

September 19, 2018

VIA ELECTRONIC FILING

Utah Public Service Commission
Heber M. Wells Building, 4th Floor
160 East 300 South
Salt Lake City, UT 84114

Attention: Gary Widerburg
Commission Secretary

RE: **Docket No. 17-035-69—Investigation of Revenue Requirement Impacts of the New Federal Tax Legislation Titled: “An act to provide for reconciliation pursuant to titles II and V of the concurrent resolution of the budget for fiscal year 2018”**

In accordance with the Scheduling Order, Notice of Technical Conference, and Notice of Hearing issued by the Public Service Commission of Utah on June 25, 2018, in the above referenced docket, Rocky Mountain Power hereby submits its rebuttal testimony.

Rocky Mountain Power respectfully requests that all formal correspondence and requests for additional information regarding this filing be addressed to the following:

By E-mail (preferred): datarequest@pacificorp.com
utahdockets@pacificorp.com
Jana.saba@pacificorp.com
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By regular mail: Data Request Response Center
PacifiCorp
825 NE Multnomah, Suite 2000
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Informal inquiries may be directed to Jana Saba at (801) 220-2823.

Sincerely,



Joelle Steward
Vice President, Regulation

cc: Service List

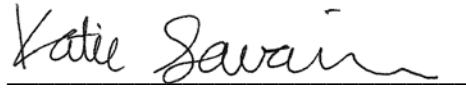
CERTIFICATE OF SERVICE

I hereby certify that on September 19, 2018, a true and correct copy of the foregoing was served by electronic mail and/or overnight delivery to the following:

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Katie Savarin
Coordinator, Regulatory Operations

REDACTED

Rocky Mountain Power

Docket No. 17-035-69

Witness: Nikki L. Kobliha

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF UTAH

ROCKY MOUNTAIN POWER

REDACTED

Rebuttal Testimony of Nikki L. Kobliha

September 2018

1 **Q. Are you the same Nikki L. Koblaha who submitted direct testimony in this**
2 **proceeding on behalf of PacifiCorp dba Rocky Mountain Power (the**
3 **“Company”)?**

4 A. Yes.

5 **Q. What is the purpose of your rebuttal testimony?**

6 A. My rebuttal testimony provides a summary of the Company’s proposal, which has
7 evolved from its original proposal, and responds to issues raised by Office of Consumer
8 Services witness Ms. Donna Ramas, Division of Public Utilities witness Mr. Lane
9 Mecham, Utah Association of Energy Users witness Mr. Kevin Higgins, and Utah
10 Industrial Energy Consumers witness Mr. Christopher Walters.

11 **Q. Please provide a summary of the Company’s proposal.**

12 A. The Company is proposing to modify the current annual rate reduction under Electric
13 Service Schedule No. 197 of \$61 million to \$33 million and use the remaining portion
14 of the benefits associated with the reduction in current taxes to buy down steam plant
15 balances leading up to the proposed effective date of the recently filed depreciation
16 study, January 1, 2021. The Company also proposes to defer the amortization of the
17 protected Excess Deferred Income Tax (“EDIT”) under the Average Rate Assumption
18 Method (“ARAM”) and the total balances of non-protected property and non-property
19 EDIT until the proposed effective date of the recently filed depreciation study, Docket
20 No. 18-035-36 (“Depreciation Study”), at which time the accumulated liability
21 balances will be amortized over a five-year period to offset the increase in depreciation
22 expense. The details of this proposal are described later in my testimony. The
23 Company’s proposal continues to provide customers the full revenue requirement

24 benefit of the Tax Reform Act until those benefits are reflected in rates in the next
25 general rate case.

26 **UPDATED COMPANY PROPOSAL**

27 **Q. Ms. Ramas notes revised recommendations might be warranted if credible**
28 **information regarding the upcoming depreciation study is provided and**
29 **demonstrates a substantial increase in customer rates. (Ramas Direct Testimony,**
30 **lines 588–593) Are you aware of the recently filed Depreciation Study?**

31 A. Yes. As Vice President, Chief Financial Officer and Treasurer, I am responsible for the
32 Company's corporate accounting departments and for ensuring compliance with the
33 Company's accounting policies and procedures. This includes periodic review and
34 study of depreciation rates. I also provide testimony in that proceeding.

35 **Q. Can you provide an estimate of the impacts of the Depreciation Study on a total**
36 **company and Utah-allocated basis?**

37 A. Yes. The Depreciation Study filed on September 11, 2018, proposes to increase the
38 current composite depreciation rate of 2.74 percent for the Company's electric utility
39 plant by 0.8 percent system-wide, resulting in a new composite depreciation rate of
40 3.54 percent. Applying the recommended depreciation rates to the projected
41 December 31, 2020 depreciable plant balances increases total Company annual
42 depreciation expense by approximately \$228.1 million, compared with the level of
43 annual depreciation expense developed by application of the currently authorized
44 depreciation rates to the same plant balances.

45 Adoption of the proposed depreciation rates increases annual Utah depreciation
46 expense by approximately \$128.1 million, or approximately 8 percent, based on

47 projected December 31, 2020 depreciable plant balances, including the elimination of
48 the current excess reserve amortizations.

49 **Q. Does the amount of the impact change the Company's position on the level of**
50 **refund associated with the Federal Tax Reform Act to be provided to customers**
51 **now?**

52 A. Yes. The Company has advocated for gradualism and rate stability since the inception
53 of this docket. From the beginning, the Company was concerned about a substantial
54 increase in depreciation rates given the significant level of investment in terminal lived
55 assets in between depreciation studies. Now that the magnitude of the increase is
56 known, the Company proposes to use the majority of the tax reform liability to mitigate
57 the impact to customers. Specifically, the Company proposes the following:

- 58 • Revise the current reduction in rates through Schedule 197 from \$61
59 million to \$33 million, beginning January 1, 2019. This provides an on-
60 going reduction in rates of 1.7 percent for customers. In addition to the
61 \$4.9 million being deferred from 2018 for current tax savings (which
62 the Company has calculated at \$65.9 million per year), this would add
63 \$70.9 million to the regulatory liability account for 2019 and 2020. The
64 Company would use this amount to buy-down the steam plant balances
65 in both 2019 and 2020 prior to implementing the new depreciation rates
66 January 1, 2021.
- 67 • Continue to defer the amortization of the protected property ARAM, and
68 the non-protected property and non-property related EDIT for 2018

69 through 2020. The Company would begin amortizing this regulatory
70 liability January 1, 2021, over five years.

71 **Q. Is there a concern that changing the level of refund now would disrupt rate**
72 **stability?**

73 A. The Company recognizes reducing the amount of the credit now would result in an
74 effective increase in customer rates. The Company considered the reduction under
75 Electric Service Schedule No. 197, implemented May 1, 2018, to be an interim measure
76 while tax benefit estimates were being refined and while the depreciation study was
77 being finalized. At this time, the Company believes reducing the level of this interim
78 refund in consideration for a longer term rate stability strategy is in the best interest of
79 customers.

80 Alternatively, the Commission could defer new action to modify its previously-
81 ordered reduction in rates until the Depreciation Study concludes in 2019, at which
82 point the full impact on rates from the Depreciation Study will be known. The Company
83 would continue to defer the incremental benefits for customers.

84 **Q. How does the Company's proposal benefit customers?**

85 A. The Company has estimated Utah customers' share of the non-protected property and
86 non-property related EDIT to be approximately \$169.1 million, on a grossed-up basis.¹
87 In addition, the protected property ARAM amortization for 2018 through 2020 is
88 approximately \$63.3 million, on a grossed-up basis.² Amortizing the total of these two

¹ Non-grossed up non-protected property of \$104,934,000 and non-protected non-property of \$22,561,000 were provided as part of the Direct Testimony of Steven R. McDougal – Replacement Page on August 2, 2018. Grossed up at the Company's statutory tax rate of 24.5866% the total is \$169,060,920.

² OSC Data Request 5.4 provides the non-grossed up amounts of \$13,971,848 for 2018, \$18,307,209 for 2019 and \$15,513,411 for 2020. Grossed up at the Company's statutory tax rate of 24.5866% the total is \$63,373,768.

89 balances over five years beginning January 1, 2021 would annually offset \$46.5 million
90 of the estimated depreciation expense increase during those five years. Combined with
91 using \$70.9 million of the current tax benefits proposed to buy down steam plant
92 balances, the annual impact of the filed depreciation study could be reduced by \$55.7
93 million, or 43.5 percent of the estimated increase, which materially mitigates the impact
94 of the Depreciation Study. This deferral supports the gradualism and rate stability
95 concept through not decreasing rates today only to turn around in 2021 and ask for the
96 funds back to pay for incremental depreciation expense associated with property, plant
97 and equipment investments the Company incurred in order to provide safe, reliable
98 energy to its customers.

99 **CREDIT RATINGS**

100 **Q. Please summarize the parties' response to your concerns related to the Company's**
101 **credit ratings.**

102 A. Mr. Mecham, Ms. Ramas, Mr. Higgins, and Mr. Walters each address the concerns I
103 raise in this docket, most recently in my direct testimony, related to the impact of
104 returning the tax impacts too quickly to customers. Overall, they claim that the
105 Company's concerns are overstated, providing various support for their arguments.
106 Another argument they present to remedy cash ratio concerns is that the Company
107 should manage the credit metrics by reducing or eliminating the Company's capital
108 spending and/or dividend payments. I respond to both of these arguments.

109 **Q. Mr. Mecham notes in his testimony that despite the benefits to customers of a**
110 **favorable credit rating, the Company is not guaranteed a specific credit rating,**
111 **and it would be inappropriate to try to do so. (Mecham Direct Testimony, lines**
112 **147–149) Do you agree with that statement?**

113 A. I agree that a specific credit rating should not, and cannot, be guaranteed by the
114 Commission. However, as Mr. Mecham notes “a favorable credit rating is beneficial to
115 ratepayers through lower borrowing costs.”³ The Company makes a concerted effort to
116 keep customer rates low and stable. Maintenance of a strong credit rating plays a key
117 role in this effort when the Company needs to issue debt in the capital markets.

118 **Q. Mr. Mecham, Mr. Higgins, and Mr. Walters each note that Moody’s takes into**
119 **consideration other factors besides the cash flow when determining the**
120 **Company’s rating. (Mecham Direct Testimony, lines 144–146) (Higgins Direct**
121 **Testimony, pages 9–10) (Walters Direct Testimony, lines 311–327) Do you agree**
122 **that other factors are considered?**

123 A. Yes. As evidenced in Exhibit RMP___(NLK-1), page 7, Moody’s uses a four factor
124 grid for evaluating the Company. This grid includes both quantitative and qualitative
125 factors. The Cash Flow from Operations Pre-Working Capital to Debt ratio (“CFO pre-
126 W/C/D”) is one of the specific quantitative factors that the Company can measure and
127 to some extent control through various actions it can take. Moody’s specifically notes,
128 “The ratings could be downgraded if PacifiCorp’s capital expenditures are funded in a
129 manner inconsistent with its current financial profile, or if adverse regulatory rulings
130 lower its credit metrics, as demonstrated for example by a ratio of CFO pre-W/C/Debt

³ Direct Testimony of Lane Mecham, lines 131–132.

131 sustained below 20 percent.”⁴ Given that Moody’s specifically identifies falling below
132 the CFO pre-W/C/D metric as a potential cause for a downgrade the Company strives
133 to keep the metric above the minimum stated level at all times rather than risk a
134 downgrade that would raise borrowing costs and customer rates.

135 **Q. Please summarize the parties’ statements regarding the Company’s dividend**
136 **declaration.**

137 A. Mr. Mecham suggests the Company’s recent dividend declaration indicates the tax
138 reform testimony overstates the concern regarding a potential credit downgrade.
139 (Mecham Direct Testimony, lines 145–146.) Ms. Ramas states that a longer
140 amortization of non-protected property related EDIT could be allowed if the Company
141 can demonstrate that its credit ratings were at risk after taking reasonable efforts to
142 mitigate the risk, including reductions to dividend payments. (Ramas Direct Testimony,
143 lines 536–539). Mr. Higgins briefly mentions that the Company could reduce dividend
144 payments as one of the tools to manage the risk of a credit downgrade. (Higgins Direct
145 Testimony, page 13).

146 **Q. How do you respond?**

147 A. Reducing dividends does not improve the CFO pre-W/C/D ratio unless (1) debt is
148 reduced or (2) the Company is provided its authorized return on what would be an
149 equity component of the capital structure greater than current levels approved in rates.
150 Reducing dividends and either holding the cash or using the cash to provide additional
151 refunds to customers does not change the CFO pre-W/C/D ratio as neither of those
152 activities are part of the calculation. The Company has demonstrated under several

⁴ Moody’s Investor Service Credit Opinion, June 22, 2018, page 1.

153 scenarios that the CFO pre-W/C/D metric is [REDACTED]
154 [REDACTED]. While not the only factor used by Moody's to evaluate the Company, it is
155 a key factor as previously noted. The Company has enough cash to fund near-term
156 operations such that not paying the September 2018 dividend would have resulted in
157 additional cash in the bank at the end of 2018 rather than reduced levels of debt,
158 therefore not impacting the 2018 metrics.

159 The Company is forecasting one additional dividend payment to Berkshire
160 Hathaway Energy before year end of [REDACTED]. If this dividend were eliminated it is
161 reasonably possible the Company's forecast long-term debt issuance in early 2019
162 could be reduced by an equivalent [REDACTED]. Such a reduction in the early 2019 long-
163 term debt issuance is influenced by many factors including dividend payments,
164 maturing long-term debt, timing of capital expenditures, and customer receipts from
165 winter utility bills. A favorable cash position when considering all these factors that
166 enables [REDACTED] in the Company's forecast long-term debt issuance
167 would [REDACTED]
168 [REDACTED]
169 [REDACTED]. This level of improvement would [REDACTED]
170 [REDACTED]. In addition, as noted in my
171 direct testimony, cash dividends are paid to Berkshire Hathaway Energy as a means to
172 manage the Company's common equity component of the capital structure, targeting
173 the common equity percentage approved in customer rates. Not paying the forecast [REDACTED]

⁵ Impacts to metrics were estimated using the Credit Metrics Estimate Scenario model was provided to parties as part of data response UIEC 12.2.

174 [REDACTED] dividend and reducing the Company's forecast long-term debt issuance would
 175 cause the percentage of common equity to grow beyond levels approved in rates.

176 **Q. Please summarize Mr. Higgins' testimony with regards to the Company's credit**
 177 **metrics.**

178 A. Mr. Higgins states in his testimony that he believes it is possible for the Company to
 179 maintain an FFO/Debt ratio of 20 percent or higher even under the assumption of a
 180 cash refund greater than \$61 million. To support this statement, Mr. Higgins presents
 181 his own calculations, estimating that under his proposal for current taxes, 2018 current
 182 tax deferral amortization, and EDIT amortization, would result in an annual FFO/Debt
 183 ratio of [REDACTED] percent for 2018, [REDACTED] percent in 2019, and [REDACTED] percent in 2020. He
 184 calculated the resulting historical three-year average FFO/Debt ratio to be [REDACTED]
 185 percent in 2018, [REDACTED] percent in 2019, and [REDACTED] percent in 2020. (Higgins Direct
 186 Testimony, pages 13–14).

187 **Q. Do you agree with his calculations?**

188 A. The Company is unable to recreate the FFO/Debt ratios calculated by Mr. Higgins.
 189 Using the model the Company provided as part of UIEC 12.2, the Company estimates
 190 Mr. Higgins proposal would result in an annual FFO/Debt ratio of [REDACTED] percent for
 191 2018 (no change), [REDACTED] percent in 2019 and [REDACTED] percent in 2020. The resulting
 192 historical three-year average FFO/Debt ratios would be [REDACTED] percent in 2018 (no
 193 change), [REDACTED] percent in 2019 and [REDACTED] percent in 2020. These resulting metrics are
 194 [REDACTED] as Mr. Higgins reports. As previously indicated, the
 195 Company strives to maintain a FFO/Debt ratio above Moody's stated minimum at all

196 times in an effort to maintain its credit rating, keeping borrowing costs and customer
197 rates low.

198 **Q. Mr. Higgins references CFO Pre-W/C/D metrics provided as part of an April 2018**
199 **confidential presentation to Moody's by Berkshire Hathaway Energy. (Higgins**
200 **Direct Testimony, page 12). Can you clarify the assumption used in that**
201 **presentation which resulted in forecast CFO Pre-W/C/D metrics above the 20.0**
202 **percent target in years 2018 through 2022?**

203 A. Yes. The metrics presented to Moody's assumed the Company would refund 25 percent
204 of the current tax benefits to customers through a rate reduction and defer the remaining
205 benefits to offset future cost pressures. This is consistent with the Company's initial
206 proposal in this docket. The Company has provided various scenarios, the most recent
207 being the Company's third supplemental response to data request DPU 1.2, which
208 estimates a lower CFO Pre-W/C/D metric as more cash is refunded to customers.

209 **Q. Mr. Walters claims the two primary causes for Moody's change in the short-term**
210 **outlook are not a major threat to the Company. (Walters Direct Testimony, lines**
211 **181–183). Do you agree with this statement?**

212 A. Mr. Walters cites the two primary causes of Moody's change in the short-term outlook:
213 1) higher holding company debt levels and 2) lower deferred tax contributions to cash
214 flow. I agree that the higher holding company debt levels is not applicable to the
215 Company since the Company is the utility operating unit and not the holding company.
216 I disagree with the conclusion that the Company is not experiencing lower deferred tax
217 contributions to cash flow. As specifically noted in Moody's Rating Action on the
218 regulated utility sector, which was provided as attachment data request UIEC 8.2-1 1st

219 supplemental, “The combination of the loss of bonus depreciation and a lower tax rate
220 as a result of the Tax Cuts & Jobs Act (TCJA) means that utilities and their holding
221 companies will lose some of the cash flow contribution from deferred taxes.”⁶ This
222 statement is true for the Company. The CFO pre-W/C/D metrics provided as part of the
223 Company’s third supplemental response to DPU 1.2 contemplate this lower cash flow
224 contribution from deferred taxes resulting in metrics not meeting Moody’s minimum
225 thresholds.

226 **Q. Does this conclude your rebuttal testimony?**

227 **A. Yes.**

⁶ Moody’s Investor Service, “Outlook: Regulated Utilities,” June 18, 2018.

Rocky Mountain Power
Docket No. 17-035-69
Witness: Steven R. McDougal

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF UTAH

ROCKY MOUNTAIN POWER

Rebuttal Testimony of Steven R. McDougal

September 2018

1 **Q. Are you the same Steven R. McDougal who submitted direct testimony in this**
2 **proceeding on behalf of PacifiCorp dba Rocky Mountain Power (the**
3 **“Company”)?**

4 A. Yes.

5 **PURPOSE OF TESTIMONY**

6 **Q. What is the purpose of your rebuttal testimony?**

7 A. I support the Company’s position on the accounting treatment of the Tax Reform Act.

8 **Q. Does any party challenge the Company’s calculation of the tax benefit?**

9 A. No. Parties have accepted the Company’s approach to the calculation of the tax
10 benefits. The two issues addressed by parties are whether the property-related Excess
11 Deferred Income Tax (“EDIT”) under the Average Rate Assumption Method
12 (“ARAM”) should be trued up to actuals until the next general rate case, and the timing
13 over which the tax benefits should be credited to customers until the next general rate
14 case.

15 **REGULATORY LIABILITY**

16 **Q. Intervening parties have recommended the Company provide customers a refund**
17 **for the entire current tax amount of \$65.9 million beginning in 2019. Do you agree?**

18 A. As described in the rebuttal testimony of Company witness Ms. Nikki Kobliha, the
19 Company agrees that customers should receive the full refund of the revenue
20 requirement savings associated with the Tax Reform Act; however, the Company does
21 not agree with the timing proposed by intervening parties in this docket. The Company
22 filed the 2018 Depreciation Study with the Commission on September 11, 2018 that
23 showed a Utah-allocated increase of \$128.1 million associated with depreciation

24 expense. Some of this future increase could be offset by establishing a regulatory
25 liability from the benefits of the Tax Reform Act. Providing customers an immediate
26 rate reduction only to face rate pressure in the near future does not align with sound
27 ratemaking principles. The Company's proposed ratemaking treatment, as further
28 described by Company witness Ms. Koblaha, provides accounting treatment that offers
29 a reasonable balance between immediate customer benefits of the Tax Reform Act and
30 rate stabilization.

31 **Q. Please summarize the parties' recommendations on the treatment of the \$4.9**
32 **million benefit that will be deferred during calendar year 2018 as a result of the**
33 **difference between the current tax amount of \$65.9 million and the amount**
34 **currently reflected in rates of \$61.0 million.**

35 A. Division of Public Utilities witness Mr. Lane Mecham and Utah Association of Energy
36 Users witness Mr. Kevin Higgins both propose to amortize this balance back to
37 customers beginning in 2019 using a one year and three year amortization period,
38 respectively. (Mecham Direct Testimony, lines 91-92; Higgins Direct Testimony,
39 page 14.) Office of Consumer Services witness Ms. Donna Ramas agrees with the
40 Company's proposed regulatory treatment of deferring the \$4.9 million into a
41 regulatory liability until the next general rate case. (Ramas Direct Testimony,
42 lines 48-56.)

43 **Q. Do you have any concerns with Mr. Mecham's or Mr. Higgins' proposals?**

44 A. Yes. The Company has identified known customer cost pressures that are in the near
45 term. Further reducing customer rates only to increase them shortly thereafter does not
46 provide customers with rate stability.

47 **Q. What is the Company's proposal related to property and non-property EDIT?**

48 A. The Company proposes to defer the 2018 estimated property-related EDIT
49 amortization using the ARAM method of \$20.5 million, or \$26.4 million revenue
50 requirement, to a regulatory liability. Ms. Ramas proposes the Company track and defer
51 actual annual ARAM amortization amounts for any future amounts until the next
52 general rate case. (Ramas Direct Testimony, lines 359-362.) The Company is not
53 opposed to this proposal as further discussed by Company witness Mr. Ryan Fuller. I
54 continue to support the Company's position to defer all non-property related EDIT
55 balances to a regulatory liability until the next general rate case to allow flexibility to
56 offset the increases to depreciation expense reflected in the recently filed Depreciation
57 Study, as explained by Ms. Koblaha.

58 **Q. If the Company were to give back EDIT balances sooner, as proposed by some**
59 **parties, how would that impact revenue requirement?**

60 A. If the Company were to return the benefits associated with the amortization of EDIT
61 sooner than proposed by the Company there would need to be an offset to rate base.
62 The impact for any amortization of non-property related EDIT would increase rate
63 base. The revenue requirement calculation would need to include the impact of federal
64 and state taxes and any impact to rate base.

65 **OTHER ISSUES**

66 **Q. Please address the parties' intergenerational equity concerns with the Company's**
67 **approach.**

68 A. Intergenerational equity is an important regulatory principle to consider when setting
69 rates; however, it must be weighed in the context of the total landscape known at the

70 time. In this case, due the magnitude and corresponding rate pressure of the
71 Depreciation Study, the Company believes the intergenerational equity issue should be
72 balanced with the principles of rate stability and gradualism. In addition, there are
73 similar intergenerational equity issues with both depreciation and taxes. Offsetting the
74 two may help to reduce, not increase, the intergenerational equity concerns.

75 **Q. How does Mr. Higgins respond to the Company's proposal to use the tax benefit**
76 **regulatory liability to offset Commission-approved regulatory assets and possible**
77 **future rate increases?**

78 A. Mr. Higgins argues against establishing a pre-determined process by which the
79 Company could request approval to use the regulatory liability funds to offset future
80 rate increases. Although he recognizes that the Company is free to make a filing, he
81 feels it might set an expectation that would not otherwise exist. (Higgins Direct
82 Testimony, pages 20-21.)

83 **Q. Does the Company agree that establishing a process slants the expected outcome**
84 **of the process in any way?**

85 A. No. The Company proposed the two-step process for transparency as to the way the
86 Company would request the use of the funds, not to set an expectation of the outcome
87 of the proceeding. The regulatory process is no different than what the Company is
88 already able to use. As explained in Ms. Koblaha's rebuttal testimony, the Company has
89 revised its proposal and is identifying specific treatment for the regulatory liability.

90 **Q. Does this conclude your rebuttal testimony?**

91 A. Yes.

Rocky Mountain Power
Docket No. 17-035-69
Witness: Ryan Fuller

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF UTAH

ROCKY MOUNTAIN POWER

Rebuttal Testimony of Ryan Fuller

September 2018

1 **Q. Please state your name, business address, and current position with Rocky**
2 **Mountain Power (the “Company”), a division of PacifiCorp.**

3 A. My name is Ryan Fuller. My business address is 825 NE Multnomah St., Suite 1900,
4 Portland, OR 97232. My title is Senior Director of Corporate Tax for the Company.

5 **QUALIFICATIONS**

6 **Q. Please describe your education and professional background.**

7 A. I graduated from the University of Idaho in 1997 with a Bachelor of Science Degree in
8 Accounting. Before joining the PacifiCorp tax department in 2003, I worked in public
9 accounting for six years, first with Talbot, Korvola and Warwick LLP and then for
10 PricewaterhouseCoopers LLP. From November 2016 through May 2018, I was
11 employed as a Tax Director for Avangrid Renewables.

12 **Q. What are your responsibilities as Senior Tax Director of Corporate Tax?**

13 A. I am responsible for the oversight of all tax department functions, including income
14 taxes and taxes other than income taxes.

15 **Q. Have you testified in previous regulatory proceedings?**

16 A. Yes. I have filed testimony in proceedings before the public utility commissions in
17 Utah, Idaho, Wyoming, California, Oregon and Washington.

18 **PURPOSE OF TESTIMONY**

19 **Q. Please describe the purpose of your testimony.**

20 A. I respond to concerns raised by parties about variability in the amortization of Excess
21 Deferred Income Tax (“EDIT”) under the Average Rate Assumption Method
22 (“ARAM”) and their proposals concerning variability in the context of the
23 normalization requirements of the Internal Revenue Code.

24 **Q. What is ARAM?**

25 A. ARAM is the method required by the Internal Revenue Code for amortizing the excess
26 in the reserve for deferred income taxes, created by the reduction to the corporate
27 income tax rate so that a public utility is treated as using a normalization method of
28 accounting. The method is required only for the purposes of amortizing the excess in
29 the reserve for deferred income taxes associated with differences between book and tax
30 depreciation method and life differences, often referred to as “protected” EDIT.

31 **Q. Why is it important for a public utility to be treated as using a normalization**
32 **method of accounting?**

33 A. If a public utility is treated as not using a normalized method of accounting, otherwise
34 known as a “normalization violation,” the penalties can negatively impact the utility,
35 including by losing accelerated methods of depreciation for income tax purposes and
36 increasing its tax liability for the amount by which the excess tax reserve is reduced
37 more rapidly than permitted under ARAM.

38 **Q. How does ARAM operate?**

39 A. An example of the mechanics of ARAM was provided on pages 5 and 6 of the
40 Comments of Rocky Mountain Power filed in this docket on February 7, 2018.
41 In Exhibit RMP___(RF-1), I provide an Excel workbook, with formulas intact, that
42 expands this example with additional accounting entries and explanations of the
43 formulas and mechanics.

44 **Q. What does your expanded example of ARAM provided in Exhibit RMP___(RF-**
45 **1) demonstrate?**

46 A. This example demonstrates that: (1) a reserve for EDIT is established for regulatory

47 purposes in the year of enactment of the lower tax rate, (2) under ARAM, amortization
48 of the reserve for EDIT begins in the year the timing difference for the property begins
49 to reverse, and (3) once amortization begins, it happens ratably over the remaining
50 useful life of the property.

51 **Q. Can there be variability in the annual amortization of EDIT under ARAM?**

52 A. For the Company, the application of ARAM is applied at the tax class level for each
53 vintage year. Thus, generally, three events will cause variability in the annual
54 amortization of EDIT under ARAM.

55 First, in aggregate, the level of annual amortization can increase or decrease due
56 to vintage tax classes newly beginning or ending their amortization period.

57 Second, at the vintage tax class level and in aggregate, the amount of annual
58 amortization can increase or decrease due to changes in the remaining useful life of
59 pre-2018 vintage assets. Changes in the remaining useful life of an asset can accelerate
60 or delay the year a vintage tax class begins amortization and can shorten or extend the
61 period over which the amortization period occurs. Because regulatory approval for a
62 change in the useful lives of the Company's assets is required, this event will only occur
63 with an approved depreciation study.

64 Finally, at the vintage tax class level and in aggregate, the level of amortization
65 can increase, potentially sharply, in the event of an extraordinary retirement of a pre-
66 2018 vintage asset (whether effectuated via a sale or otherwise), which would result in
67 the immediate recognition of all remaining EDIT attributable to the retired property.

68 This is contrary to an ordinary retirement where no such immediate recognition would

69 occur. Similar to depreciation studies, the disposition of an extraordinary retirement
70 often requires regulatory approval if it is of any significant magnitude.

71 **Q. Does the Company expect variability in the level of amortization under ARAM in**
72 **the years preceding the implementation of its new depreciation study?**

73 A. No. The only expected variability driver during this period is vintage tax classes newly
74 beginning or ending their amortization period and the Company does not anticipate that
75 this type of activity will cause significant year-on-year variability in the level of
76 amortization under ARAM.

77 **Q. How does the Company explain the variability in the projections provided earlier**
78 **in this proceeding?**

79 A. The basis for the Company's earlier projections included a large extraordinary
80 retirement in 2019 and a depreciation study in 2021; the Company attributes the
81 variability in the year-on-year ARAM amortization to these events. However, the
82 Company understands the variability concerns of the parties, especially considering
83 that the last time ARAM was broadly addressed by the industry was more than 30 year
84 ago. For that reason, the Company does not oppose tracking and deferring actual
85 amortization under ARAM until the next filed general rate case, consistent with the
86 primary proposal of the Office of Consumer Services ("OCS") witness Ms. Donna
87 Ramas. (Ramas Direct Testimony, lines 334-337.)

88 **Q. What have other parties to this proceeding proposed for EDIT amortized under**
89 **ARAM?**

90 A. The Division of Public Utilities ("DPU") witness Mr. Lane Mecham proposes to set the
91 level of amortization based on a four-year average until the next filed rate case.

92 (Mecham Direct Testimony, lines 48-50.) Ms. Ramas makes a primary proposal to track
93 and defer actual amortization until the next filed rate case or, alternatively, setting the
94 level of amortization at the Company-provided projection for 2018 and then using a
95 tracking mechanism to defer the difference between this projected amount and actual
96 amortization until the next filed rate case. (Ramas Direct Testimony, lines 355-362.)
97 The Utah Association of Energy Users (“UAE”) witness Mr. Kevin Higgins proposes
98 setting the level of amortization at the Company-provided projection for 2018 until the
99 next filed general rate case and to begin flowing back approximately half of this amount
100 annually to customers beginning January 1, 2019, and deferring the remaining half until
101 the next filed general rate case. (Higgins Direct Testimony, page 3.) The Utah Industrial
102 Energy Customers (“UIEC”) witness Mr. Christopher Walters is silent on the matter
103 although, as described in UIEC’s response to OCS Data Request No. 1-1, attached to
104 my testimony as Exhibit RMP___(RF-2), Mr. Walters does not disagree with the
105 premise of OCS’s proposal for tracking and deferring actual amortization until the next
106 filed rate case.

107 **Q. Are you concerned with any of these proposals in the context of the normalization**
108 **requirements of the Internal Revenue Code?**

109 A. Yes. I am concerned with the DPU’s proposed use of a four-year average of projected
110 amortization.

111 **Q. What must be considered with respect to ARAM and the normalization**
112 **requirements of the Internal Revenue Code?**

113 A. There are two primary considerations. First, there is the requirement that the reserve
114 for EDIT cannot be reduced more rapidly than the reserve would be reduced under

115 ARAM. Second, the Internal Revenue Code includes a consistency requirement that
116 prohibits any procedure or adjustment for ratemaking purposes that uses an estimate or
117 projection of the taxpayer's tax expense, depreciation expense, or reserve for deferred
118 taxes unless such estimate or projection is also used for ratemaking purposes, with
119 respect to the other two such items and with respect to rate base.

120 **Q. Please describe your normalization concerns with the DPU proposal.**

121 A. The DPU proposal increases the level of amortization based on a projection and the
122 projection contains events, such as a formerly projected extraordinary retirement, that
123 are no longer expected to occur. If implemented, I am concerned this would be
124 considered as reducing the reserve for EDIT more rapidly than the reserve would be
125 reduced under ARAM. Additionally, the use of a four-year projection appears to violate
126 the consistency requirement insofar as there is no connection between this level of
127 amortization and the other required elements used in the Company's approach for
128 quantifying the impacts of tax reform in this filing or with actual results as they occur.
129 For this reason, I recommend rejecting the use of this method.

130 **Q. Do you have any normalization concerns with the other proposals?**

131 A. Not directly. However, the implementation of amortization under ARAM in rates is a
132 new area of experience for the Company. We will continue to monitor guidance issued
133 by the Internal Revenue Service and others and will advise the Commission of newly
134 identified concerns, if any, as soon as reasonably practicable.

135 **Q. When will the Company know the actual amount of amortization under ARAM?**

136 A. The actual amounts for a year typically become known during the second quarter of the
137 following year, but possibly as late in the following year as the October 15th due date

138 of the federal income tax return.

139 **Q. Are there any other matters you would like to address in your testimony?**

140 A. Yes. In August 2018, the Internal Revenue Service issued proposed regulations that
141 address the bonus depreciation rules under the new tax law. Based on those proposed
142 regulations, the Company is now taking 100 percent bonus depreciation on public
143 utility property placed in service between September 27, 2017, and December 31, 2017,
144 where none had been taken on that property in its original calculations. The Company
145 has estimated this will generate additional EDIT of approximately \$8 million on a total
146 company basis with a vast majority of this balance being classified as protected
147 property-related EDIT. The Company will finalize its calculations during September
148 2018 and will supplement the record with updated amounts shortly thereafter.

149 **Q. Does this conclude your rebuttal testimony?**

150 A. Yes.

Rocky Mountain Power
Exhibit RMP__(RF-1)
Docket No. 17-035-69
Witness: Ryan Fuller

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF UTAH

ROCKY MOUNTAIN POWER

Exhibit Accompanying Rebuttal Testimony of Ryan Fuller

Expanded ARAM Example

September 2018

EXPANDED EXAMPLE OF THE AVERAGE RATE ASSUMPTION METHOD

[A]	[B]	[C]	[D]	[E]	[F]	[G]	[H]	[I]	[J]	[K]	[L]	[M]	[N]	[O]
Year	Book	Depreciation	Tax	Book-Tax Difference	Enacted	Tax Rate	Regulatory	Deferred Tax Expense	U.S. GAAP	Accum. Def. Income Tax	Deferred Tax Expense	Accum. Def. Income Tax	Excess Deferred Income Tax	Balance
				Annual	35.00%	35.00%	35.00%	True-Up	Total	Income Tax	Tax Expense	Income Tax	Amortization	
2016	100,000	200,000	200,000	100,000	35.00%	35.00%	35.00%	0	35,000	(35,000)	35,000	(35,000)	0	0
2017	100,000	320,000	320,000	220,000	35.00%	35.00%	35.00%	0	77,000	(112,000)	77,000	(112,000)	0	0
2018	100,000	192,000	192,000	92,000	20.00%	20.00%	20.00%	(48,000)	(29,600)	(82,400)	18,400	(130,400)	0	(48,000)
2019	100,000	115,200	115,200	15,200	20.00%	20.00%	20.00%	0	3,040	(85,440)	3,040	(131,440)	0	(48,000)
2020	100,000	115,200	115,200	15,200	20.00%	20.00%	20.00%	0	3,040	(88,480)	3,040	(136,480)	0	(48,000)
2021	100,000	57,600	57,600	(42,400)	30.85%	30.85%	30.85%	0	(8,480)	(60,000)	(13,080)	(92,550)	(4,600)	(43,400)
2022	100,000	0	0	(100,000)	30.85%	30.85%	30.85%	0	(20,000)	(40,000)	(30,850)	(61,700)	(10,850)	(32,550)
2023	100,000	0	0	(100,000)	30.85%	30.85%	30.85%	0	(20,000)	(20,000)	(30,850)	(61,700)	(10,850)	(21,700)
2024	100,000	0	0	(100,000)	30.85%	30.85%	30.85%	0	(20,000)	(20,000)	(30,850)	(61,700)	(10,850)	(10,850)
2025	100,000	0	0	(100,000)	30.85%	30.85%	30.85%	0	(20,000)	(20,000)	(30,850)	(61,700)	(10,850)	(10,850)
Total	1,000,000	1,000,000	1,000,000	0				(48,000)	0	0	0	0	(48,000)	0

[A] Tax Year.
 [B] Asset with a book basis of \$1 million, depreciated straight line over 10-Years.
 [C] Asset with a tax basis of \$1 million, depreciated using 5-Year MACRS depreciation.
 [D] = [C] - [B]
 [E] Cumulative balance of annual book-tax differences from column [D].
 [F] Enacted federal income tax rate.
 [G] For regulatory purposes, the tax rate used is the enacted tax rate until first year the timing differences for the property begin to reverse; when book depreciation first exceeds tax depreciation. In this example, the timing difference first begins to reverse in 2021.
 [H] At this point, a new tax rate is calculated for the purposes of reversing the remaining balance of accumulated deferred income tax. The tax rate is calculated as the ratio of accumulated deferred income tax to the cumulative timing difference for the property as of the beginning of the period in which the timing difference begins to reverse. In this case the formula is $[H] = - ([D] / [G])$.
 [I] = - ([D] x [F])
 [J] For U.S. GAAP purposes, accumulated deferred income taxes are "true-up" to the newly enacted rate in the year of enactment - 2018 in this example - and the true-up is run through income tax expense [J] - ([F] x [I]). However, because of regulatory requirements, the true-up is not run through expense, but is recognized as a liability for excess deferred income tax, see column [O]. Effectively, there is no change to accumulated deferred income tax for regulatory purposes in the year of enactment of the new tax rate.
 [K] Cumulative balance of annual U.S. GAAP deferred income tax expense in column [I].
 [L] = - ([D] x [G])
 [M] Cumulative balance of annual Regulatory deferred income tax expense in column [L].
 [N] = [L] - [I], starting in the year the timing difference for the property begins to reverse.
 [O] See explanation above for column [I]. For regulatory purposes, the excess deferred income tax balance is established in the year of enactment of the new tax rate, but the excess deferred income tax balance does not begin to be reduced until amortization begins in the first year the timing difference for the property begins to reverse.

Rocky Mountain Power
Exhibit RMP__(RF-2)
Docket No. 17-035-69
Witness: Ryan Fuller

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF UTAH

ROCKY MOUNTAIN POWER

Exhibit Accompanying Rebuttal Testimony of Ryan Fuller

Referenced Discovery

September 2018

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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

Investigation of Revenue Requirement Impacts of the New Federal Tax Legislation Titled: “An act to provide for reconciliation pursuant to titles II and V of the concurrent resolution of the budget for fiscal year 2018”	Docket No. 17-035-69 Utah Industrial Energy Consumers’ Amended Responses to Office of Consumer Services’ First Set of Data Requests
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The Utah Industrial Energy Consumers (“UIEC”) intervention group submits these responses to the Office of Consumer Services’ First Set of Data Requests.

Data Request No. 1-1:

Please confirm that under UIEC’s recommendation, the protected property related EDIT flow-back/amortization under the ARAM is deferred based on the actual variable amortization amounts under the ARAM between 2018 and the rate effective date for the next rate case. If not confirmed, please explain, in detail, UIEC’s position regarding the protected property related EDIT balance for the period January 1, 2018 through the rate effective date of the next rate case.

Response:

While Mr. Walters’ testimony was silent with regard to the actual, and variable, amounts of protected property-related EDIT to be deferred, he does not disagree with the premise of deferring the actual, variable, amounts incurred by RMP.

Data Request No. 1-2:

Under UIEC's proposal, is the \$4.89 million of 2018 current tax benefits that were not returned to ratepayers during 2018 (i.e., difference between \$65.9 million and 2018 refund of \$61 million), plus carrying charges, deferred to the next general rate case? If no, please explain what happens with the \$4.89 million not returned to ratepayers during 2018.

Response:

Under UIEC's proposal, the remaining \$4.89 million of 2018 current tax benefits plus carrying charges would be returned to customers in 2018. Annually thereafter, until the rate effective date of the next GRC, rates would be reduced by \$65.9 million.

DATED this 7th day of September, 2018.

/s/ Vicki M. Baldwin

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CERTIFICATE OF SERVICE

(Docket No. 17-035-69)

I hereby certify that on this 7th day September 2018, I caused to be e-mailed, a true and correct copy of the foregoing UTAH INDUSTRIAL ENERGY CONSUMERS' RESPONSES TO THE OFFICE OF CONSUMER SERVICES FIRST SET OF DATA REQUESTS to:

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