

**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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<b>Rocky Mountain Power’s Application for</b>	)	<b>Docket No. 20-035-01</b>
<b>Approval of the 2020 Energy Balancing</b>	)	
<b>Account</b>	)	<b>Response Testimony</b>
	)	<b>of Philip Hayet</b>
	)	<b>For the Office of</b>
	)	<b>Consumer Services</b>

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**REDACTED VERSION**

**CONFIDENTIAL INFORMATION INCLUDED**

Subject to Utah Public Service Commission Rule 746-1-602 and 603

**December 10, 2020**

**REDACTED VERSION**

1           **I.       INTRODUCTION AND SUMMARY OF POSITIONS**

2   **Q.     WHAT IS YOUR NAME, OCCUPATION AND BUSINESS ADDRESS?**

3   A.     My name is Philip Hayet and I am a Vice President and Principal of J. Kennedy  
4           and Associates, Inc. (“Kennedy and Associates”). My business address is 570  
5           Colonial Park Drive, Suite 305, Roswell, Georgia, 30075.

6   **Q.     PLEASE PROVIDE A SUMMARY OF YOUR QUALIFICATIONS AND**  
7           **EXPERIENCE?**

8   A.     I have included a summary of my education, experience, and expert testimony  
9           appearances in OCS Exhibit 1.1.

10  **Q.     ON WHOSE BEHALF ARE YOU APPEARING?**

11  A.     I am appearing on behalf of the Utah Office of Consumer Services (“OCS”).

12  **Q.     WHAT IS THE PURPOSE OF THIS TESTIMONY?**

13  A.     OCS has asked me to review Rocky Mountain Power’s (“RMP”) Energy Balancing  
14           Account (“EBA”) filing for the period of January 1, 2019 through December 31,  
15           2019, and to review the recommended adjustments proposed by the Utah Division  
16           of Public Utilities (“DPU”) in its direct testimony and the accompanying audit  
17           report that was filed on November 6, 2020.

18  **Q.     DO YOU HAVE ANY GENERAL COMMENTS REGARDING THE DPU**  
19           **AUDIT AND SUPPORTING DOCUMENTATION?**

20  A.     Yes. The DPU presents the results of what appears to be a detailed audit of the  
21           RMP EBA filing and deferral balance. As a general matter, I believe the DPU  
22           recommendations are well supported by the information provided. Consequently,

REDACTED VERSION

OCS does not address all of the issues raised in the report in detail, except for certain thermal plant outage adjustments. I also addressed the most significant of these outages in my testimony in the currently pending RMP General Rate Case (“GRC” in Docket No. 20-035-04). Finally, the fact that I did not address all four of the DPU outage disallowances should not be interpreted as disagreement with the DPU recommendations, as I have not at this point independently verified and analyzed all of the disallowances the DPU identified.

**Q. PLEASE PROVIDE A SUMMARY OF YOUR CONCLUSIONS AND RECOMMENDATIONS.**

A. My conclusions and recommended adjustments are as follows:

1. I agree with the DPU proposed adjustment related to the [REDACTED] outage (Outage C).<sup>1</sup> Outage C at [REDACTED]. The cost to repair the unit was [REDACTED].<sup>2</sup> The DPU determined the cost of replacement power was \$4.58 million on a total Company basis. The outage resulted in [REDACTED] performed a Root Cause Analysis (“RCA”), which did [REDACTED].<sup>3</sup> Ratepayers should not be held responsible for the costs of a [REDACTED]. Based on the RCA, OCS recommends that the Public Service Commission (“PSC”) should approve the DPU recommended disallowance.
2. I also agree with DPU proposed adjustments related to the [REDACTED] (Outage A) and the [REDACTED] (Outage D) outage adjustments, which I am addressing strictly from a policy perspective. I

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<sup>1</sup> Since details regarding the outages are confidential, I will distinguish the outages using the same notation that the DPU Consultant Daymark Energy Advisors, Inc. (“Daymark”) relied on in referring to the outages in the Executive Summary of its audit report (see DPU Exhibit 2.3, pg. 5).

<sup>2</sup> DPU Audit Report, DPU Exhibit 2.3, at pg. 30.

<sup>3</sup> RCA Report, DPU 1.6 1<sup>st</sup> Supplemental, at pg. 4.

recommend that in cases where a third party contractor or vendor supplies substandard services or products leading to higher costs to the utility, shareholders rather than ratepayers should be responsible for any unrecovered costs.

- In the case of the [REDACTED] (Outage A) outage, [REDACTED] [REDACTED]. RMP received [REDACTED] [REDACTED]. Ratepayers should not be responsible for the replacement power costs, which amounted to \$0.4 million on a total Company basis for this outage.
- In the case of the [REDACTED] (Outage D) outage, there was a [REDACTED] [REDACTED]. Once again, ratepayers should not be responsible for replacement costs in this situation, which amounted to \$0.1 million on a total Company basis.

## **II. REVIEW OF OUTAGES**

[REDACTED] (Outage C)

**Q. PLEASE DESCRIBE THE [REDACTED] (Outage C) OUTAGE.**

**A.** On [REDACTED] (Outage C) [REDACTED] [REDACTED], which resulted in a complete outage lasting [REDACTED]. The unit was returned to service on [REDACTED].

**Q. DID RMP PERFORM A ROOT CAUSE ANALYSIS TO DETERMINE THE CAUSE OF THIS OUTAGE?**

74 A. Yes. [REDACTED] in performing a Root Cause Analysis (“RCA”), which  
75 was provided in response to DPU discovery.<sup>4</sup> [REDACTED]

76 [REDACTED]

77 [REDACTED]

78 [REDACTED] According to the RCA report:

79 [REDACTED]

80 [REDACTED]

81 [REDACTED]

82 [REDACTED]

83 [REDACTED]<sup>5</sup>

84

85 **Q. DID RMP MAKE ANY FURTHER EFFORTS TO FIND THE CAUSE OF**  
86 **THE OUTAGE?**

87 A. Yes. RMP has since contracted for another RCA which was initially expected to  
88 be completed by the end of August 2020, but the report was delayed until October  
89 2020<sup>6</sup> and then again until late December 2020. At present the RCA has not yet  
90 been completed.<sup>7</sup> The OCS reserves the right to further address this issue when this  
91 information becomes available.

92 **Q. HAS THIS TYPE OF PROBLEM OCCURRED BEFORE AT ONE OF THE**  
93 **[REDACTED] GENERATING UNITS?**

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<sup>4</sup> RCA Report, DPU 1.6 1<sup>st</sup> Supplemental.

<sup>5</sup> *Id.* at pg. 4.

<sup>6</sup> Email from Jana Saba with PacifiCorp on August 19, 2020.

<sup>7</sup> When completed, the report is expected to be provided to parties pursuant to Data Request DPU 1.6.



94 A. Yes. The RCA identifies similar outages that occurred elsewhere for the same type  
95 of [REDACTED]  
96 [REDACTED]. That event  
97 occurred in [REDACTED] and the [REDACTED] RCA describes it as follows:<sup>8</sup>

98 [REDACTED]  
99 [REDACTED]  
100 [REDACTED]  
101 [REDACTED]  
102 [REDACTED].  
103

104 Q. SHOULD PACIFICORP HAVE PERFORMED [REDACTED]  
105 [REDACTED]  
106 [REDACTED]?

107 A. Yes it should have. An outage of this cost and magnitude demands a determination  
108 of its cause. Failure to do so would increase the likelihood of the same problem  
109 occurring in the future resulting in additional avoidable costs. Given that  
110 PacifiCorp [REDACTED] and  
111 now that [REDACTED] has occurred, PacifiCorp is clearly deficient due  
112 to its [REDACTED]. Had PacifiCorp  
113 [REDACTED], the resulting information may have  
114 prevented the outage in dispute in the instant proceeding from occurring.

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<sup>8</sup> RCA Report, DPU 1.6 1<sup>st</sup> Supplemental, at pg. 4.

115 Q. DOES THE RCA THAT WAS PERFORMED IN [REDACTED] PROVIDE  
116 SUPPORTING EVIDENCE THAT A [REDACTED]

117 [REDACTED]?

118 A. Yes. While [REDACTED], the RCA  
119 included the following statements:

120 [REDACTED]

121 [REDACTED]<sup>9</sup>

122 [REDACTED]

123 [REDACTED]

124 [REDACTED]

125 [REDACTED]

126 [REDACTED]

127 [REDACTED]<sup>10</sup>

128 [REDACTED]

129 [REDACTED]

130 [REDACTED]<sup>11</sup>

131

132 Furthermore, it is possible that the reason [REDACTED] is because [REDACTED]

133 [REDACTED], as was discussed in

134 the RCA Report for the [REDACTED] outage.<sup>12</sup>

135 Q. WOULD THE [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]  
136 [REDACTED] BE CONSIDERED A SERIOUS EVENT?

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<sup>9</sup> *Id.* at pg. 28.

<sup>10</sup> *Id.* at pg. 12.

<sup>11</sup> *Id.* at pg. 12.

<sup>12</sup> Confidential OCS Exhibit 1.2 contains the [REDACTED] RCA. See pdf page 145.

137 A. Yes. The RCA report indicates that there have been [REDACTED]  
138 [REDACTED] (Outage C) events, [REDACTED]  
139 [REDACTED]<sup>13</sup> Given the extremely high cost and other grave consequences,  
140 utilities typically go to great lengths to ensure that such situations do not occur, and  
141 it does not appear that PacifiCorp took sufficient precautions to ensure that it did  
142 not occur for a [REDACTED] at one of its [REDACTED] (Outage C) units.

143 Q. **WHAT IS YOUR RECOMMENDATION ON THE [REDACTED] OUTAGE**  
144 **(OUTAGE C)?**

145 A. Given that RMP [REDACTED]  
146 [REDACTED], this outage  
147 should result in a disallowance of the resulting replacement power costs.  
148 Ratepayers should not be held responsible for the costs of a [REDACTED]  
149 [REDACTED]. RMP may still be able to  
150 offset some or all of the costs that it had hoped to collect from ratepayers by  
151 receiving an insurance payout or by pursuing litigation with the manufacturer.  
152 Even if there is no avenue for recovery via insurance or litigation, ratepayers should  
153 not be held responsible for paying the costs of the outage that resulted from  
154 [REDACTED]  
155

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<sup>13</sup> RCA Report, DPU 1.6 1<sup>st</sup> Supplemental, at pg. 4. Also, page 5 [REDACTED]  
[REDACTED].



156 [REDACTED] (Outage A) and [REDACTED] (Outage D) Outages

157 Q. PLEASE DISCUSS THE POLICY BASIS SUPPORTING  
158 DISALLOWANCES FOR THE [REDACTED] (OUTAGE A) AND  
159 [REDACTED] (OUTAGE D) OUTAGES.

160 A. These two outages were not as costly as Outage C, however, there is an important  
161 principle at stake here. Proper regulatory practice should require shareholders,  
162 not customers, to bear the costs in cases involving substandard performance by  
163 vendors or contractors, whether the utility is only partially to blame or even  
164 entirely blameless. The reason for this is quite simple: the utility hires (and can  
165 fire) contractors and vendors, it manages their work, it has leverage over them and  
166 can seek repayment in cases where the vendor or contractors fail to properly deliver  
167 the product or service. None of this is under the control of ratepayers. Customers  
168 cannot sue a vendor who fails to produce satisfactory results for the utility.  
169 Customers cannot tell the utility who to hire or fire, nor can they oversee the work  
170 third parties perform for the utility. If utilities are allowed to pass on the costs of  
171 poor quality work or service from third parties they will have little incentive to  
172 demand excellence. Forcing customers to pay for these outages would send RMP  
173 the message that it can use ratepayers as the financial backstop for any costs the  
174 utility suffers from third party providers. Indeed it could even serve as a precedent  
175 for far more costly outages in the future.

176 Q. PLEASE DISCUSS THE [REDACTED] (OUTAGE A) OUTAGE  
177 EVENT.

178 A. The circumstances associated with this outage are documented in the DPU Audit  
179 Report, therefore, I will only briefly discuss the outage.<sup>14</sup> This outage occurred on  
180 [REDACTED] and was caused by a [REDACTED]  
181 [REDACTED]  
182 [REDACTED]  
183 [REDACTED]  
184 [REDACTED]  
185 [REDACTED]. The DPU  
186 estimated the cost of replacement power to be \$0.4 million and this cost should be  
187 disallowed.

188 **Q. PLEASE DISCUSS [REDACTED] (OUTAGE D) OUTAGE EVENT.**

189 A. The circumstances associated with this outage are also documented in the DPU  
190 Audit Report, and will only be discussed briefly.<sup>15</sup> This event was associated with  
191 a [REDACTED]  
192 [REDACTED]  
193 [REDACTED]  
194 [REDACTED]  
195 [REDACTED]  
196 [REDACTED]

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<sup>14</sup> DPU Audit Report, DPU Exhibit 2.3, at pg. 29.

<sup>15</sup> DPU Audit Report, DPU Exhibit 2.3, at pg. 30.

197 [REDACTED]  
198 [REDACTED] PacifiCorp cannot be  
199 considered blameless as it has the responsibility for overseeing the work that its  
200 contractors perform. Furthermore, the RCA associated with this outage, noted that  
201 there had [REDACTED]

202 [REDACTED].<sup>16</sup> The DPU estimated the cost of  
203 replacement power during the outage extension period to be \$0.1 million and this  
204 cost should be disallowed.

205 **Q. IS THERE A COMMON THREAD IN THESE TWO EVENTS - OUTAGE**  
206 **A AND OUTAGE D?**

207 A. Yes. In both cases, contractors made mistakes which resulted in the company  
208 experiencing additional costs. While the Company may or may not have been  
209 partly to blame, it is quite clear that ratepayers bear no responsibility and should  
210 not have to pay the extra costs that were incurred as a result of substandard  
211 performance by the Company's contractors.

212 **Q. DOES THIS COMPLETE YOUR TESTIMONY?**

213 A. Yes, it does.

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<sup>16</sup> Response to DPU 1.6, RCA at page 2.