
BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Voluntary Request of :
Rocky Mountain Power for Approval of : Docket No. 14-035-147
Resource Decision and Request for : DPU Exhibit 1.0 DIR-Confidential
Accounting Order for Authority Order :
:

DIRECT TESTIMONY

OF

**CAROLYN G. ROLL
STATE OF UTAH-
DIVISION OF PUBLIC UTILITIES**

MARCH 17, 2015

REDACTED

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I. Introduction

Q. Please state your name, occupation, and business address.

A. My name is Carolyn G. Roll. I am a Utility Analyst for the Utah Division of Public Utilities (“Division”). My business address is Heber M. Wells Building, 4th Floor, 160 East 300 South, Salt Lake City, Utah 84114-6751.

Q. For which party will you be offering testimony in this case?

A. I will be offering testimony on behalf of the Division.

Q. Please describe your educational background and duties at the Division.

A. I have a degree in Accounting from the University of Utah and have been working at the Division for approximately 10 years. Among other things, I review issues concerning the terms, conditions and prices of utility service; industry and utility trends and issues; and regulatory form, compliance and practice relating to public utilities. I examine public utility financial data for determination of rates; review applications for rate increases; conduct research; examine, analyze, organize, document and establish regulatory positions on a variety of regulatory matters; review operations reports and ensure compliance with laws and regulations; testify in hearings before the Utah Public Service Commission (“Commission”); and assist in analysis of testimony and case preparation. I have been the lead in the Division’s annual coal inventory policy review and the analysis of coal contracts and costs in general rate case proceedings.

26 **Q. What is the purpose of your testimony?**

27 A. I am the lead analyst and summary witness for the Division in this docket. My
28 testimony will discuss certain aspects of the proposed transaction, including the
29 long-term coal supply agreements and the Retiree Medical Settlement. In
30 addition, I will introduce staff witnesses and provide the Division's overall
31 recommendations to the Commission.

32

33 **Q. How is your testimony organized?**

34 A. My testimony is organized as follows:

35 I. Introduction

36 II. Summary of Rocky Mountain Power's ("Company") Application and
37 proposed transaction

38 III. PacifiCorp's request for regulatory treatment

39 IV. Introduction of Division witnesses and assignments

40 V. Long-term coal supply agreements

41 VI. Retiree medical settlement loss

42 VII. Division's recommendations to the Commission

43 VIII. Conclusion

44

45 **II. Summary of the Company's Application and Proposed Transaction**

46

47 **Q. Please summarize PacifiCorp’s Application for approval of the Deer Creek**
48 **Mine Transaction (“Application”).**

49 A. PacifiCorp d/b/a Rocky Mountain Power filed its Application on December 15,
50 2014 in Docket No. 14-035-147, requesting the Commission approve a
51 transaction to close the Deer Creek Mine (“Mine”) located near Huntington, Utah,
52 and related matters. The Mine is currently operated by one of the Company’s
53 subsidiaries, Energy West Mining Company (“Energy West”). The Company’s
54 Application consists of four major components¹ that are listed below:

- 55 (1) The Company will permanently close the Mine and will incur direct
56 closure costs.
- 57 (2) Energy West will withdraw from the United Mine Workers of America
58 (“UMWA”) 1974 Pension Trust, incurring a withdrawal liability.
- 59 (3) The Company proposes to sell certain mining assets (“Mining Assets”).
- 60 (4) The Company proposes to execute a replacement coal supply agreement
61 (“CSA”) for the Huntington power plants and an amended CSA for the
62 Hunter power plant.

63
64 **Q. Are there other proposed components contained in the Company’s**
65 **Application?**

66 A. Yes. Energy West has also settled its retiree medical obligation related to Energy
67 West union participants (“Retiree Medical Obligation” or “RMO”). Although the

¹ See Application at p. 2.

68 Retiree Medical Obligation is not a part of the transaction contract, the Company
69 has included it in its Application. Therefore, the Company's Application includes
70 the four components listed above, as well as the Retiree Medical Settlement.

71

72 **III. PacifiCorp's Request for Regulatory Treatment**

73

74 **Q. What regulatory approvals does the Company request in its Application?**

75 A. First, the Company states that the sale of its Mining Assets and the execution of
76 the long-term Coal Supply Agreements (CSAs) are contractually contingent upon
77 regulatory approval and transaction closure on or before May 31, 2015.²

78 Therefore, the Company is requesting expedited treatment and requests a
79 Commission order by May 27, 2015, allowing the Company two days to close the
80 transaction.

81

82 Second, the Company requests a Commission determination that the closure of
83 the Mine is in the public interest, the sale of the Mining Assets is appropriate, and
84 that its decision to enter into the transaction (plus the Medical Benefits
85 Settlement) is prudent. Specifically, the Company requests the following
86 regulatory approvals:³

87

² Id.

³ Direct Testimony of Cindy A. Crane, p. 2.

- 88 1. Approval of its proposed Deer Creek Mine closure tariff, to become effective
89 on June 1, 2015, and recover closure costs in 2015 and 2016. These costs
90 would be trued up once actual closure is complete in 2016.
91
- 92 2. An accounting order authorizing the Company to transfer the remaining plant
93 balance for the Deer Creek mine from electric plant in service, establish a
94 regulatory asset, and accelerate the recovery of the asset through the Deer
95 Creek Mine closure tariff, with an offset for Deer Creek costs now in rates, so
96 that its investment in the mine is fully amortized before mine closure is
97 complete in 2016.
98
- 99 3. An accounting order authorizing the establishment of a regulatory asset for the
100 1974 Pension Trust withdrawal liability, an accounting order for the loss
101 associated with the Medical Benefits Settlement, and a determination that both
102 of these decisions are prudent.
103

104 **Q. Does the Division have concerns related to the Company's requested**
105 **regulatory treatment?**

106 A. Yes. The Division has several concerns that it will raise through the Division's
107 witnesses who will testify on these matters in detail. The overarching concern is
108 that the Division believes it is premature and undesirable to preapprove costs that
109 remain largely speculative, despite the appearance of the overall transaction as

110 prudent. Accordingly, the Division does not disapprove of the Company's
111 decision to enter into the transaction on the Mine and its associated assets.

112

113 **IV. Introduction of Division Witnesses and Assignments**

114

115

116 **Q. Please identify the Division's witnesses and the topics each witness will address**
117 **in this docket.**

118 A. Mr. Charles Peterson's testimony is DPU Exhibit 2.0. Mr. Peterson will present
119 the Division's position and recommendation regarding certain plant and
120 equipment that are no longer in service--stranded investment. Mr. Peterson will
121 outline the Company's request to use the Energy Balancing Mechanism ("EBA")
122 as a pass through for certain stranded investment. Mr. Peterson discusses the
123 mechanisms of the EBA. The Division recommends that the Commission not
124 make any adjustments to the EBA as it currently stands. Specifically, there should
125 be no costs from this docket run through the EBA outside of the sharing bands.
126 Mr. Peterson will also discuss the Company's request that the stranded investment
127 earn a rate of return equal to the Company's weighted average cost of capital
128 instead of the 6.0 percent authorized in the EBA.

129

130 DPU witness 3.0, Mr. David Thomson, reviews the estimated Mine closure costs
131 and unrecovered investment in the Mine and Mining Assets contained in the
132 Company's filing. He will explain how the closure costs and unrecovered
133 investment are estimates only and will need to be trued up to the final costs

134 through the regulatory asset mechanism once they become known. The Division
135 supports the proper use of deferred accounting for these costs in the Company's
136 Application and as modified by other Division witnesses.

137

138 Mr. Robert A. Davis' testimony is DPU Exhibit 4.0. Mr. Davis testifies on the
139 Division's analysis regarding the Company's three Net Present Value (NPV)
140 business plan scenarios, as well as the Company's decision to withdraw from the
141 United Mine Workers of America (UMWA) multi-employer Pension Plan. He
142 concludes that the "Transaction" case as filed is the best choice of the three
143 scenarios given the assumptions. In addition, Mr. Davis describes how the
144 withdrawal liability is too uncertain at this time for preapproval and recommends
145 that the pension withdrawal liability be addressed in the next general rate case
146 when the actual number is known.

147

148 **Q. To the extent that your testimony or the testimony of the Division's other**
149 **witnesses does not address an issue, should that be interpreted as acceptance**
150 **of that issue?**

151 A. No.

152

153 **V. Long-term Coal Supply Agreements (CSA)**

154

155 **Q. Will you please describe the amended Coal Supply Agreement (CSA) for the**
156 **Hunter Power Plant?**

157 A. Yes. One of the components of the Mine closure involves the CSAs with Bowie
158 Resource Partners, LLC (Bowie). Bowie currently supplies coal to the
159 Company's Hunter power plant under a long-term coal supply agreement (Hunter
160 CSA) that went into effect in 1999 and expires in 2020. The current CSA has
161 been amended to allow Bowie to operate the coal blending facilities at the
162 Cottonwood coal preparation plant, and then deliver coal from the preparation
163 plant to the Hunter power plant. The amended Hunter CSA changes the quality
164 testing point of the coal from the preparation plant to the power plant. There is no
165 adjustment to the Bowie delivered coal prices under the amended CSA.

166

167 **Q. Will you please describe the CSA for the Huntington Power Plant?**

168 A. Yes. On December 12, 2014, the Company and Bowie entered into a long-term
169 coal supply agreement for the Huntington power plant (Huntington CSA). Under
170 the Huntington CSA, Bowie will supply a certain amount of coal to the
171 Huntington power plant beginning upon the closure of the transaction and
172 continuing through the end of 2029. The coal supplied is planned to meet all the
173 requirements of the Huntington Plant. The CSA includes an agreed-upon fixed
174 price schedule.

175

176 **Q. Why are the CSAs necessary?**

177 A. Upon closure of the Deer Creek Mine, a replacement coal supply is necessary to
178 continue operation of the Huntington and Hunter power plants at full capacity.
179 Without the CSAs, the Company must either negotiate a similar contract with

180 another supplier or purchase coal on the market. Spot market or short-term
181 contracts tend to be more expensive per unit delivery than longer-term contracts.
182 The CSAs may reduce cost, and in addition, the existence of a fixed price contract
183 reduces risk exposure compared to other alternatives.

184

185 **Q. Has the Company provided evidence that the CSA for the Huntington power**
186 **plant provides for coal at lower cost?**

187 A. Yes. The Company supplied copies of the entire contract complete with terms and
188 conditions. The Company also presented a market analysis and working papers
189 detailing the financial comparison of supplying the plants through the CSA versus
190 supplying the coal through market. The Company's analysis demonstrates that the
191 present value revenue requirement (PVRR) of supplying the plants with the CSA
192 is less than the PVRR of supplying through the market using the supplied market
193 price forecast. The delivered price schedule in the contract is lower than the
194 market price forecast. Please see Exhibit RMP_SS-11.

195

196 **Q. Are there terms of the CSA that may cause concern?**

197 A. Yes. Although the Company negotiated favorable terms in its CSAs where the
198 delivered fuel prices are projected to be lower than the estimated costs to continue
199 mining the Mine until depletion in 2019 and buying coal from the market, the
200 CSAs are "take or pay" agreements, meaning that the Company is obligated to
201 pay for the minimum delivery of coal regardless of the Company's coal
202 requirements at either the Hunter or Huntington power plant. However, the

203 Company claims that the CSA contains broad termination rights in the event that
204 environmental regulations adversely affect the Company's ability to burn coal at
205 the plants.

206

207 **Q. Could these terms pose a risk to ratepayers?**

208 A. Yes. The "take or pay" nature of the contract shifts the risk of reduced coal
209 demand to the Company, which is obligated to pay for the coal upon delivery,
210 whether the coal is needed for generation or not. This cost for fuel that is not
211 immediately useful may subsequently be recovered from ratepayers. Thus,
212 ultimately, the risk is potentially shifted to ratepayers.

213

214 **Q. Is this risk mitigated by the broad exit clause in the CSA?**

215 A. The CSA does mitigate some, but not all, risk in the event of regulatory change.
216 The Company claims that the exit clause of the contract fully protects both the
217 Company and ratepayers from harm because the Company can avoid the CSA's
218 liquidated damages in the event that environmental regulation forces a full or
219 partial closure of the power generating plants supplied by the CSA. While the
220 CSA does provide an ability to avoid liquidated damages in the event that
221 environmental regulations affect the "ability" to continue to burn coal, it is
222 uncertain whether that would include a regulatory change making it more
223 economical to discontinue burning the minimum coal amount. Additionally, the
224 CSA provides for a two-year period after notification in which the "take or pay"
225 provisions remain in effect. The risk to ratepayers from these provisions is not

226 entirely clear or quantifiable due to the universe of possible regulatory changes
227 that are currently unknown.

228

229 **Q. What is your conclusion regarding the overall favorability of the CSA?**

230 A. In summary, the price terms of the CSA appear favorable to the Company, based
231 on comparison to coal price projections of the U.S. Energy Information
232 Administration⁴ (EIA) and the Company's estimate of future coal costs delivered
233 from the Mine.⁵ The environmental regulation exit clause provides significant but
234 potentially less than total risk protection in the event of future regulatory changes.
235 The "take or pay" nature of the CSA still represents a potential risk to ratepayers.

236

237 **Q. Do you have any recommendation with respect to the exit clause or the**
238 **contract in general?**

239 A. Yes. The protections afforded by the exit clause rely in part on actions of the
240 Company. The Division expects that the Company will act prudently in the future.
241 If however, the exit clause is invoked, the Division would expect to review the
242 Company's actions for prudence at that time. If damages or other costs beyond
243 those necessary to serve ratepayers are incurred, the recovery of those damages or
244 costs would be determined in a subsequent proceeding. The Division recommends

⁴ U.S. Energy Information Administration Annual Energy Outlook 2014, Table "Coal Supply, Disposition and Prices, Reference Case."

⁵ Company's confidential response to DPU 6.1, March 6, 2015, attached as Confidential Exhibit 2.3 to Mr. Peterson's Direct Testimony.

245 that the contract be allowed to flow through the EBA as intended. Mr. Peterson
246 will elaborate on this recommendation in his Direct Testimony for the Division.

247

248

VI. Retiree Medical Settlement Loss

249

250 **Q. What is the retiree medical obligation settlement?**

251 A. The Company was able to negotiate a favorable present value lump sum payment
252 to settle its retiree medical obligation (RMO) with the UMWA. This settlement
253 appears to be independent of the proposed transaction. The Company states that
254 the settlement was achieved because the future sale and closure of the Mine was
255 integral to the negotiation. However, it does not appear that the agreement with
256 the UMWA was an integral part of the Company's decision under review in this
257 docket but was rather a deal that would have been done regardless of the
258 disposition or the continued operation of the Mine.

259

260 **Q. Can you explain what the Company is requesting in regard to the RMO?**

261 A. The settlement difference of [REDACTED] serves to reduce existing unrecognized
262 actuarial losses currently reflected in the Company's regulatory assets that would
263 otherwise have been amortized to Financial Accounting Standards (FAS) 106
264 expense in the future.⁶ In other words, this represents a benefit to ratepayers.
265 Settlement accounting under Generally Accepted Accounting Principles (GAAP)
266 requires that the Company accelerate recognition of a portion of the remaining

⁶ Direct Testimony of Douglas K. Stuver, p. 14, lines 305-307.

267 unrecognized actuarial losses. The resulting estimated settlement loss of [REDACTED]
268 [REDACTED] represents accelerated recognition of actuarial losses that would also
269 have been amortized to FAS 106 expense absent the settlement.⁷
270

271 **Q. What is the Company's proposal regarding the RMO?**

272 A. The Company is requesting an accounting order allowing it to record as a
273 regulatory asset the loss associated with the settlement of the RMO related to
274 Energy West union participants. The Company also requests a determination of
275 prudence on its decision to settle the RMO and proposes to defer the settlement
276 loss for future recovery over a period to be determined by the Commission.
277

278 **Q. Does the Division agree with the Company's proposal to classify the
279 settlement loss as a regulatory asset?**

280 A. Yes. However, the Division believes that the Commission does not need to
281 address the settlement loss in this docket, because it is independent from the
282 transaction. If the Commission is inclined to consider the prudence of the decision
283 to enter into the Medical Benefits Settlement, the Commission should authorize a
284 regulatory asset for the settlement loss amount, but reserve the right to determine
285 the appropriate ratemaking treatment in the next general rate case.
286

287 **VII. Division Recommendations to the Commission**
288

⁷ Id. at lines 312-316.

289 **Q. What are the Division's primary recommendations in this matter?**

290 A. The Division recommends that the Commission approve the transaction in a
291 manner that allows the Company to meet its May 31, 2015 deadline for the
292 transaction to go into effect.

293

294 The Division recommends that the Commission finds that the Company's actions
295 to enter into the transaction appear to be beneficial and approve the Company's
296 Application with respect to the decision to move forward with the transaction
297 given all the known conditions at the time. The transaction appears to provide net
298 benefits to ratepayers, based on the following elements: the 2019 depletion of the
299 mine, the degradation of the coal quality at the Mine, the risk of entering into new
300 CSAs or purchasing coal on the market at potentially higher cost after the 2019
301 depletion of the Mine, and the risk and potential cost exposure to ratepayers of
302 remaining in the dwindling UMWA Pension fund. Mitigating the risk and cost
303 exposure of remaining in the 1974 Pension Fund seems to require closing or
304 selling the Mine assets.

305

306 The Division maintains that the Company has a duty to continue to react to
307 changing circumstances in a prudent manner. Because so many cost elements
308 identified in the Company's Application remain highly speculative, the
309 Commission should proceed with caution so the Company retains every incentive
310 to act prudently in the continued execution of the deal's elements. The Division
311 recommends that the Commission not make a finding regarding a specific dollar

312 value in this proceeding. Rather costs should be evaluated in a general rate case
313 when transaction costs are known.

314

315 The Division recommends that the Commission approve the establishment of
316 necessary regulatory assets that will allow the Commission to determine the
317 prudence of costs associated with aspects of the transaction in the next general
318 rate proceeding.

319

320 **Q. Will you please summarize the Division's recommendations on other aspects**
321 **of its findings?**

322 A. Yes. The Division makes the following findings and recommendations to the
323 Commission in this proceeding:

324

325 Mining Assets. The Division believes that the sale of the Mining Assets is
326 appropriate and reasonable but the stranded investment should be brought forward
327 in the next general rate case. The Division supports the use of deferred
328 accounting for the transaction costs of the Mine and Mining Assets, and
329 amortization of the stranded investment will be deferred to the next general rate
330 case. Deferred accounting facilitates amortizing costs and benefits over a multi-
331 year period to ameliorate any future rate impact and provides for the some
332 matching of costs with benefits of the transaction. There should be no carrying
333 charge accrual to the stranded investment balance through the end of the next rate
334 case.

335

336 Closure Costs. The Division recommends that the Commission issue a deferred
337 accounting order to establish a regulatory asset for the Mine closure costs. At this
338 time, a majority of the costs are overly speculative estimates, and until such time
339 as the costs are known, the estimates will need to be trued up to the final costs
340 through the regulatory asset mechanism. Amortization of approved costs will be
341 deferred to the next general rate case. There should be no carrying charge accrual
342 to the Mine closure cost balance through the end of the next rate case.

343

344 EBA. The Division recommends that the Commission not make any adjustments
345 to the EBA as it currently stands. In particular, the Division recommends that
346 there should be no costs run through the EBA outside of the sharing bands.

347

348 NPV Business Scenarios. The Division finds that the “Transaction” case as filed
349 is the best choice of the three scenarios given the assumptions. Because of the
350 brief nature of this docket, the Division has been unable to exhaustively review
351 the stated assumptions and other potential scenarios.

352

353 1974 Pension Trust and Withdrawal Liability. The Division finds that the
354 Company’s decision to withdraw from the 1974 Pension Trust appears
355 reasonable. The Division recommends that the Commission establish an
356 accounting order authorizing the establishment of a regulatory asset for the 1974
357 Pension Trust withdrawal liability, which costs are too uncertain at this time for

358 preapproval. The actual pension withdrawal liability costs should be reviewed for
359 prudence when the costs are known and measurable, in the next general rate case.

360

361 Medical Benefits Settlement. The Division believes that the Commission does
362 not need to address the medical benefits settlement loss in this docket, because it
363 is independent from the closure of the Mine and sale of the Mining Assets.
364 However, the Company's decision to enter in the Medical Benefits Settlement
365 seems to result in a net benefit to ratepayers. The Division does not oppose the
366 creation of a regulatory asset for the settlement loss, reserving the appropriate rate
367 treatment for a future rate proceeding.

368

369 Long-term CSAs. The Division finds that the Company acted prudently in
370 entering into the long-term Huntington CSA and an amended Hunter CSA.
371 However, due to the "take or pay" nature of the contracts, the Division
372 recommends that if the exit clause is invoked, the Division would review the
373 Company's actions for prudence at that time. If damages or other costs beyond
374 those necessary to serve ratepayers are incurred, the recovery of those damages or
375 costs would also be determined at that time.

376

377 **VIII. Conclusion**

378

379 **Q. Does this conclude your Testimony?**

380 A. Yes