

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of Rocky
Mountain Power to Decrease the
Deferred EBA Rate through the Energy
Account Mechanism

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Docket No. 16-035-01
Exhibit No. DPU 3.0DIR

Direct Testimony

Artie Powell, PhD

Division of Public Utilities

July 15, 2016

1 **Q: PLEASE STATE YOUR NAME, BUSINESS ADDRESS, AND EMPLOYMENT POSITION FOR**
2 **THE RECORD.**

3 A: My name is Dr. Artie Powell; my business address is 160 East 300 South, Heber Wells
4 Building, Salt Lake City, Utah, 84114; I am employed by the Utah Division of Public
5 Utilities (“Division” or “DPU”); my current position is manager of the energy section.

6 **Q: WOULD YOU PLEASE SUMMARIZE YOUR EDUCATION AND EXPERIENCE?**

7 A: I hold a doctorate degree in economics from Texas A&M University. Prior to joining the
8 Division, I taught courses in economics, regression analysis, and statistics both for
9 undergraduate and graduate students. I joined the Division in 1996 and have since
10 attended several professional courses or conferences dealing with a variety of
11 regulatory issues including, the NARUC Annual Regulatory Studies Program (1995) and
12 IPU Advanced Regulatory Studies Program (2005). Since joining the Division, I have
13 testified or presented information on a variety of topics including, electric industry
14 restructuring, incentive-based regulation, revenue decoupling, energy conservation,
15 evaluation of alternative generation projects, inter-jurisdictional cost allocations, and
16 the cost of capital.

17 **Q: PLEASE EXPLAIN THE PURPOSE AND SCOPE OF YOUR DIRECT TESTIMONY IN THIS**
18 **DOCKET.**

19 A: For reasons explained herein, the Division recommends the disallowance of the interest
20 expense or accrual on the amortization of the unrecovered investment in the Deer
21 Creek mine. The Utah allocated portion of the investment Rocky Mountain Power (RMP
22 or the Company) is seeking to recover in this case is approximately \$9.1 million. In this
23 case, the accrued interest the Company requests recovering for the period January 1,
24 2016 through October 31, 2016, and which the Division recommends disallowing is
25 approximately \$465,312. Additionally, the Division recommends that the Company not

26 be allowed to collect interest on the unrecovered investment balance over the EBA
27 collection or amortization period, November 1, 2016 through October 31, 2017,
28 approximately \$250,216.¹

29 **Q: CAN YOU EXPLAIN WHY THE DIVISION RECOMMENDS DISALLOWANCE OF THESE**
30 **INTEREST AMOUNTS?**

31 A: In Docket No. 14-035-147, the Company filed an application seeking among other things
32 deferred accounting treatment “to continue with or facilitate future recovery of all costs
33 associated with the closure of the Deer Creek Mine.” (Settlement Stipulation, p. 2)
34 Among these costs was the unrecovered investment in the mine. The case was settled
35 among the intervening parties and the Commission approved a Settlement Stipulation²
36 in the case. The cost details are explained in a confidential attachment to the
37 Settlement Stipulation in that docket.

38 Paragraph 13 of the Settlement Stipulation states,

39 The Parties agree that the Commission should enter an order
40 authorizing the Utah-allocated portion of unrecovered investment in
41 the Deer Creek Mine, excluding Construction Work in Progress (“CWIP”)
42 and Preliminary Survey and Investigations (“PS&I”), to be transferred to
43 a regulatory asset and to continue to be recovered at an amortization
44 rate equal to the investments’ current depreciation rates at least until
45 the rate effective period of the Company’s next general rate case, at
46 which time amortization rates may be reconsidered.

¹ Assumes an annual interest rate of 6%, a straight-line 12-month amortization of the unrecovered investment, and interest paid at the end of each month.

² “Settlement Stipulation,” In the Matter of the Voluntary Request of Rocky Mountain Power for Approval of Resource Decision and Request for Accounting Order, Docket No. 14-035-147, April 16, 2015.

47 The Settlement Stipulation also provides that that amortization would begin January 1,
48 2015. In Paragraph 17, the parties agreed that the unrecovered investment could be
49 collected through the EBA outside of the 70/30 sharing band provided that,

50 [T]he Company agrees to not request any change or elimination of the
51 EBA sharing band to be effective prior to the end of the EBA pilot.

52 In light of this last provision, the Division views the Company's actions in proposing and
53 seeking or supporting passage of SB115 (Bill) in the recently concluded legislative
54 session as an abrogation of its obligations under the terms and conditions of the
55 Settlement Stipulation. In particular, the Bill's provision that eliminates the sharing
56 band (See Utah Code Annotated § 54-7(2)(d)) commencing June 1, 2016, when the pilot
57 program was scheduled to run through December 2016, is inconsistent with the
58 Company's agreement to not seek changes or elimination of the sharing band during the
59 pilot period. Thus, the Division is recommending that any accrued interest on the
60 unrecovered mine investment be disallowed.

61 **Q: DID THE COMPANY SEEK THE ELIMINATION OF THE SHARING BAND DURING THE PILOT**
62 **PROGRAM?**

63 A: Yes, in the Division's view, the Company sought or supported elimination of the sharing
64 band prior to the end of the pilot in two significant ways. First, the EBA pilot program
65 was originally designed to run through December 2015. However, in the stipulation
66 settling the general rate case in Docket No. 13-035-184 dated June 25, 2014, which was
67 approved by the Commission, Rocky Mountain Power and the other parties agreed to a
68 one year extension of the EBA pilot program.³ As part of the final stages of the pilot,
69 the Division is obligated to provide a final report including recommendations as to
70 whether the pilot should continue as is or with changes, or be eliminated. By seeking to

³ Stipulation in Docket No. 13-035-184, paragraph 26, pages 7-8.

71 eliminate the sharing band commencing January 2017, the Company in effect potentially
72 forestalled the Division's (and any other party's) ability to address and make
73 recommendations going forward on an important and controversial component of the
74 EBA. For example, if the Bill had passed as originally proposed, and a party sought to
75 again extend the pilot say through 2017, arguably the extension could only go forward
76 under 100% recovery.

77 Second, and more importantly, the Company's support of the final Bill's provision
78 eliminating the sharing band prior to the end of 2016, when the pilot was to be
79 reevaluated pursuant to the Commission's order, directly conflicted with the Company's
80 obligations under the Settlement Stipulation. According to one news article published
81 online by the Salt Lake Tribune, "Rocky Mountain Power . . . mounted a sizable lobbying
82 effort in the session's final hours."⁴ This observation is consistent with my
83 understanding surrounding the passage of the bill. As I understand, several
84 amendments, including the elimination of the sharing band beginning June 1, 2016,
85 were made to the Bill just prior to or during the voting process. Instead of pointing out
86 that it had an obligation under the Settlement Stipulation not to seek changing the
87 sharing band, the Company vigorously supported and sought passage of the Bill in the
88 final hours of the legislative session.

89 Again, the Division views the Company's actions in this matter as contradicting its
90 Settlement Stipulation obligations.

91 **Q: DID THE SETTLEMENT STIPULATION ALLOW FOR OTHER UNIQUE OR ONE-OFF**
92 **TREATMENT OF COSTS ASSOCIATED WITH THE CLOSURE OF THE DEER CREEK MINE?**

⁴ Emma Penod, "13 Utah Lawmakers Change Votes, Pass Rocky Mountain Power Plan," March 11, 2016. Accessed July 13, 2016 at: <http://www.sltrib.com/home/3647139-155/utah-house-reconsiders-and-passes-rocky>.

93 A: Yes. Paragraph 17 specifies that the coal fuel cost savings would be treated outside of
94 the sharing band. After the closure of the mine and execution of related actions, the
95 coal fuel savings automatically flowed through the EBA and was subject to the 70/30
96 sharing mechanism. In other words, as calculated on a monthly basis in the EBA, 70% of
97 the fuel cost savings automatically flowed through the EBA to the benefit of ratepayers.
98 However, in the Settlement Stipulation, parties agreed to have 100% of the coal fuel
99 savings flow through the EBA, thus further reducing the total EBA accrual for 2015. The
100 effect of including 100% of the savings reduces both the interest paid by customers over
101 the accrual period (2015), and the amortization period (January 2016 through October
102 2016). For 2015, the total fuel cost savings is approximately \$2.8 million and the
103 interest for 2015 is \$65,586, and for 2016 is \$145,917. The total interest associated with
104 coal fuel savings is thus \$211,504. The Division is not proposing a different treatment
105 for the coal fuel cost savings.

106 **Q: GIVEN THE COMPANY'S ACTIONS, DID THE DIVISION CONSIDER OTHER REMEDIES?**

107 A: Yes. The Division considered not allowing the recovery of the Deer Creek mine
108 investment, approximately \$9.1 million as filed by the Company, through the EBA
109 mechanism as provided for in the Settlement Stipulation. Because of potential harm to
110 ratepayers, the Division decided not to pursue this remedy.

111 **Q: WHAT POTENTIAL HARM MIGHT RATEPAYERS BE BURDENED WITH IF THE**
112 **UNRECOVERED MINE INVESTMENT WERE REMOVED FROM RATES?**

113 A: Prior to the closure of the Deer Creek mine, the investment was recovered through
114 depreciation costs included in fuel costs. The Settlement Stipulation provided for
115 deferred accounting treatment and continued recovery through the EBA of those
116 investments at the same rate. If the unrecovered investment were removed from the
117 EBA, ratepayers could potentially be adversely impacted either through the Company's

118 one-time recovery of a significant amount, thus increasing ratepayer burden, or pay
119 higher interest costs through a future recovery mechanism, again, increasing ratepayer
120 burden. Additionally, postponing recovery to a future period would result in a mismatch
121 of costs and benefits: current customers would benefit from the fuel cost savings but
122 future ratepayers would pay for recovery of the investment. This sort of mismatch is
123 generally referred to as intergeneration inequity.

124 **Q: DO YOU HAVE ANY FINAL COMMENTS?**

125 A: Yes. At the time of the Deer Creek case and subsequent settlement discussions, the
126 Division was uncomfortable with the one-off treatment of the unrecovered investment
127 in the EBA. Even if the Company had not sought and supported changing the sharing
128 band through legislation, the Division would still be uncomfortable with that treatment.
129 However, two provisions of the Settlement Stipulation allowed the Division to conclude
130 at the time that as a package, the Settlement Stipulation was in the public interest. In
131 particular, the Division's support of the unique treatment of the unrecovered
132 investment was tied to the provisions that (1) the Company would not seek changing
133 the sharing band over the pilot, and (2) the symmetrical treatment of the fuel cost
134 savings.

135 The Company's actions in this matter erodes the Division's confidence that equitable
136 results can be achieved and maintained through the regulatory, and in particular any
137 settlement, process. The elimination of the sharing band undermines the sanctity of the
138 regulatory process and causes the Division to reconsider its willingness to enter in
139 settlement agreements with the Company, especially settlements that include multi-
140 year provisions. Whether intentional or not, the Company's violation of the Settlement
141 Stipulation damages the trust necessary for cooperative efforts, such as settlements.

142 **Q: WOULD YOU PLEASE SUMMARIZE YOUR TESTIMONY AND RECOMMENDATIONS.**

143 A: Through its actions seeking and supporting elimination of the sharing band prior to the
144 end of the EBA pilot program, the Company abrogated its commitments and
145 obligations under the Settlement Stipulation for the Deer Creek mine closure. The
146 Division, therefore, recommends that the Commission disallow the interest on that
147 amount in this case, Docket No. 15-035-01, and in future cases where unrecovered mine
148 investment appears in the EBA. Additionally, the Division recommends that the
149 Company not be allowed to collect interest on the unrecovered investment over the
150 amortization period of the EBA, November 1, 2016, through October 31, 2017, or a
151 future amortization period where unrecovered investment is being amortized. The
152 Division does not recommend any change to the treatment of the coal fuel savings but
153 voices its disappointment in the Company's actions in this matter.

154 **Q: DOES THAT CONCLUDE YOUR DIRECT TESTIMONY?**

155 A: Yes it does.