

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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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 3.0 Revised DIR

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Revised Direct Testimony

Artie Powell, PhD

Division of Public Utilities

September 28 ~~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.<sup>1</sup>

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 Stipulation<sup>2</sup>  
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.

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<sup>1</sup> 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.

<sup>2</sup> “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 the final version of SB115 (Bill), which was passed in~~  
54 ~~the recently concluded legislative session as an abrogation of its~~ is inconsistent with the  
55 ~~Company's~~ obligations under the terms and conditions of the Settlement Stipulation. In  
56 particular, the Bill's provision that eliminates the sharing band (See Utah Code  
57 Annotated § 54-7(2)(d)) commencing June 1, 2016, when the pilot program was  
58 scheduled to run through December 2016, is inconsistent with the Company's  
59 agreement to not seek changes or elimination of the sharing band during the pilot  
60 period. ~~Although the Division is not asserting that the Company deliberately used the~~  
61 ~~legislative process to circumvent the Settlement Stipulation, in order to rebalance what~~  
62 ~~the Division believes is a significant provision,~~ the Division is recommending that any  
63 accrued interest on the unrecovered mine investment be disallowed.

64 **Q: DID THE COMPANY ~~SEEK SUPPORT~~ THE ELIMINATION OF THE SHARING BAND DURING**  
65 **THE PILOT PROGRAM?**

66 A: Yes, in the Division's view, the Company ~~sought or~~ supported elimination of the sharing  
67 band prior to the end of the pilot in two significant ways. First, the EBA pilot program  
68 was originally designed to run through December 2015. However, in the stipulation  
69 settling the general rate case in Docket No. 13-035-184 dated June 25, 2014, which was  
70 approved by the Commission, Rocky Mountain Power and the other parties agreed to a

71 one year extension of the EBA pilot program.<sup>3</sup> As part of the final stages of the pilot,  
72 the Division is obligated to provide a final report including recommendations as to  
73 whether the pilot should continue as is or with changes, or be eliminated. By seeking to  
74 eliminate the sharing band commencing January 2017, the Company in effect potentially  
75 forestalled the Division's (and any other party's) ability to address and make  
76 recommendations going forward on an important and controversial component of the  
77 EBA. For example, if the Bill had passed as originally proposed, and a party sought to  
78 again extend the pilot say through 2017, arguably the extension could only go forward  
79 under 100% recovery.

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

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

<sup>4</sup> 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>.

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

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

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

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

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

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

116 A: Prior to the closure of the Deer Creek mine, the investment was recovered through  
117 depreciation costs included in fuel costs. The Settlement Stipulation provided for  
118 deferred accounting treatment and continued recovery through the EBA of those  
119 investments at the same rate. If the unrecovered investment were removed from the  
120 EBA, ratepayers could potentially be adversely impacted either through the Company's  
121 one-time recovery of a significant amount, thus increasing ratepayer burden, or pay  
122 higher interest costs through a future recovery mechanism, again, increasing ratepayer  
123 burden. Additionally, postponing recovery to a future period would result in a mismatch  
124 of costs and benefits: current customers would benefit from the fuel cost savings but  
125 future ratepayers would pay for recovery of the investment. This sort of mismatch is  
126 generally referred to as intergeneration inequity.

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

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

138 ~~The Company's actions in this matter erodes the Division's confidence that equitable~~  
139 ~~results can be achieved and maintained through the regulatory, and in particular any~~  
140 ~~settlement, process. The elimination of the sharing band undermines the sanctity of the~~  
141 ~~regulatory process and causes the Division to reconsider its willingness to enter in~~

142 ~~settlement agreements with the Company, especially settlements that include multi-~~  
143 ~~year provisions. Whether intentional or not, the Company's violation of the Settlement~~  
144 ~~Stipulation damages the trust necessary for cooperative efforts, such as~~  
145 ~~settlements. The elimination of the sharing band prior to the end of the pilot program,~~  
146 ~~undoes, in the Division's view, the balance achieved in Paragraph 17 of the Settlement~~  
147 ~~Stipulation. Eliminating or disallowing recovery of the interest on that portion of the~~  
148 ~~Deer Creek investment flowing through the EBA serves to help rebalance the provisions~~  
149 ~~of Paragraph 17.~~

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

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

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

163 A: Yes it does.