountain Power Company (“RMP” or
15 “Company”) in Utah, own large Qualified Facilities (“QF”), and are vitally interested in
16 the outcome of this proceeding.

17 **Q WHAT SUBJECTS ARE COVERED IN YOUR REBUTTAL TESTIMONY?**

18 A In my rebuttal testimony, I briefly comment on the position of certain parties
19 concerning the ownership of renewable energy credits (“RECs”).

20 I also comment on certain testimony of other parties that make overly
21 restrictive references to the category of facilities that can be allocated RECs.

22 **Renewable Energy Credits**

23 **Q WHAT POSITION DOES BÉLA VASTAG, WHO APPEARS FOR THE OFFICE OF**
24 **CONSUMER SERVICES (“OCS”), TAKE WITH RESPECT TO THE ENTITLEMENT**
25 **TO RECs?**

26 A Witness Vastag addresses this issue at lines 86 through 110 of his direct testimony.
27 He takes the position that when a utility purchases power from a QF, the utility is
28 entitled to the RECs.

29 **Q WHAT IS THE BASIS FOR MR. VASTAG’S ASSERTION?**

30 A It apparently is strictly a policy position which Mr. Vastag wishes to advocate. In
31 response to KUC and Tesoro Data Request No. 1-2 (attached as Exhibit MEB-1),
32 Mr. Vastag did not reference or present any supporting evidence for his position.

33 **Q DO YOU AGREE WITH MR. VASTAG'S POSITION?**

34 A No, I do not. I discussed this issue in some detail in my direct testimony at
35 lines 146 - 185. In responding to RMP witness Clements, I noted that REC values
36 are not a component of avoided cost, so payment of avoided cost does not entitle the
37 purchaser to the RECs at no additional charge. I also noted that RECs did not exist
38 in 1978 when PURPA was enacted. The creation of RECs and the question of REC
39 ownership is a matter of state law. I stated my understanding that under Utah law
40 RECs remain the property of the renewable energy facility's owner, unless the owner
41 agrees otherwise by contract.

42 **Q WHAT POSITION HAVE OTHER WITNESSES TAKEN ON THIS ISSUE?**

43 A All other parties who address this issue (except RMP and OCS), namely Luigi
44 Resta(on behalf of Scatec Solar North America, Inc.), Sarah Wright (on behalf of Utah
45 Clean Energy), and Dr. Abdinasir M. Abdulle (on behalf of Division of Public Utilities),
46 agree that the RECs should not be bundled with the energy, but rather are separable
47 and belong to the producer of the energy unless the right to the RECs is specifically
48 contracted away.

49 **Renewable Energy Sources**

50 **Q ARE YOU FAMILIAR WITH THE TESTIMONY OF DR. ABDULLE AT LINES 314**
51 **THROUGH 317 OF HIS DIRECT TESTIMONY?**

52 "A QF may be either a qualifying cogeneration facility or a qualifying
53 small power production facility. Only qualifying small power production
54 facilities using renewable energy resources could be allocated RECs.
55 Qualifying cogeneration facilities operating on fossil fuels are typically
56 not eligible for RECs under any state RPS program."

57 A Yes, I am familiar with that testimony.

58 **Q DO YOU AGREE WITH DR. ABDULLE?**

59 A No, I do not. The kind of facilities that may be eligible for RECs, like the creation and
60 ownership of RECs, is addressed by state law. In certain instances, generation from
61 qualifying cogeneration facilities is eligible for RECs under Utah statutes. The
62 provision at Utah Code Annotated § 54-17-601(10)(e)(v) defines “renewable energy
63 source” to include:

64 “a waste gas or waste heat capture or recovery system, other than
65 from a combined cycle combustion turbine that does not use waste
66 gas or waste heat, with the quantity of renewable energy certificates to
67 which the user is entitled determined by the total production of the
68 system, except to the extent the commission determines otherwise
69 with respect to net-metered energy”

70 QFs satisfying these conditions are entitled to RECs.

71 Similarly, OCS witness Falkenberg at lines 106 - 108 of his direct testimony
72 parenthetically refers to “renewable QF resources” as “wind and solar.”

73 I presume that these witnesses were simply making general statements using
74 wind and solar as the most familiar examples, and do not intend to suggest that Utah
75 Code Annotated § 54-17-601(10)(e)(v) is not applicable.

76 **Q DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

77 A Yes, it does.