

1 **Q. PLEASE STATE YOUR NAME, BY WHOM YOU ARE EMPLOYED AND IN**
2 **WHAT CAPACITY FOR THE RECORD.**

3 **A.** Eric Orton. I work for the Division of Public Utilities (Division) as a Utility Technical
4 Consultant. My office is at the Heber M. Wells Building, 4th Floor, 160 East 300 South,
5 Salt Lake City, Utah 84114.

6 **Q. ARE YOU THE SAME ERIC ORTON WHO FILED DIRECT AND REBUTTAL**
7 **TESTIMONY IN THIS DOCKET?**

8 **A.** Yes.

9 **Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?**

10 **A.** To address the rebuttal testimony of Rocky Mountain Power (Company) witness Mr.
11 Curtis. B. Mansfield regarding the Advanced Meter Infrastructure (AMI) costs. Also to
12 address Company witness Mr. Stephen R. McDougal's rebuttal testimony in which he
13 recommends rejecting my expense adjustments which I argue should not be the burden of
14 ratepayers.

15 **AMI**

16 **Q. MR. MANSFIELD DOES NOT REBUT YOUR DIRECT TESTIMONY BUT HE**
17 **DOES DISAGREE WITH THE OFFICE OF CONSUMER SERVICES (OFFICE)**
18 **WITNESS MS. DONNAS RAMAS WHO'S POSITION YOU ADOPT IN YOUR**
19 **REBUTTAL TESTIMONY. WHAT IS THE PURPOSE OF YOUR COMMENTS**
20 **IN THIS SURREBUTTAL TESTIMONY?**

21 **A.** In my rebuttal testimony I supported and adopted the proposal of the Office witness Ms.
22 Ramas to remove the AMI costs from the proposed rate base based on the regulatory
23 principle that the investment is not used and useful in the test year. This principle is a
24 standard in the regulatory environment.

25 **Q. WHAT DOES MR. MANSFIELD SAY TO COUNTER THAT FUNDAMENTAL**
26 **PRINCIPLE?**

27 A. Mr. Mansfield states that used and useful should not apply here or be the standard to
28 determine including the AMI project in rates since some of the project “will be
29 substantially complete by the end of 2021 and the system will begin reading the existing
30 automatic meter reading meters soon after.” Therefore, according to his testimony
31 “some” of the project will be “substantially complete” but it still can’t read the meters
32 until “soon after”. In other words the Company may complete some work on the project
33 but it still won’t function as it is supposed to, i.e. read meters, until some indefinite time
34 in the future. Again, the AMI project is not used and useful during the test year and
35 should not be included.

36 **Q. WHAT PART OF THE AMI PROJECT WILL THE COMPANY COMMIT TO**
37 **AS BEING “SUBSTANTIALLY COMPLETE” AND READY DURING THE**
38 **TEST YEAR THAT WILL BENEFIT CUSTOMERS?**

39 A. Again to quote from Mr. Mansfield, “While it is true that completion of the project will
40 allow all of the benefits to be deployed, it is also true that customers will experience
41 many of these benefits before completion. For example, the first three benefits stated
42 above are scheduled to be available to residential customers with new AMI meters by the
43 end of 2021 when the Gen5 field network is completed in their neighborhoods.” Having
44 the first three benefits “scheduled” as the field network is “completed in their
45 neighborhoods” does not provide any certainty, or hard commitment from the Company
46 and the non-definitive statements should not be relied upon, particularly regarding this
47 on-again-off-again project when it comes to the use of ratepayer funds.

48 **Q. WHAT EVIDENCE DID YOU RELY UPON TO DETERMINE THIS IS AN ON-**
49 **AGAIN-OFF-AGAIN PROJECT WHICH REQUIRED IT TO BE ELIMINATED**
50 **FROM RATE BASE PROJECTIONS?**

51 A. As demonstrate in my rebuttal testimony, the Company chose to invest various amounts
52 in 2018, 2019 and 2020 and can still chose when to invest and when not to in this project.
53 Indeed, since the filing of this rate case, the Company has again postponed the AMI
54 project. Looking at the historical activity, it is reasonable to believe that this project

55 could be postponed again as the Company appears to treat the AMI project as
56 discretionary.

57 It is contrary to wise regulatory practice for ratepayers to provide funding for a project
58 which may be, or may not be completed within the test period. The AMI plant is not used
59 and useful, not beneficial to ratepayers during the test year, therefore not recoverable in
60 rates.

61 **EXPENSE ADJUSTMENTS**

62 **Q. COMPANY WITNESS MR. MCDOUGAL STATES THAT YOU PROPOSE “TO**
63 **REMOVE CERTAIN EXPENSES RELATED TO LOBBYING, CIVIC**
64 **GOODWILL, AND INCENTIVE AND PERKS ON THE BASIS THAT THE**
65 **COMPANY’S COSTS FOR THESE ITEMS DO NOT PROVIDE A DIRECT,**
66 **QUANTIFIABLE BENEFIT TO CUSTOMERS AND ARE NOT NECESSARY IN**
67 **PROVIDING SAFE AND RELIABLE ELECTRIC SERVICE TO CUSTOMERS.”**
68 **IS HE CORRECT IN HIS REASSESSMENT OF YOUR POSITION?**

69 A. Yes.

70 **LOBBYING**

71 **Q. REGARDING YOUR LOBBYING ADJUSTMENT MR. MCDOUGAL**
72 **PROPOSES THAT THIS ADJUSTMENT BE DISALLOWED BASED ON HIS**
73 **ASSESSMENT OF YOUR CALCULATION BEING INCORRECT. IS THE**
74 **CALCULATION IN ERROR?**

75 A. It appears that the invoiced amount for the Company from Edison Electric Institute (EEI)
76 should have been \$1 million instead of \$2.2 million because the latter was invoiced to the
77 parent company and the former is the amount invoiced to the utility. I used the entire
78 amount from the invoice where, apparently, there was some allocation factor used to
79 distribute the costs to some of the subsidiaries.

80 **Q. MR. MCDUGAL ALSO STATED THAT THE EEI AMOUNT DESIGNATED**
81 **TO LOBBYING ACTIVATES WAS ALREADY BOOKED BELOW THE LINE.**
82 **DO YOU DISAGREE WITH HIS STATEMENT?**

83 A. I accepted Mr. McDougal's correction to my original adjustment.

84 **Q. ASSUMING THESE TWO STATEMENTS ARE ACCURATE DOES THAT**
85 **NEGATE THE ENTIRE LOBBYING ADJUSTMENT AS MR. MCDUGAL**
86 **ADVOCATES?**

87 A. No. Using his numbers, I re-ran the adjustment with the \$1.0 million figure provided by
88 Mr. McDougal. The result is a reduction to my proposed adjustment but there is no valid
89 reasons to eliminate it in its entirety.

90 **Q. HOW DID YOU RE-RUN THE CALCULATION?**

91 A. I removed the EEI portion directly related to lobbying as references by Mr. McDougal
92 (the 13%) and ran the remainder as a ratio of the \$1.0 million he claimed was proper to
93 the \$2.2 million he said was invoiced to the parent corporation.

94 **Q. WHAT IS THE RESULTING ADJUSTMENT?**

95 A. Instead of an adjustment of \$159,589 the new adjustment should be \$34,379 a difference
96 of \$125,210 on a Utah basis. See DPU exhibit 5.1 SR

97 **CIVIC GOODWILL**

98 **Q. REGARDING YOUR ADJUSTMENT TO CHAMBER OF COMMERCE TYPE**
99 **EXPENSES MR. MCDUGAL CLAIMS THAT "THE COMPANY'S**
100 **PARTICIPATION IN THESE ORGANIZATIONS DOES, IN FACT, PROVIDE**
101 **BENEFITS TO CUSTOMERS AND IS NOT FOR THE PURPOSE OF**
102 **INCREASING LOAD OR SALES." DID YOU SAY THAT THE COMPANY'S**
103 **PARTICIPATION INCREASED LOAD OR SALES?**

104 A. No. That was not in my testimony. I said that these items do not provide a direct,
105 quantifiable benefit to customers and are not necessary in providing safe and reliable
106 electric service to customers.

107 **Q. MR. MCDOUGAL CLAIMS THAT THE COMPANY’S “PARTICIPATION IN**
108 **THESE ORGANIZATIONS PROVIDES BASIC INFORMATION WHICH AIDS**
109 **THE COMPANY’S DEVELOPMENT OF ITS LOAD FORECASTS AND**
110 **PLANNING TO MEET THE UTILITY SERVICE NEEDS OF THE**
111 **COMMUNITIES WE SERVE. CHAMBER OF COMMERCE MEETINGS ARE**
112 **OFTEN A SOURCE FOR LEARNING ABOUT NEW LOAD PLANNED IN A**
113 **COMMUNITY OR OTHER MATTERS WHICH MIGHT IMPACT THE**
114 **COMPANY’S INFRASTRUCTURE OR SERVICE PROTOCOLS IN THE**
115 **COMMUNITY. PARTICIPATION IN THESE ORGANIZATIONS IS CRITICAL**
116 **TO THE COMPANY’S EFFORTS TO REMAIN INFORMED ON THESE**
117 **ISSUES”. DOES THAT MAKE REASONED SENSE IN TODAY’S WORLD?**

118 A. No. This exchange of information he is referring to is one of the reasons these
119 organizations were initially established long ago. They were beneficial to competitive
120 companies and they might have been beneficial to the Company in decades past when the
121 information was transferred between businesses mouth-to-mouth and the internet was not
122 available. There is currently no electric utility competitor to the Company. Today the
123 plans for developments are available on government web sites and specific projects
124 including blueprints can be sent to the utility with the click of a mouse or the touch of a
125 button. Literally thousands of these types of documents could be transmitted to the
126 Company in less time than the Chairperson can call a meeting to order in person.
127 Likewise, it is the prudent developer or other community planner who will take it upon
128 him/herself to contact the utility, knowing that they will need electric service.
129 Specifically, there is simply nowhere else to get electric utility service other than the
130 utility and therefore, making ratepayers pay for transferring this information in this
131 archaic manner is simply not required. The argument that the Company needs to fund
132 these type of organizations to find out what plans are for a particular community simply
133 doesn’t hold water – not in the information age.

134 **Q. DID THE COMPANY PROVIDE ANY EVIDENCE, EXAMPLES OR SPECIFIC**
135 **INSTANCES WHERE THESE ORGANIZATIONS PROVIDED INFORMATION**

136 **WHICH THE COMPANY RELIED UPON TO HELP IN ITS “LOAD**
137 **PLANNING” OR “OTHER ISSUES”?**

138 A Mr. McDougal provided none. The Company has been paying to participate in these
139 organizations for quite some time. There should be ample evidence or examples of
140 where participation in these organizations provided information that the Company needed
141 and could not be attained in any other way.

142 **Q. PLEASE COMMENT ON MR. MCDOUGAL’S JUSTIFICATION THAT**
143 **PAYING THESE DUES AND MEMBERSHIP FEES WILL HELP THE**
144 **COMPANY “BUILD AND MAINTAIN THE RELATIONSHIPS WITH**
145 **COMMUNITY LEADERS”.**

146 A. Any organization or activity which the Company helps or funds will ultimately build and
147 maintain a relationship. The question is not can the Company use ratepayer funds to
148 build friendships and relationships, the question is does it need to do that in order to
149 provide electric service. If the Company wants to spend money to stay in touch with
150 community leaders, it should spend shareholder money. It is not the responsibility of
151 ratepayers to help the Company build friendships. These sort of relationships are not
152 required by a monopoly utility. Civic relationships tend to predominantly benefit the
153 executives themselves and the shareholders and as such should not be funded with
154 ratepayer funds.

155 **Q. BEGINNING ON LINE 702, MR. MCDOUGAL ARGUES AGAINST YOUR**
156 **ADJUSTMENT TO REMOVE SOME INCENTIVE AND PERK EXPENSES. DID**
157 **HIS ARGUMENTS ALTER YOUR POSITION?**

158 A. No. Let me provide two examples that illustrate what type of expenses should not be the
159 burden of ratepayers. Mr. McDougal states;

160 “Leadership conferences, which account for approximately \$133 thousand
161 of Mr. Orton’s \$410 thousand adjustment, provide training, education, and
162 strategic opportunities for the Company’s leadership team to improve their
163 leadership skills and build important relationships in order to provide safe
164 and reliable service for our customers. These are not perks or incentives
165 for the Company’s employees.”

166 According to the Company's records, the \$133 thousand Mr. McDougal is referring to
167 are for "lodging" for a "PAC leadership conference" and were provided in three line
168 items in amount of \$27,900+\$51,074+\$8,900=\$132,874. This appears to be an extremely
169 expensive conference which looks to be a perk or incentive. I've seen no evidence that
170 typical conferences for training, education and leadership skill improvement cost near
171 that much.

172 Additional examples include a **one day** business trip for one executive which cost
173 ratepayers \$27,831 and a different **one day** business trip which cost \$23,336. It would be
174 difficult to justify to ratepayers that these costs are prudently incurred and in their best
175 interest.

176 These expenses are excessive and should not be included in customer rates. Every utility
177 should be a good steward of captive ratepayer's funds. The captive ratepayers, many
178 whom struggle financially, should not be burdened with paying for such trips for the
179 Company's elite to "improve their leadership skills and build important relationships".

180 **Q. DID MR MCDUGAL PROVIDE ANY EVIDENCE OF AN "IMPORTANT**
181 **RELATIONSHIP" THAT WAS BUILT FROM ANY OF THESE**
182 **"CONFERENCES" THAT COULD NOT BE BUILT IN ANY OTHER WAY?**

183 A. No.

184 **Q. LIKewise DID MR. MCDUGAL PROVIDE ANY EVIDENCE, PERHAPS**
185 **JUST AN EXAMPLE, OF A "LEADERSHIP SKILL" WHICH WAS LACKING**
186 **IN ANY COMPANY LEADER THAT WAS ENHANCED BY RATEPAYERS**
187 **INCURRING THIS EXPENSE?**

188 A. No. There is no such evidence provided. Therefore, this adjustment should stand.

189 INCENTIVES

190 **Q. MR. MCDUGAL ASSERTS "THE COMPANY'S EMPLOYEE**
191 **APPRECIATION EFFORTS AIDES ITS ABILITY TO ATTRACT AND RETAIN**
192 **TALENTED EMPLOYEES. RECOGNIZING DEDICATED, HARD WORKING**

193 **EMPLOYEES FOR THEIR CONTRIBUTIONS TO THE WORKPLACE IS A**
194 **REASONABLE EXPENSE FOR WHICH THE COMPANY SHOULD BE**
195 **ALLOWED TO RECOVER IN RATES.” DO YOU AGREE?**

196 A. No. Ratepayers should not be obliged to fund a “family trip for high level candidate”.
197 Neither should they be obliged to pay for Hydro flasks to the tune of \$26,064 nor Lagoon
198 Park expenses for \$64,485. There is no evidence provided by the Company that these
199 helped “attract or retain talented employees”. It is reasonable that talented employees are
200 attracted and retained by good salaries, benefits and working environment which are
201 already covered in rates.

202 **Q. DOES MR. MCDOUGAL PROVIDE ANY EVIDENCE THAT THESE PERKS**
203 **ATTRACT OR RETAIN TALENTED EMPLOYEES?**

204 A. No. He provided no evidence, not even an affidavit that a single employee joined the
205 Company or stayed with the Company when contemplating accepting an offer at another
206 firm, based on a water bottle or admittance into an amusement park.

207 At the very least, shareholders benefit from these employees too, and they should share
208 some of the cost burden.

209 **Q. ADDITIONALLY, MR. MCDOUGAL CAILMS THAT YOUR ADJUSTMENT**
210 **SHOULD NOT BE ACCEPTED BECAUSE “MR. ORTON’S ADJUSTMENT**
211 **ALSO REMOVES APPROXIMATELY \$51 THOUSAND IN BUSINESS TRAVEL**
212 **EXPENSES, OF WHICH APPROXIMATELY \$6 THOUSAND WERE ALREADY**
213 **REMOVED BY THE COMPANY IN ITS ORIGINAL FILING.” DO YOU**
214 **ACCEPT THAT STATEMENT?**

215 A. No. That is not a valid reason to the reject the entire adjustment. However, accepting the
216 adjustment to my original recommendation I made a \$6,000 adjustment to show \$45,000
217 instead of the \$51,000 he referenced. See Exhibit DPU 5.2 SR. This change causes the
218 total to be \$178,804 instead of \$181,494 or a difference of \$2,658 on a Utah basis.

219 **Q. MR. MCDOUGAL ALSO TAKES ISSUE WITH YOUR RESPONSE TO A DATA**
220 **REQUEST WHERE YOU POINT OUT THAT, AMONG OTHER REASONS,**

221 **SOME BUSINESS TRIPS SHOULD NOT BE RECOVERABLE BECAUSE THEY**
222 **WERE IN A PRIOR PERIOD. HE STATES THAT “THE COMPANY HAS**
223 **DEEMED THE AMOUNTS RECORDED ARE SIMPLY AN ESTIMATE OF**
224 **AMOUNTS EXPECTED FOR THE TEST YEAR.” DOES THAT ALTER YOUR**
225 **POSITION?**

226 A. No. Delaying a reimbursement from a past year does not make it now somehow
227 appropriate to include it in the test year data as a reasonable expense. These expenses are
228 not reasonably recovered from ratepayers simply because they may now be called an
229 estimate is no justification for including them. The test year is intended to be
230 representative of the rate effective period. There is a method for projecting expenses into
231 a future test period and attempting to move expenses between years is not a viable
232 method for projecting an accurate test year for ratemaking purposes. If that were allowed
233 – all disallowed expenses could simply be replaced in the projected test year with similar
234 value of projected expenses. Then the prudence of expenses in the base year would have
235 no meaningful value because the imprudent ones could always be replaced with predicted
236 prudent expenses.

237 **Q. DOES THAT CONCLUDE YOUR DIRECT TESTIMONY?**

238 A: Yes.