

**–BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH–**

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**IN THE MATTER OF THE APPLICATION OF  
ROCKY MOUNTAIN POWER FOR AN  
ACCOUNTING ORDER TO DEFER COSTS  
RELATED TO REPOWERED WIND PLANTS OR  
FOR ALTERNATIVE RELIEF**

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**DOCKET No. 19-035-45  
Exhibit No. DPU 1.0 DIR  
Direct Testimony  
Jeffrey S. Einfeldt**

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FOR THE DIVISION OF PUBLIC UTILITIES  
DEPARTMENT OF COMMERCE  
STATE OF UTAH

Direct Testimony of

Jeffrey S. Einfeldt

March 4, 2020

1 **Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS, AND TITLE.**

2 A. My name is Jeffrey S. Einfeldt. My business address is 160 East 300 South, Salt Lake  
3 City, Utah 84114. I am a Utility Technical Consultant with the Division of Public  
4 Utilities (“Division” or “DPU”).

5 **Q. PLEASE BRIEFLY DESCRIBE YOUR EDUCATION AND WORK**  
6 **EXPERIENCE.**

7 I graduated with a Master’s degree in Accounting from the University of Utah. I am a  
8 Certified Public Accountant licensed in the state of Utah. I also retain the certifications of  
9 Certified Internal Auditor and Certified Fraud Examiner. I spent much of my career  
10 working in the forensic accounting field with an emphasis in bankruptcy and general  
11 business litigation. I have testified in Federal Bankruptcy Court and in Utah State Court  
12 regarding financial matters. I began working for the Division in May of 2016.

13 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING?**

14 A. The Division.

15 **Q. PLEASE DESCRIBE YOUR POSITION AND DUTIES WITH THE DIVISION.**

16 A. As a Utility Technical Consultant, I examine public utility financial data, review filings  
17 for compliance with existing programs as well as applications for rate increases. I  
18 research, analyze, document, and assist in establishing regulatory positions on a variety  
19 of regulatory matters. I provide and assist in the preparation of written and sworn  
20 testimony in hearings before the Utah Public Service Commission (“Commission”) and  
21 assist in the case preparation and analysis of testimony.

22 **Q. HAVE YOU PREVIOUSLY PROVIDED TESTIMONY IN FRONT OF THIS**  
23 **COMMISSION?**

24 A. Yes.

25 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

26 A. The purpose of my testimony is to introduce the Division's position regarding the  
27 Application of Rocky Mountain Power ("RMP" or "Company") for an Accounting Order  
28 to Defer Costs Related to Repowered Wind Plants or for Alternative Relief  
29 ("Application").

30 **Q. WOULD YOU PLEASE SUMMARIZE THE DIVISION'S POSITION**  
31 **REGARDING THE COMPANY'S APPLICATION?**

32 A. RMP seeks permission to record and defer certain costs and benefits incurred or will  
33 shortly be incurred in association with Docket No. 17-035-39 ("Wind Repowering  
34 Docket") as it relates to repowering of individual wind facilities, with an objective to  
35 include these costs in rates to be set in the next general rate case ("GRC"). The Division  
36 opposes the Application and recommends the Commission deny RMP's Application for  
37 deferral, including denial of the alternative relief sought.

38 **Q. WHY DOES THE DPU OPPOSE THE REQUEST FOR DEFERRED**  
39 **ACCOUNTING?**

40 A. The costs and benefits associated with the wind repowering project referred to in this  
41 docket are not unforeseen and are not extraordinary, two criteria that are paramount  
42 before an exception can be granted to deviate from basic tenets of utility ratemaking.  
43 These basic tenets from which RMP seeks to deviate include the prohibition against

44 retroactive ratemaking and single item ratemaking. Permission to violate these tenets  
45 serves to diminish the filed rate doctrine, fundamental to utility ratemaking. The  
46 Company even cites in its application the case of *MCI Telecommunications Corp. v. PSC*,  
47 840 P.2d 765,770 (Utah 1992) [“MCI”]<sup>1</sup> wherein the unforeseen and extraordinary  
48 standards are discussed as necessary to warrant exceptions to the general rule against  
49 retroactive ratemaking. The costs and benefits the Company seeks to defer in this docket  
50 were neither unforeseeable, nor are they extraordinary. Indeed, the costs were previously  
51 projected by the Company and presented to the Commission in great detail in the original  
52 Wind Repowering Docket (Docket No. 17-035-39).

53 RMP admits in its Application the costs and benefits it seeks to defer fail the  
54 unforeseeable and extraordinary standards described in the MCI case<sup>2</sup>.

55 The Commission recently reaffirmed the importance of the unforeseeable and  
56 extraordinary standards in its order issued in Docket No. 18-035-48<sup>3</sup> (also see the DPU’s  
57 brief opposing the application for deferred accounting in the referenced docket for a more  
58 detailed discussion of deferred accounting).

59 **Q. THE COMPANY STATES IN ITS APPLICATION THAT THE DIVISION**  
60 **SUPPORTED DEFERRAL OF THE COSTS AND BENEFITS.<sup>4</sup> IS THIS, OR HAS**  
61 **THIS BEEN, THE DIVISION’S POSITION?**

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<sup>1</sup> Docket No 19-035-45; Application of Rocky Mountain Power for an Accounting Order to Defer Costs Related to Repowered Wind Plants or for Alternative Relief (“Application”), page 4, paragraph 7.

<sup>2</sup> Ibid, page 5, paragraph 9.

<sup>3</sup> Docket No. 18-035-48, Application of Rocky Mountain Power for an Accounting Order for Settlement Charges related to its Pension Plan, Public Service Commission Order, issued May, 22, 2019.

<sup>4</sup>Application, page 5, paragraph 10.

62 A. No. In the original Wind Repowering Docket (Docket No. 17-035-39), David Thomson, a  
63 Utility Technical Consultant and witness for the Division, recommended in his initial  
64 testimony “the Commission issue an accounting order deferring repowering costs and  
65 benefits until the next general rate case.”<sup>5</sup> Mr. Thomson intended to express the  
66 Division’s preference of a deferred accounting order and related approval process,  
67 generally, rather than the Resource Tracking Mechanism (“RTM”) suggested by the  
68 Company. In other words, it was presented as a potential alternative in the broader  
69 context of a litigated docket, with a proposal for a new and unprecedented tracking  
70 mechanism.

71 In subsequent testimony in the Wind Repowering docket, Mr. Thomson clarified the  
72 Division’s preference that the Wind Repowering costs and benefits be more appropriately  
73 addressed in a GRC.<sup>6</sup> In his surrebuttal testimony, Mr. Thomson proposed a GRC  
74 timeline with a suggested filing date of July 2019 that would have resulted in the  
75 Company’s timely recovery of the Wind Repowering costs at issue in this docket. He  
76 projected the recovery timeline would be more beneficial to the Company than its  
77 original RTM proposal. Mr. Thomson reaffirmed the Division’s recommendation that  
78 the Wind Repowering costs be addressed in a GRC again in his response testimony<sup>7</sup> in  
79 the Wind Repowering docket.

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<sup>5</sup> Docket 17-035-39, DPU Exhibit 3.0 Dir, Testimony of David Thomson, page 9, lines 169 and 170.

<sup>6</sup> Ibid, DPU Exhibit 3.0 SR, and DPU Exhibit 3.0-RESP, lines 54 through 56.

<sup>7</sup> Ibid, DPU Exhibit 3.RESP, lines 54 – 56.

80 The best forum to address the Wind Repowering costs is a general rate case, which will  
81 allow a more holistic analysis of the effects on rates.

82 **Q. WHAT IS THE CURRENT STATUS OF THE NEXT RMP GENERAL RATE**  
83 **CASE?**

84 A. The Division understands RMP currently anticipates filing its next general rate case the  
85 first part of May 2020.

86 **Q. HAS RMP BEEN ABLE TO FILE A GRC PRIOR TO 2020?**

87 A. The Commission's order in the most recent GRC (Docket No. 13-035-184) precluded  
88 RMP from filing a general rate case prior to January 1, 2016.<sup>8</sup> Otherwise, RMP has  
89 controlled when its next general rate case is filed. The Division is not aware of anything  
90 that prohibited RMP from filing a rate case in July 2019, as suggested in Mr. Thomson's  
91 surrebuttal testimony or any time after January 1, 2016. It made certain public statements  
92 about seeking a rate increase, but those were not required by regulators.

93 **Q. DOES THE DIVISION SUPPORT THE COMPANY'S ALTERNATIVE**  
94 **PROPOSAL OF REMOVING BENEFITS FROM THE ENERGY BALANCING**  
95 **ACCOUNT ("EBA")?**

96 A. No. The DPU recommends the Commission also reject RMP's alternative proposal of  
97 removing the benefits obtained from Wind Repowering from the EBA. These benefits  
98 include production tax credits ("PTCs") and zero fuel cost electricity generation.

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<sup>8</sup> In the Matter of the Application of Rocky Mountain Power for Authority to Increase its Retail Electric Utility Service Rates in Utah and for Approval of its Proposed Electric Service Schedules and Electric Service Regulations, Docket No. 13-035-184, Report and Order, issued August 29, 2014, B.6 (page 12).

99 **Q. WHY DOES THE DPU RECOMMEND REJECTION OF RMP'S**  
100 **ALTERNATIVE PROPOSAL?**

101 A. The DPU recommends the PSC reject RMP's request to remove the Wind Repowering  
102 benefits from the EBA for the same reasons the DPU recommends rejecting deferred  
103 accounting discussed above. The standards of unforeseeable and extraordinary events are  
104 not met here to justify granting permission to deviate from adherence to the EBA as  
105 codified in Utah Code, Title 54, section 54-7-13.5.

106 RMP is now seeking to deviate, for RMP's financial benefit, from the law it lobbied to  
107 create. RMP lobbied the Utah Legislature for the establishment and retention of the  
108 EBA.<sup>9</sup> The EBA "does not constitute impermissible retroactive ratemaking or single-  
109 issue ratemaking."<sup>10</sup> The EBA, once established, requires the pass-through of actual  
110 energy costs prudently incurred.

111 **Q. IS THE DPU'S EBA RECOMMENDATION INCONSISTENT WITH THE**  
112 **MATCHING PRINCIPLE IN ACCOUNTING?**

113 A. Yes. The DPU's recommendation to reject RMP's request to remove the benefits from  
114 the EBA will result in a conflict with the matching principle until rates determined in the  
115 next GRC become effective. However, the inconsistency results from the timing of the  
116 "next" rate case. The inconsistency could have been avoided, or at least lessened, if RMP  
117 had filed a rate case in a timely manner. The matching principle of accounting will be  
118 achieved regarding the wind repowering costs and benefits going forward at the effective

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<sup>9</sup> Utah Code, Title 54, section 54-7-13.5.

<sup>10</sup> Ibid, (4)(c)

119 date of the next GRC. This is not unusual. In the ordinary course of utility business,  
120 utility plant is added and removed. Those additions and removals are not always  
121 accompanied by swift rate changes, but do result in differences in costs to the utility as  
122 efficiency improves or the new equipment has differing effects. Sometimes adherence to  
123 applicable law creates a conflict with the matching principle desired in accounting.

124 **Q. WHAT DOES RMP PROJECT THE DEFERRAL TOTAL TO BE FOR THE**  
125 **PERIOD BEGINNING SEPTEMBER 2019 THROUGH DECEMBER 2020?**

126 A. RMP projects the total net deferral for 2019 and 2020 to be approximately a \$5.6 million  
127 net benefit to ratepayers. This comprises \$15.8 million depreciation expense, depreciation  
128 expense credit of \$(17.9) million related to replaced wind equipment, other incremental  
129 expenses of \$8.1 million, a \$38.1 million charge representing return on capital based on  
130 an after tax rate of return of 9.21%, PTCs of \$(33.3) million, a calculated zero fuel cost  
131 credit of \$(5.5) million, and a reduction for a PTC gross up factor of \$(10.9) million.  
132 RMP is not entitled to a return on investment of the repowered wind rate base of \$38.1  
133 million prior to the effective date of the pending GRC. If the Commission does rule RMP  
134 is entitled to a return on the repowered wind rate base prior to the effective date of the  
135 GRC and the inclusion of that plant in rates, the Division recommends that rate of return  
136 be limited to the carrying charge approved by the Commission. The carrying charge is  
137 currently 4.37% as approved in Docket No. 19-035-T03<sup>11</sup> and is scheduled to be revised  
138 to 3.88% in pending Docket No. 20-035-T01.

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<sup>11</sup> Docket No. 19-035-T03, In the Matter of Rocky Mountain Power's Proposed Tariff Revisions to Electric Service Schedule No. 300, Regulation Charges.



139 While the net cost estimated by RMP is not immaterial, the amount is not significant  
140 enough to justify a deferred accounting order without also meeting the unforeseeable or  
141 extraordinary standards.

142 **Q. HAS THE DIVISION CONSIDERED OTHER OPTIONS TO THE COMPANY'S**  
143 **PROPOSALS?**

144 A. Yes. As described above, RMP's request for deferred accounting of the costs and benefits  
145 results in an estimated net benefit to ratepayers of \$5.6 million.

146 RMP's alternative proposal suggests RMP retain the PTC and zero fuel cost benefits to  
147 be applied to the net expenses, which results in ratepayers not realizing the estimated net  
148 benefit of \$5.6 million. RMP would effectively retain this benefit. There is no  
149 justification under the EBA statute for imputing hypothetical energy costs in place of  
150 actuals, except perhaps as a measure of the cost of imprudence. RMP's request would  
151 impute a higher, hypothetical energy cost in place of the actual energy cost resulting from  
152 the addition of the new plant.

153 If both the deferred accounting treatment and RMP's suggested alternative method is  
154 denied, as recommended by the Division, RMP would not be allowed to defer its costs or  
155 its return on investment for 2019 and 2020. Ratepayers would still realize PTC benefits  
156 estimated at \$44.2 million and zero fuel cost benefits estimated at \$5.5 million for a total  
157 benefit of \$49.7 million.

158 If RMP is allowed to defer expenses, but disallowed recovery of a rate of return on the  
159 capital investment, the net benefit to ratepayers is estimated to be \$43.7 million.

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161 If RMP is denied deferred accounting but is allowed to retain PTC benefits to offset its  
162 estimated net costs, including its desired rate of return, but zero fuel cost benefits  
163 continued to be accounted for in the EBA consistent with Utah Code, Title 54, section  
164 54-7-13.5, then the net benefit to ratepayers is estimated to be \$5.5 million, similar in  
165 result to RMP's deferred accounting request. This alternative would remain faithful to the  
166 standards for granting deferred accounting and not violate the Utah Code governing the  
167 EBA.

168 Assuming the same discussed above, except the rate of return on the new assets is limited  
169 to the carrying charge of 4.37%, then net benefit to customers is estimated at \$25.7  
170 million. This option would also remain faithful to the deferred accounting standards and  
171 not violate the Utah Code governing the EBA.

172 The above results are based on an analysis of estimated financial numbers provided by  
173 RMP in response to a data request submitted by the Utah Office of Consumer Services  
174 ("OCS"). RMP's response to OCS's data request 2.18 is attached to my testimony as  
175 Exhibit 1.1. DPU's Exhibit 1.2 summarizes Exhibit 1.1. DPU's Exhibit 1.3 summarizes  
176 the various scenarios discussed above. Because the financial analyses contained in my  
177 testimony are based on financial estimates provided by RMP, actual results realized in the  
178 future are likely to vary from those discussed above.

179 **Q. ARE YOU RECOMMENDING THE COMMISSION ADOPT ONE OF THE**  
180 **ALTERNATIVE OPTIONS YOU HAVE OUTLINED?**

181 A. No. The alternatives have been included for illustration and analysis only. The Division  
182 opposes the Application and recommends the Commission deny RMP's Application for  
183 deferral, including denial of the alternative relief sought. The request for a deferred  
184 accounting order is not in the public interest and should be denied.

185 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

186 A. Yes.

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