

**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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<b>In the Matter of the</b>	)	
<b>Voluntary Request of Rocky</b>	)	<b>DOCKET NO. 17-035-39</b>
<b>Mountain Power for</b>	)	<b>Exhibit No. DPU 4.0 SR</b>
<b>Approval of Resource</b>	)	
<b>Decision to Repower Wind</b>	)	<b>Surrebuttal Testimony of</b>
<b>Facilities</b>	)	<b>Charles E. Peterson</b>
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**THE DIVISION OF PUBLIC UTILITIES  
DEPARTMENT OF COMMERCE  
STATE OF UTAH**

**Surrebuttal Testimony of**

**Charles E. Peterson**

**November 15, 2017**

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**Surrebuttal Testimony of Charles E. Peterson**

**I. INTRODUCTION**

**Q. Please state your name, business address and title.**

A. My name is Charles E. Peterson. My business address is 160 East 300 South, Salt Lake City, Utah 84114. I am a Technical Consultant in the Utah Division of Public Utilities (Division, or DPU).

**Q. On whose behalf are you testifying?**

A. The Division.

**Q. Did you file direct testimony in this docket?**

A. Yes. I filed direct testimony as DPU Exhibit 4.0 D along with supporting exhibits.

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

A. I will reply to certain comments related to my direct testimony made by Company witness Mr. Jeffrey K. Larsen in rebuttal testimony filed by the Company on October 19, 2017. I will also briefly comment regarding the Company's financial capacity based upon the updated capital expenditures for the repowering projects also found in Mr. Larsen's rebuttal testimony.

24 **II. FINANCIAL CAPACITY**  
25

26 **Q. What changes were made to the Company’s estimated capital investment for the**  
27 **repowering projects?**

28 A. As set forth in Mr. Larsen’s rebuttal exhibit JKL-3R, capital investment declined about \$50  
29 million to \$1.090 billion through the end of 2022. The comparable exhibit from his direct  
30 testimony is JKL-2, which showed a total capital investment of \$1.14 billion for the same  
31 period.

32

33 **Q. What are the implications for the Company’s ability to fund the repowering projects?**

34 A. If the repowering projects cost less than originally forecast, the Company’s ability to finance  
35 those projects will be increased slightly. Since I concluded in my direct testimony that the  
36 Company likely could readily finance the original, higher amount, I believe that it can also  
37 fund the lesser amount.

38

39 **III. PRECEDENCE FOR RECOVERY OF EQUIPMENT**  
40 **REMOVED FROM SERVICE**

41

42

43 **Q. Mr. Larsen objects to your suggestion that “[g]iven the risks that the project’s**

44 **economic benefits might not materialize, the Commission may wish to condition all or**

45 **part of the recovery for the legacy plant on ratepayer benefits.”<sup>1</sup> Do you have any**

46 **comments on Mr. Larsen’s objections?**

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<sup>1</sup> Direct Testimony of Charles E. Peterson, page 8, lines 161-162.

47 A. Yes. A key phrase in my recommendation was not quoted and given short shrift by Mr.  
48 Larsen: “given the risks that the project’s economic benefits might not materialize....” Of  
49 course, he argues that the Company should be given full recovery of the legacy equipment.  
50 Part of his argument is that Commission precedent is to give full recovery to legacy  
51 equipment and cites the Powerdale facility decommissioning and closure, the Carbon coal-  
52 fired generation plant closure, and the Deer Creek Mine closure as precedential.

53

54 **Q. What were the basic facts of those three cases Mr. Larsen cites as precedential?**

55 A. Two of the three cases involved settlements, which by their terms are non-precedential.<sup>2</sup> The  
56 other case involved the Powerdale plant, a small hydro facility in Oregon that was seriously  
57 damaged during a flood in November 2006. The Company determined that it was better to  
58 close and remove the plant rather than try to repair and operate it for a brief time as the plant  
59 was set for closure in 2010 anyway. In Docket No. 07-035-14, the Commission agreed to  
60 establish a regulatory asset for Powerdale and recover the remaining costs over three years.<sup>3</sup>

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<sup>2</sup> In addition to the factual differences, the Company’s arguments based on the precedential value of the Carbon and Deer Creek deferred accounting treatments as applicable to this case are inconsistent with the terms agreed to in the respective settlement stipulations. The Carbon Settlement Stipulation in Docket No 11-035-200 (and Docket No. 12-035-79) states in paragraph 67 that “neither the execution of this Stipulation nor the order adopting it shall be deemed to constitute an admission or acknowledgment by any Party of the validity or invalidity of any principle or practice of regulatory accounting or ratemaking... nor shall they be introduced or used as evidence for any other purpose in a future proceeding by any Party except in a proceeding to enforce this Stipulation.” Similarly, the Settlement Stipulation in Docket No. 14-035-147 states in paragraph 26 that “no part of this Stipulation or the formula and methodologies used in developing the same or a Commission order approving the same shall in any manner be argued or considered as precedential in any future case except with regard to issues expressly called-out and resolved by this Stipulation.”

<sup>3</sup> Report and Order, January 3, 2008, Docket No. 07-035-14, page 18.

62 The other two non-precedential cases involved the Carbon plant and the Deer Creek Mine.  
63 The early closure of the Carbon plant was scheduled for April 2015, compared to its expected  
64 life through about 2020. The original docket was Docket No. 12-035-79, but the Carbon  
65 plant was rolled into the settlement stipulation in the general rate case Docket No. 11-035-  
66 200. A regulatory asset was set up for the Carbon plant, which was allowed to amortize over  
67 the original remaining life of the plant, or roughly five and one-half years.<sup>4</sup> Finally, the Deer  
68 Creek Mine closure matter was also stipulated to by the parties and approved by the  
69 Commission in Docket No. 14-035-147. Amortization of various amounts were set to begin  
70 on either January 1, 2015 or June 1, 2015 and to continue through the end of the original  
71 expected life of the mine, or by the end of 2019—a roughly five-year period.<sup>5</sup>

72  
73 Phillips, who was cited in my direct testimony, gives examples of recovery over four to five  
74 years. Specifically, he cites Federal Communications Commission decisions to allow  
75 telephone companies to amortized obsolete equipment over four to five years at the advent of  
76 competition in the telecommunications industry.<sup>6</sup>

77  
78 **Q. If the Commission in a specific case has approved recovery of assets removed from**  
79 **service, do you believe that should be precedential in this matter?**

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<sup>4</sup> Report and Order, September 19, 2012, Docket No. 11-035-200 (and Docket No. 12-035-79), page 15; and Attachment (Stipulation) paragraphs 46-50.

<sup>5</sup> Report and Order Memorializing Bench Ruling, Docket No. 14-035-147, pages 4-5, and Attachment 1 (Stipulation) paragraphs 13-15.

<sup>6</sup> Phillips, Charles F., Jr., “The Regulation of Public Utilities,” Public Utilities Reports, Inc., Arlington, VA. 1993, page 276-277.

80 A. No. As stated above, while the Carbon plant and Deer Creek Mine facilities are amortized  
81 over approximately five years, the amortization periods resulted from non-precedential  
82 settlements. The Commission ordered that the Powerdale facility was to be amortized over  
83 only three years. Here, the Company is requesting recovery of the legacy assets over *thirty*  
84 years. This length of time is unprecedented.

85

86 In my view, to allow the recovery of assets that are not used and useful over a period of thirty  
87 years renders the concept of intergenerational equity to be essentially meaningless.

88

89 **Q. You mentioned earlier that Mr. Larsen did not give much consideration to the risks to**  
90 **ratepayers in his response to your direct testimony. Why are the risks borne by**  
91 **ratepayers an important consideration *vis à vis* the risks faced by the Company?**

92 A. The risks faced by ratepayers in the Company's proposed repowering are discussed at length  
93 by other witnesses for the Division. However, there is a point related to the legacy assets I  
94 will make here.

95

96 The Company is insisting that it be guaranteed the return of and a return on the legacy assets  
97 over a period of thirty years. And, of course, in addition to receiving recovery of the legacy  
98 assets, the Company will receive a return of and a return on the new repowering equipment.

99 This is part and parcel to the Company's financial engineering calculus to make the proposed  
100 projects work for the Company while offering the prospect of substantial PTC benefits to its  
101 ratepayers in order to entice regulators to approve the projects.

102

103 In an understatement, Mr. Larsen admits that “In any forecast of the future, it is unlikely that  
104 all assumptions will be completely accurate, especially when looking 30 years into the  
105 future.”<sup>7</sup> However, what the Company wants, and expects, is a guarantee from ratepayers.  
106 Ratepayers, in return, accept the risk that the benefits will materialize in that 30 year forecast  
107 made by the Company. This imbalance of reward to the Company compared to the risks  
108 assumed by ratepayers under the Company’s proposal was the point of concern when I stated  
109 in my direct testimony that “Given the risks that the project’s economic benefits might not  
110 materialize, the Commission may wish to condition all or part of the recovery for the legacy  
111 plant on ratepayer benefits.” I continue to recommend that the Commission give  
112 consideration to the imbalance between risk and reward between the Company and its  
113 ratepayers if it decides to approve the repowering projects.

114

#### 115 **IV. INTERGENERATION EQUITY**

116

117

118 **Q. Earlier, you mentioned intergenerational equity. What specifically does Mr. Larsen say**  
119 **regarding this concept?**

120 A. I will briefly summarize my understanding of the points Mr. Larsen makes. First, he argues  
121 that future ratepayers who join the system after the end of the PTC benefit, will still receive  
122 benefits from the repowering due to the increased capacity of the repowered facilities and the  
123 likely extended life of those facilities over the currently existing equipment. But, to his  
124 credit, he admits that after 2028 customers will not receive a benefit “commensurate with the

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<sup>7</sup> Rebuttal Testimony of Jeffrey K. Larson, page 6, lines 120-121.



125 costs of the project to be borne by customers....”<sup>8</sup> Nevertheless, as he states, “. . .the fact is  
126 that customers will receive *some* NPC benefit stemming from the replacement of the legacy  
127 equipment in every year of the repowered projects’ lives [italics in original].”<sup>9</sup>

128  
129 Next, Mr. Larsen suggests that “While that benefit may not exceed the associated costs in a  
130 given year, few regulators would suggest that a project may go forward only if it will  
131 produce benefits in excess of costs every single year of a decades-long life.”<sup>10</sup>

132  
133 Finally, Mr. Larsen argues that it does not matter that there is an exact match between costs  
134 and values borne by future ratepayers because “[t]here will always be some fluctuation in the  
135 exact alignment of costs and benefits.”<sup>11</sup>

136

137 **Q. What did Mr. Larsen say regarding your suggested remedies for the intergeneration**  
138 **equity issue?**

139 A. Mr. Larsen indicates that the Company could support either of my proposals, “contingent  
140 upon the lifting of the RTM cap, however, as the number of years in which the RTM would  
141 produce a net cost to customers would certainly rise.”<sup>12</sup>

142

143 **Q. Do you have a comment on the Company’s contingent support for your proposals to**  
144 **resolve the intergenerational equity issue?**

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<sup>8</sup> Ibid., lines 348-351.

<sup>9</sup> Ibid., lines 356-357.

<sup>10</sup> Ibid., lines 358-360.

<sup>11</sup> Ibid., line 370.

<sup>12</sup> Ibid., line 389.

145 A. Yes. I did not believe that the Company would willingly absorb the increased costs in order  
146 to keep ratepayers' net benefits intact. Nor, do I believe it should. But that is the point of the  
147 exercise: if the intergenerational issue is meaningfully resolved, then the net benefits of the  
148 Company's proposed repowering projects to ratepayers are significantly reduced, and  
149 possibly eliminated.

150

151 **Q. Do you have any comments regarding Mr. Larsen's other statements on the**  
152 **intergeneration equity?**

153 A. Yes. I agree that, under the Company's forecast, ratepayers likely will receive *some* benefit  
154 from the repowering projects every year of that forecast. Mr. Larsen clearly downplays the  
155 risks entailed in any thirty-year forecast. The Company's proposal is designed to place most,  
156 if not all of the forecast risk onto ratepayers. Significantly too, Mr. Larsen downplays the fact  
157 that future ratepayers after 2028 are unlikely to receive any net benefits from the proposed  
158 projects by essentially saying a twenty year imbalance is acceptable because "[t]here will  
159 always be some fluctuation in the exact alignment of costs and benefits." I believe this is  
160 more than some minor, immaterial "fluctuation."

161

## 162 **V. CONCLUSIONS AND RECOMMENDATIONS**

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165 **Q. What are your conclusions?**

166 A. My conclusions are as follows:

- 167 • The Company continues to have the financial capacity to fund the repowering projects as  
168 modified in its rebuttal testimony.

- 169       • The Division agrees that the Company identified one case where the Commission  
170           allowed cost recovery of assets removed from service over a relatively short period of  
171           time, as a result of unexpected damage to the Powerdale facility that was near the end of  
172           its useful life; and two stipulations that have resulted in cost recovery of assets removed  
173           from service. The Company has failed to demonstrate that there is precedent for such  
174           recovery over thirty years, or anything close to thirty years.
- 175       • Allowing cost recovery for property that is not used and useful for thirty years renders the  
176           concept of intergenerational equity nearly meaningless. This is most especially true when  
177           there is virtually no alignment between costs and benefits over that period.
- 178       • The Company does not rebut that there would be a significant reduction and possibly the  
179           elimination of net benefits to current ratepayers if the intergeneration equity issue is  
180           meaningfully mitigated or resolved.

181

182   **Q. What are your recommendations?**

183   A. The following are my recommendations in surrebuttal:

- 184       • The Commission should be aware that it may set a precedent that may have unforeseen  
185           and possibly negative consequences if it allows a thirty year amortization of property and  
186           equipment that is removed from service.
- 187       • The Commission should be aware that any meaningful resolution of the intergenerational  
188           issue will likely result in the reduction or elimination of net benefits to current ratepayers.  
189           Concurrently, if the Commission approves<sup>13</sup> the Company's wind repowering proposal

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<sup>13</sup> As outlined in Dr. Zenger's testimony, the Division continues to recommend that the Commission not approve the Company's wind powering proposal.

190 without mitigating the intergenerational issue, it may set a precedent that reduces the  
191 concept of intergenerational equity to insignificance.

192

193 **Q. Does this conclude your surrebuttal testimony?**

194 A. Yes.