

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 3.0 Revised DIR

Revised Direct Testimony

Artie Powell, PhD

Division of Public Utilities

September 28, 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 final version of SB115 (Bill), which was passed in the
53 recently concluded legislative session, is inconsistent with the Company's obligations
54 under the terms and conditions of the Settlement Stipulation. In particular, the Bill's
55 provision that eliminates the sharing band (See Utah Code Annotated § 54-7(2)(d))
56 commencing June 1, 2016, when the pilot program was scheduled to run through
57 December 2016, is inconsistent with the Company's agreement to not seek changes or
58 elimination of the sharing band during the pilot period. Although the Division is not
59 asserting that the Company deliberately used the legislative process to circumvent the
60 Settlement Stipulation, in order to rebalance what the Division believes is a significant
61 provision, the Division is recommending that any accrued interest on the unrecovered
62 mine investment be disallowed.

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

65 A: Yes, in the Division's view, the Company supported elimination of the sharing band prior
66 to the end of the pilot in two significant ways. First, the EBA pilot program was
67 originally designed to run through December 2015. However, in the stipulation settling
68 the general rate case in Docket No. 13-035-184 dated June 25, 2014, which was
69 approved by the Commission, Rocky Mountain Power and the other parties agreed to a
70 one year extension of the EBA pilot program.³ As part of the final stages of the pilot,

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

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

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

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

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

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

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

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

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

115 A: Prior to the closure of the Deer Creek mine, the investment was recovered through
116 depreciation costs included in fuel costs. The Settlement Stipulation provided for
117 deferred accounting treatment and continued recovery through the EBA of those

118 investments at the same rate. If the unrecovered investment were removed from the
119 EBA, ratepayers could potentially be adversely impacted either through the Company's
120 one-time recovery of a significant amount, thus increasing ratepayer burden, or pay
121 higher interest costs through a future recovery mechanism, again, increasing ratepayer
122 burden. Additionally, postponing recovery to a future period would result in a mismatch
123 of costs and benefits: current customers would benefit from the fuel cost savings but
124 future ratepayers would pay for recovery of the investment. This sort of mismatch is
125 generally referred to as intergeneration inequity.

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

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

137 The elimination of the sharing band prior to the end of the pilot program, undoes, in the
138 Division's view, the balance achieved in Paragraph 17 of the Settlement Stipulation.
139 Eliminating or disallowing recovery of the interest on that portion of the Deer Creek
140 investment flowing through the EBA serves to help rebalance the provisions of
141 Paragraph 17.

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

143 A: The Division recommends that the Commission disallow the interest on that amount in
144 this case, Docket No. 15-035-01, and in future cases where unrecovered mine
145 investment appears in the EBA. Additionally, the Division recommends that the
146 Company not be allowed to collect interest on the unrecovered investment over the
147 amortization period of the EBA, November 1, 2016, through October 31, 2017, or a
148 future amortization period where unrecovered investment is being amortized. The
149 Division does not recommend any change to the treatment of the coal fuel savings but
150 voices its disappointment in the Company's actions in this matter.

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

152 A: Yes it does.