

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

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**IN THE MATTER OF THE APPLICATION OF  
ROCKY MOUNTAIN POWER TO ESTABLISH A  
BALANCING ACCOUNT FOR PENSION  
SETTLEMENT ADJUSTMENTS**

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**DOCKET No. 21-035-14  
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**

**June 22, 2021**

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).

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

6 A. The Division.

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

8 A. As a Utility Technical Consultant, I examine public utility financial data and review  
9 filings for compliance with existing programs as well as applications for rate increases. I  
10 research, analyze, document, and assist in establishing regulatory positions on a variety  
11 of regulatory matters. I provide and assist in the preparation of written and sworn  
12 testimony in hearings before the Public Service Commission of Utah (Commission) and  
13 assist in the case preparation and analysis of testimony.

14 **Q. PLEASE DESCRIBE THE PURPOSE OF YOUR TESTIMONY FOR THIS**  
15 **DOCKET.**

16 A. The purpose of my testimony is to present the Division's position regarding Rocky  
17 Mountain Power's (RMP or Company) Application to Establish a Balancing Account for  
18 Pension Settlement Adjustments.

19 **Q. WHY IS RMP FILING THIS APPLICATION?**

20 A. The Commission approved “a balancing account to true-up, on an annual basis, the  
21 Pension Settlement Adjustments that it actually recognizes with the amount it recovered  
22 in rates.”<sup>1</sup> The Commission further directed RMP to initiate a proceeding on or before  
23 March 1, 2021 to establish the balancing account.<sup>2</sup> This docket is in response to that  
24 directive.

25 **Q. DID RMP SEEK RECOVERY OF PENSION SETTLEMENT LOSSES?**

26 A. Yes. RMP included \$11.9 million of pension settlement loss in its 2021 test year to be  
27 recovered in rates.<sup>3</sup> The Commission understood that “RMP’s preference is to include  
28 this full amount as a component of pension expense.”<sup>4</sup>

29 **Q. WHAT AMOUNT WAS APPROVED BY THE COMMISSION IN THE MOST**  
30 **RECENT GENERAL RATE CASE (GRC), DOCKET NO. 20-035-04?**

31 A. The Commission approved for recovery in rates RMP’s requested amount of \$11.9  
32 million for Pension Settlement Loss.<sup>5</sup>

33 **Q. WHAT IS THE AMOUNT RMP PROPOSES AS THE BASE PENSION**  
34 **SETTLEMENT LOSS IN CURRENT RATES, AGAINST WHICH FUTURE**  
35 **LOSSES ARE TO BE TRUED UP?**

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<sup>1</sup> Public Service Commission of Utah Confidential Order in Docket No. 20-035-04, 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. Specifically, pages 32 and 96 of the Order.

<sup>2</sup> *Ibid.*

<sup>3</sup> Docket No. 20-035-04, Direct Testimony of Nikki L. Kobliha, lines 582 through 683. Also Rebuttal testimony of Steven R. McDougal, lines 334 through 341.

<sup>4</sup> Docket No. 20-035-04, Confidential Order, page 29.

<sup>5</sup> *Ibid.*, pages 31 and 32.

36 A. RMP indicates that \$7.9 million is the amount in base rates, against which future losses  
37 are to be trued up annually.

38 **Q. IS THERE AN INCONSISTENCY BETWEEN RMP'S TESTIMONY IN THIS**  
39 **CASE AND THE RATE CASE TESTIMONY AND ORDER?**

40 A. Yes. In the GRC, RMP consistently advocated that the amount of loss in base rates was to  
41 be \$11.9 million. The Commission agreed.<sup>6</sup> Kevin Higgins, the witness for UAE in the  
42 GRC, argued that \$7.9 million<sup>7</sup> was the actual number included in RMP's revenue  
43 requirement calculation for expense from pension settlement loss, rather than \$11.9  
44 million sought by RMP, and that the remaining \$4 million of the \$11.9 million was  
45 capitalized.<sup>8</sup> RMP's rebuttal testimony in the GRC confirmed its original request of \$11.9  
46 million for pension settlement loss and was silent regarding any allocation between  
47 expense and capitalization.<sup>9</sup> RMP's surrebuttal testimony was also silent regarding  
48 expense and capitalization allocation. The Commission's order subsequently approved  
49 RMP's \$11.9 million request.

50 Parties filed petitions for Review or Rehearing of Commission Order Issued December  
51 30, 2020, requesting the Commission reconsider or clarify portions of the Order  
52 pertaining to the ratemaking treatment of RMP's forecast pension settlement losses (see  
53 footnote 8). The Commission, in its Order on Petitions for Review, Reconsideration, or

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<sup>6</sup> *Id.*

<sup>7</sup> Docket No. 20-035-04, Direct testimony of Kevin C. Higgins, lines 705 through 710.

<sup>8</sup> *See also* Docket No. 20-035-04, Petition of the Utah Association of Energy Users and The University of Utah for Review or Rehearing of Commission Order Issued December 30, 2020, pages 8 and 9.

<sup>9</sup> Docket No. 20-035-04, Rebuttal Testimony of Steven R. McDougal, lines 325 through 341.

54 Rehearing, reaffirmed its order establishing a balancing account to annually true up  
55 actual pension settlement losses with amounts included in rates. It also indicated that the  
56 balancing account should reflect only a Utah-allocated expense, not a system expense.<sup>10</sup>  
57 The advocacy in the reconsideration phase of the GRC is important to review.

58 RMP's response to the Petitions to Review or Rehearing of the Commission's GRC  
59 Confidential Order also reaffirms its request for \$11.9 million to be included in full in  
60 rates.<sup>11</sup> RMP further quoted the Commission's Order "that recovery in rates of the full  
61 amount of pension settlement losses or gains, which are required by financial accounting  
62 standards to be expensed or recognized in income in a single year, is appropriate."<sup>12</sup> RMP  
63 further states it "presented undisputed evidence that \$11.9 million in actuarially-projected  
64 pension settlement losses are forecast in the test period, and its rate request included that  
65 amount."<sup>13</sup> And "The Commission clearly stated that the test year included \$11.9 million  
66 in pension settlement losses."<sup>14</sup> RMP concluded by stating "It could not be more clear  
67 that the initial amount in the balancing account is \$11.9 million."<sup>15</sup> If RMP knew there  
68 was a mistake in the materials underlying its written testimony in the case, its response to  
69 the motions did not reveal that; RMP continued to advocate vigorously that the  
70 Commission had approved \$11.9 million be included in base rates for this item.

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<sup>10</sup> Docket No. 20-035-04, Order on Petitions for Review, Reconsideration, or Rehearing, pages 6 through 8.

<sup>11</sup> Docket No. 20-035-04, Rocky Mountain Power's Response in Opposition to Petitions for Reconsideration, Review, or Rehearing, page 8.

<sup>12</sup> *Ibid*, page 9.

<sup>13</sup> *Ibid*, page 12.

<sup>14</sup> *Ibid*, page 13.

<sup>15</sup> *Ibid*, page 13.

71           Regardless, the Commission’s orders clearly delineate \$11.9 million of the forecast  
72           settlement losses are included in base rates.

73   **Q.    SHOULD THE COMMISSION FIND THAT ONLY \$7.9 MILLION OF PENSION**  
74   **SETTLEMENT LOSSES ARE INCLUDED IN BASE RATES?**

75    A.    No. No reasonable reading of the Commission’s order in the general rate case can support  
76           recognizing any amount other than \$11.9 million for this item in base rates. The public  
77           must be able to rely on fully-litigated general rate case orders and if RMP made a mistake  
78           in its rate case, it is responsible for the consequences of that mistake.

79           At various points in its general rate case orders, the Commission grappled with arguments  
80           about the amount of forecast settlement losses. It appears Mr. Higgins may have  
81           identified an issue about how RMP incorporated these projected losses into its exhibits  
82           supporting the written testimony in its rate case. That mistake may have led to the full  
83           \$11.9 million not being included in the numbers derived from the exhibits that RMP  
84           actually asked the Commission to approve in its sworn, written testimony. Despite Mr.  
85           Higgins’ work, RMP continued to affirm its testimony supporting including \$11.9 million  
86           in base rates to represent the pension settlement losses. At no point did RMP indicate any  
87           reservations about that amount. If it knew there was a problem with the way its testimony  
88           and rate case exhibits were prepared, it did not indicate so. Although perhaps an expert  
89           combing through supporting exhibits might identify, as Mr. Higgins apparently did, a  
90           mistake, the written testimony and relevant orders specifically call out \$11.9 million as  
91           being in base rates for this item.

92 Although I am not a lawyer, my understanding is that Commission orders must include  
93 reasonable explanations of the Commission's factual findings. There is simply no  
94 reasonable reading of the GRC orders supporting the notion that only \$7.9 million in  
95 pension settlement losses are included in base rates. The only testimony supporting the  
96 \$7.9 million figure was Mr. Higgins' testimony, which was expressly rejected by RMP  
97 and the Commission. RMP seems to suggest the numbers presented in its exhibits and  
98 ultimately requested did not include the full \$11.9 million dollars in revenue requirement,  
99 but a Commission order must clearly articulate the reason for its findings and  
100 conclusions. There is simply no way of reading the Commission's orders that support  
101 only \$7.9 million being included in base rates for this item.

102 Imagining for a moment that the Commission's intent was in fact to approve the  
103 Company's exhibits as defining the scope of the approved rates, the order would have  
104 provided an inappropriately scant rationale for its approval. If one instead tries to read the  
105 rate case order as approving only \$7.9 million in base rates, the order becomes  
106 nonsensical and not subject to any meaningful judicial scrutiny, hiding as it would its  
107 ultimate conclusion until after the time for appeals had expired.

108 It simply cannot be in the public interest for a Commission order to later be read as  
109 meaning something the order specifically rejected. The Commission's orders cannot have  
110 private meaning, discernable to only a narrow set of experts, especially when even the  
111 utility itself could not discern the meaning until well after the period for reconsideration  
112 and appeal had closed. Base rates for the current rate effective period have been set and

113 the Commission specifically approved the base rate for this item at \$11.9 million dollars.  
114 That is the amount the Commission must now recognize as the base for future balancing  
115 account adjustments. If RMP wishes for a different base rate, it must file another general  
116 rate case.

117 **Q. DOES THE DIVISION AGREE WITH THE METHOD PROPOSED BY RMP TO**  
118 **TRUE UP THE ANNUAL PENSION SETTLEMENT LOSS?**

119 A. With the exception of the assumed capitalization rate adjustment shown in lines 5  
120 through 8 of RMP's exhibit NLH\_1, the Division supports the true-up method proposed  
121 by RMP. The Division recommends the assumed capitalization rate adjustment be deleted  
122 from the balancing calculation. This will result in annual actual expenses being trued-up  
123 to the \$11.9 million in base rates rather than the \$7.9 million RMP belatedly claims are  
124 included in base rates. The Division also suggests the Commission include language in its  
125 order noting that if the annual deviations reported are significant, intermediate processes  
126 to include a surcharge or surcredit may be prudent and may be sought by the Company,  
127 the Division, the Office, or other interested persons.

128 **Q. IN SUMMARY, WHAT IS THE DIVISION'S POSITION IN THIS MATTER?**

129 A. The Company's proposed method for handling the difference between actual expenses  
130 and the amount in base rates is reasonable, especially with the recognition that significant  
131 balances might be addressed between rate cases if needed. However, the Division  
132 opposes any change in the amount designated as being in base rates for this item. RMP  
133 argues that even though it requested \$11.9 million in settlement losses in the most recent



134 rate case, only \$7.9 million was placed in base rates. However, throughout the rate case  
135 and the rehearing proceeding, RMP consistently represented that it was asking for \$11.9  
136 million and the Commission approved that amount in its orders. Therefore, the Division  
137 concludes that \$11.9 million is in base rates. To conclude otherwise undermines the rate  
138 making process and shifts the burden to other parties to discover an esoteric treatment of  
139 the settlement loss buried in RMP's complex workpapers.

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

141 **A. Yes.**