

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

Rocky Mountain Power’s Application for)	Docket No. 20-035-01
Approval of the 2020 Energy Balancing)	
Account)	Sur-Surrebuttal Testimony
)	of Michele Beck
)	For the Utah Office of
)	Consumer Services

FEBRUARY 8, 2021

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1 **Introduction and Purpose of Testimony**

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

3 A. My name is Michele Beck and I am the Director of the Utah Office of Consumer
4 Services (OCS). My business address is 160 East 300 South Salt Lake City, Utah.

5 **Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN THIS CASE?**

6 A. No.

7 **Q. HAVE YOU PARTICIPATED IN THE DEVELOPMENT OF THE OCS**
8 **POSITIONS IN THIS CASE?**

9 A. Yes. The previous expert testimony filed by Philip Hayet was prepared under my
10 direction and review.

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

12 A. In its January 26, 2021 Scheduling Order, the Utah Public Service Commission
13 (PSC) stated that the sur-surrebuttal testimony in this docket is limited to the Lake
14 Side 2, Unit 3 outage that occurred on August 18, 2019. My testimony will
15 primarily address OCS policy concerns related to this outage. I will also address
16 some of the specific communications regarding the Root Cause Analysis (“RCA”)
17 performed by Ronald Halpern of Generator Consulting Specialists (GCS) and Neil
18 Kilpatrick of GenMet, LLC (“GenMet”) which evaluated this outage. OCS Witness
19 Hayet, who has previously provided Response Testimony and Sur-rebuttal
20 Testimony, will also provide expert testimony in this phase of the proceeding.
21 Consistent with Mr. Hayet’s testimony, I will refer to RMP’s two consulting experts

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22 as GCS/GenMet, and the RCA they produced will be referred to as the
23 GCS/GenMet RCA.

24 **Q. PLEASE DESCRIBE THE SCOPE OF YOUR TESTIMONY.**

25 A. My testimony will provide details about the timeline of communications regarding
26 the expected completion of the GCS/GenMet RCA. I will also explain OCS's policy
27 concerns and present some policy recommendations. Importantly, I will discuss the
28 OCS's overriding policy concern that RMP must be held to their burden of proof
29 that their operations of the Lake Side 2 generator were prudent and were not
30 responsible for its catastrophic outage in August 2019. RMP has not met this
31 burden.

32 **Timeline of Communications Regarding RCA**

33 **Q. IN WHAT DOCKET WAS THE GCS/GENMET RCA FIRST ADDRESSED**
34 **AND WHAT WAS THE ASSOCIATED TIMELINE?**

35 A. The OCS first became aware of the GCS/GenMet RCA as part of the discovery
36 process in RMP's general rate case, Docket No. 20-035-04, but the date of its
37 availability was uncertain. In response to OCS DR¹ 3.2 RMP provided a
38 confidential spreadsheet summarizing the documentation associated with different
39 outages. That spreadsheet contained two relevant statements. First, [REDACTED]

¹ All discovery requests and other sources cited in this testimony are provided in Exhibit 2.1 SSR attached to this testimony.

REDACTED

40 [REDACTED]

41 [REDACTED]

42 [REDACTED]

43 [REDACTED]

44 [REDACTED]

45 [REDACTED]

46 [REDACTED]

47
48 Second, [REDACTED]

49 [REDACTED]

50 [REDACTED]

51 [REDACTED]

52 [REDACTED]

53 [REDACTED]

54 [REDACTED]

55 [REDACTED]³

56
57 Subsequently, OCS received email communications from RMP on August 16, 2020
58 stating, “The RCA we contracted for is expected to be completed at the end of this
59 month.” Then, just three days later on August 19, 2020, RMP sent OCS another
60 update stating:

61 I just received updated timing on this. Although the company was
62 hoping to have the RCA back from the third party contractor by the
63 end of August, the RCA is still in process and is now scheduled to
64 be completed the first part of October.⁴

² Docket No. 20-035-04, Confidential Attachment OCS 3.2-1, cell 2P

³ Docket No. 20-035-04, Confidential Attachment OCS 3.2-1, cell 2S

⁴ Copies of both referenced emails are included in Exhibit 2.1 SSR.

65 However, RMP witness Dana Ralston made the following statement in his rebuttal
66 testimony filed on October 5, 2020,

67 Due to the significance of the event, the Company hired and is
68 working with a neutral third-party contractor to perform an
69 additional RCA investigation in pursuit of a root cause. This report
70 is expected to be completed by end of 2020.⁵

71
72 Thus, OCS, and other parties, filed sur-rebuttal testimony on October 29, 2020
73 without the benefit of being able to review the analysis in the GCS/GenMet RCA.
74 To my knowledge, RMP provided no additional communication on the topic within
75 the general rate case docket. The significance of this information provided in the
76 general rate case docket was not immediately clear due to the lack of context.
77 Subsequently in the EBA docket, the OCS obtained additional information through
78 discovery and had difficulty reconciling the apparent conflicting statements about
79 purpose and timing of the GCS/GenMet RCA in comparison to the Siemens RCA.

80 **Q. WHAT WAS THE TIMELINE OF COMMUNICATIONS REGARDING**
81 **THE GCS/GENMET RCA IN THIS DOCKET?**

82 A. Although the updated RCA was not provided prior to filing Direct/Response
83 Testimony on Dec 10, 2020, RMP witness Dana Ralston's Response Testimony⁶
84 indicated that the GCS/GenMet RCA was anticipated to be complete by the end of
85 the month. Thereafter, on December 21, 2020, the OCS sent a discovery request
86 DR2.1, specifically in this docket, to ensure we would receive this study as soon as

⁵Ralston Rebuttal Testimony, Docket No. 20-035-04, lines 61-64

⁶ Ralston's Response Testimony, Docket 20-035-01, lines 173 to 174.

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87 it was available. RMP initially responded to DR 2.1 on December 28, 2020 stating,
88 “The third-party root cause analysis (RCA) is in process. The Company will
89 provide a copy of the third-party RCA when it becomes available.” At this point it
90 seemed apparent that the GCS/GenMet RCA would not be available for meaningful
91 inclusion in this EBA docket. Thus, I was surprised when on or about January 13,
92 2020 a RMP representative verbally told me that the study would be finished in
93 time to be included as an attachment to RMP’s sur-rebuttal testimony, which of
94 course would be too late for the OCS or any other party to review and respond to
95 the information. On January 15, 2020, the OCS received the corrected version of
96 RMP’s sur-rebuttal testimony, which attached the GCS/GenMet RCA, at
97 approximately 4:00 pm, just before the long weekend associated with Dr. Martin
98 Luther King, Jr. holiday.

99 **Q. AFTER THE PSC ORDERED AN ADDITIONAL ROUND OF**
100 **TESTIMONY IN THIS DOCKET, DID THE OCS CONDUCT**
101 **ADDITIONAL DISCOVERY TO UNDERSTAND THE REASON FOR THE**
102 **DELAYS IN COMPLETION OF THE GCS/GENMET RCA?**

103 A. Yes. OCS asked additional discovery, including a request for detailed information
104 about the timeline of events associated with the outage in OCS DR 4.8 as follows:

105 Please provide a timeline of all major activities that took place since
106 the 1st RCA was completed and when the 2nd RCA was completed,
107 including:

108 1. Explain all important activities that took place that led to the
109 decision to conduct the second root cause analysis.

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- 110 2. A timeline of the significant activities associated with
- 111 performing the second RCA, including when steps were
- 112 taken to hire the consultants, meetings/calls with the
- 113 consultants, when their investigation began, the major events
- 114 that occurred while conducting the RCA, when PacifiCorp
- 115 received the first draft of the RCA, and when the final draft
- 116 was completed.

- 117 3. In explaining the timeline please provide an accounting for
- 118 what occurred on or around August 16th that led to the
- 119 revised estimate of the report being completed at the end of
- 120 August 2020. (See emails between PacifiCorp and the OCS
- 121 below)⁷ This information was supplied in the recent General
- 122 Rate Case.

- 123 4. In explaining the timeline please provide an accounting for
- 124 what occurred on or around August 19th that led to the
- 125 revised estimate of the report being completed at the first
- 126 part of October 2020. (See emails below)

- 127 5. In explaining the timeline please provide an accounting for
- 128 what occurred around the first part of October that led to
- 129 further delays of the report. Note, after October 2020, RMP
- 130 revised the completion date to be at the end of the year or
- 131 just after the start of the year, but ultimately the 2nd RCA did
- 132 not come out until the 15th of January.

133 RMP responded by stating, “Please refer to the Company’s response to DPU Data
 134 Request 16.10.” DPU’s data request 16.10 actually requested much less specific
 135 information as shown below:

136 **CONFIDENTIAL REQUEST** - Regarding the 2nd Lakeside RCA
 137 (2nd RCA) provided as Confidential Exhibit RMP (DMR-1S):
 138 Report indicates [REDACTED]
 139 [REDACTED]
 140 [REDACTED]
 141 [REDACTED] Please
 142 explain why the 2nd RCA took a considerable amount of time to be
 143 made available to stakeholders.

⁷ The emails referenced in this DR are the same as those referenced above in Footnote 1 and attached to this testimony.

144

145 **Q. DID RMP'S RESPONSE TO THE DPU PROVIDE ADEQUATE**
146 **EXPLANATION REGARDING THE TIMELINE OF THE GCS/GENMET**
147 **RCA?**

148 A. Not in my opinion. RMP's response is as follows:

149 [REDACTED]
150 [REDACTED]
151 [REDACTED]
152 [REDACTED]
153 [REDACTED]
154 [REDACTED]
155 [REDACTED]
156 [REDACTED]
157 [REDACTED]
158 [REDACTED]
159 [REDACTED]
160 [REDACTED]
161 [REDACTED]
162 [REDACTED]
163 [REDACTED]
164 [REDACTED]

165 While this explanation provides a partial explanation of some of the factors
166 affecting the timeline of the GCS/GenMet RCA, it does not address why it took so
167 long for RMP to pursue the course of action it identified, it does not address the
168 specific timeline questions asked by the OCS, nor does not provide adequate
169 explanation for why the GCS/GenMet RCA was delayed all the way until January
170 15, 2020.

171 **Q. DOES RMP HAVE ANY OTHER STATEMENTS ABOUT THE DELAY OF**
172 **THE GCS/GENMET RCA ON THE RECORD?**

173 A. Yes. In the confidential hearing held on January 21, 2021, RMP attorney Emily
174 Wegener stated, [REDACTED]
175 [REDACTED]
176 [REDACTED]⁸ In addition to proposing a reason for the delay in the GCS/GenMet RCA
177 that is inconsistent with DR responses, this statement also raises concerns about
178 whether the third-party contractor is truly independent which I further address
179 below.

180 **Policy Concerns**

181 **Q. PLEASE SUMMARIZE YOUR CONCERNS ABOUT THE TIMELINE OF**
182 **COMMUNICATIONS REGARDING THE GCS/GENMET RCA.**

183 A. First, RMP has not provided an explanation that is consistent or sufficient to explain
184 the ongoing delays of the GCS/GenMet RCA. For example, when the timeline was
185 revised from the end of August to early October, RMP should have been able to
186 ensure that the revised date was met or provide a specific reason for the subsequent
187 delay. In particular, I am concerned that RMP was able to push the completion just
188 in time for its sur-rebuttal testimony but not in time for meaningful consideration
189 in this EBA docket. Even with the additional process provided by the PSC in its
190 January 26, 2021 Scheduling Order, a thorough analysis and understanding of the
191 methodology and results of the GCS/GenMet RCA is not possible. If RMP had
192 been able to provide the GCS/GenMet earlier in this docket, the OCS and other

⁸ Hearing transcript p. 28 lines 3-6.

193 parties may have had time to delve more deeply into the differences of opinion
194 between Siemens and the GCS/GenMet experts. RMP may have been able to
195 provide more explanation to reconcile the conflicting statements that are currently
196 contained in the record. However, as it stands, RMP has not provided sufficient
197 explanation and has not met its burden of proof for recovery of the costs associated
198 with the Lake Side 2 outage.

199 **Q. DO YOU HAVE OTHER POLICY CONCERNS REGARDING THE**
200 **PRODUCTION OF THE GCS/GENMET RCA?**

201 A. Yes. As OCS Witness Hayet demonstrates in his testimony, 1) GCS and GenMet
202 were hired [REDACTED]
203 [REDACTED], 2) the intent for hiring was (at least in part) [REDACTED]
204 [REDACTED], and 3) invoices from GCS show that [REDACTED]
205 [REDACTED]. These details raise additional policy concerns. For
206 example, to what extent is the GCS/GenMet RCA representative of a truly
207 independent evaluation as asserted by Mr. Ralston in his testimony in Docket No.
208 20-035-04 when the firm was [REDACTED].
209 Moreover, RMP admits that they specifically sought [REDACTED]
210 [REDACTED], and RMP [REDACTED]
211 [REDACTED].

212 **Q. DID OCS ASK ADDITIONAL DISCOVERY TO UNDERSTAND THE**
213 **EXTENT TO WHICH [REDACTED]**
214 **[REDACTED]?**

- 215 A. Yes, OCS DR 4.17 included in part:
- 216 (c) When did RMP become aware of the final conclusions of the 2nd
217 RCA?
218 **RMP Response:** The Company received a draft of the 2nd RCA on
219 December 17, 2020; the conclusions of the final 2nd RCA did not
220 change from this draft.
221
- 222 (d) Did RMP ask questions and provide feedback upon receiving
223 preliminary updates on the 2nd RCA? If so, please indicate when
224 this occurred.
225 **RMP Response:** The Company asked questions and provided
226 feedback during the development of the strategy to conduct
227 additional testing as part of the 2nd RCA. Other than this input, the
228 Company’s input during GCS’s preparation of the 2nd RCA was
229 limited to status updates about the timing of the lab analysis and the
230 2nd RCA.
231
- 232 (e) Did RMP receive preliminary drafts of the 2nd RCA? If so, please
233 indicate when this occurred.
234 **RMP Response:** The Company received a draft of the 2nd RCA on
235 December 17, 2020, and exchanged several drafts with GCS before
236 the 2nd RCA was finalized on January 15, 2021.
237
- 238 (f) If RMP received drafts, did RMP participate in the editing of the
239 2nd RCA?
240 **RMP Response:** The Company asked clarifying questions and
241 made stylistic and organizational edits to the drafts provided by
242 GCS.
243
- 244 **Q. COULD YOU VERIFY WHETHER THE MONTHLONG EXCHANGE OF**
245 **“SEVERAL” DRAFTS CONTAINED ONLY STYLISTIC AND**
246 **ORGANIZATIONAL EDITS?**
- 247 A. No. The OCS did request copies of all communication between RMP and GCS and
248 GenMet, including RCA drafts, in its Data Request 4.3. RMP only partially
249 provided the requested communication and did not provide any RCA drafts. RMP
250 objected to the request as being covered by the attorney work-product doctrine or

251 the attorney-client privilege. Although RMP provided a privilege log, the log did
252 not provide adequate detail to determine the extent of communications and whether
253 the exchange of several drafts addressed issues beyond stylistic edits. The five
254 business day turnaround for discovery did not allow adequate time for a follow up
255 request. Ultimately, the OCS decided not to pursue further process to uncover the
256 substance of the communications because the PSC, RMP, and the DPU appeared
257 to have a clear preference to maintain the March 1, 2020 implementation of the
258 outcome of this docket, which does not allow time for any additional process
259 concerns to be resolved.

260 **Q. PLEASE SUMMARIZE YOUR CONCERNS ABOUT THE GCS/GENMET**
261 **RCA.**

262 A. In general, I am concerned about the independence of the GCS/GenMet RCA due
263 to the lack of clear explanation for its ongoing delays, conflicting statements in the
264 record as to the purpose of this study, and lack of clarity regarding the specific types
265 of input RMP gave into the process and production of the study.

266 **Q. DESPITE YOUR CONCERNS, DOES THE GCS/GENMET RCA PROVIDE**
267 **EVIDENTIARY VALUE IN THIS PROCEEDING?**

268 A. In my opinion, yes. Despite my concerns about the independence of GCS/GenMet,
269 it ultimately had a similar conclusion to the Siemens RCA in that it was not able to
270 definitively identify the cause of the outage. While GCS/GenMet identified another

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271 potential cause of the outage ([REDACTED])⁹, OCS
272 Witness Hayet, in his sur-surrebuttal testimony, explains that there may have been
273 a means that RMP could have detected [REDACTED]
274 [REDACTED] at the time of the outage.¹⁰

275 **Q. WHAT IS THE OVERARCHING POLICY IMPLICATION OF THE**
276 **INABILITY OF BOTH SIEMENS AND GCS/GENMET TO DETERMINE**
277 **THE CAUSE OF THE OUTAGE?**

278 A. RMP, not the ratepayers, carries the burden of proof that the outage was prudent.
279 While RMP was prudent in trying to find the cause of the outage, having failed to
280 do so, one cannot conclude that RMP met its burden of proof. Rather RMP must
281 prove that it was prudent. Thus, the PSC should deny recovery of the costs
282 associated with this outage. To do otherwise would not keep in place incentives for
283 RMP to conduct RCAs to identify the causes of outage, rather it would give an
284 incentive for causes of outages to remain unexplained.

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

286 A. Yes, it does.

⁹ Philip Hayet Sur-Surrebuttal Testimony, Docket 20-035-01, lines 110-124.

¹⁰ Philip Hayet Sur-Surrebuttal Testimony, Docket 20-035-01, lines 129-146.