

-BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH-

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

)
)
)
)
)
)
)
)
)
)

**DOCKET No. 21-035-14
Exhibit No. DPU 1.0 SR
Surrebuttal Testimony
Jeffrey S. Einfeldt**

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

Surrebuttal Testimony of

Jeffrey S. Einfeldt

August 3, 2021

1 **Q. ARE YOU THE SAME JEFFREY S. EINFELDT WHO SUBMITTED DIRECT**
2 **TESTIMONY IN THIS PROCEEDING ON BEHALF OF THE DIVISION OF**
3 **PUBLIC UTILITIES (“DIVISION”)?**

4 A. Yes.

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

6 A. The purpose of my surrebuttal testimony is to summarize the position of the Division
7 regarding Rocky Mountain Power’s (“RMP”) proposal for the Pension Settlement
8 Adjustments Balancing Account (“Pension Balancing Account” or “PBA”), and to clarify
9 RMP witness Nicholas L. Highsmith’s representation of the Division’s position.

10 **Q. DOES THE DIVISION SUPPORT AN ANNUAL TRUE-UP OF THE PENSION**
11 **EXPENSE?**

12 A. Yes. The Division believes an annual true-up is just, reasonable, and in the public
13 interest.

14 **Q. DOES THE DIVISION AGREE WITH THE MECHANICS OF THE TRUE-UP**
15 **CALCULATION PROPOSED BY RMP?**

16 A. Yes.

17 **Q. DOES THE DIVISION AGREE AN ERROR EXISTS IN RMP’S**
18 **REPRESENTATION OF PENSION SETTLEMENT LOSSES IN THE MOST**
19 **RECENT GENERAL RATE CASE?**

20 A. Yes. The Division recognizes RMP claimed pension settlement losses of \$11.9 million,
21 total company, in its 2021 test year to be recovered in rates.¹ The actual amount used in
22 RMP's detailed supporting exhibits is only \$7.9 million, resulting in a \$4 million
23 discrepancy between RMP's representations in its application and supporting testimonies
24 versus its underlying exhibits.² The \$4 million discrepancy represents RMP's erroneous
25 capitalization of a portion of the pension settlement losses. The Utah portion of this
26 discrepancy is 43.569 percent, or \$1.74 million.

27 **Q. WAS RMP MADE AWARE OF THIS DISCREPANCY DURING RMP'S**
28 **GENERAL RATE CASE?**

29 A. Yes. Kevin Higgins, the expert witness on behalf of Utah Association of Energy Users
30 ("UAE"), testified in direct testimony in Docket No. 20-035-14 ("RMP GRC") that only
31 \$7.9 million of pension settlement loss was included in the revenue requirement
32 calculation and not the \$11.9 million asserted by RMP.³ However, RMP chose not to
33 correct the error in subsequent testimony and instead continued to stress that the pension
34 loss included in its case was \$11.9 million.

35 **Q. DID RMP HAVE OTHER OPPORTUNITIES TO CORRECT THIS**
36 **DISCREPANCY?**

37 A. Yes. In the RMP GRC, UAE filed its Petition for Review or Rehearing of Commission
38 Order Issued December 30, 2020 and argued among other things that only \$7.9 million of

¹ 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.

² 2020 GRC at Exhibit RMP (SRM-3) at page 4.2.2.

³ Docket No. 20-035-04, Confidential Direct Testimony and Exhibits of Kevin C. Higgins, lines 704 through 710.

39 pension settlement loss was or should be included in the revenue requirement.⁴ In its
40 Response in Opposition to Petitions for Reconsideration, Review, or Rehearing, RMP
41 emphatically reasserted the full \$11.9 million was in rates and should be approved at that
42 amount and persuaded the Commission to rule in favor of RMP (in the RMP GRC and in
43 the subsequent Rehearing).⁵ RMP had opportunity to correct its discrepancy at least twice
44 and failed to do so.

45 **Q. WHAT IS ACTUALLY INCLUDED IN CURRENT RATES?**

46 A. Given the specific treatment of this item in the Commission's order on a disputed issue,⁶
47 the Commission must conclude that \$11.9 million is currently in rates or it risks making
48 its litigation processes and orders malleable and unreliable. Contrary to Mr. Highsmith's
49 characterization,⁷ the Division does not simply argue the incorrect accounting assumption
50 made by the Company should result in setting the Pension base rate at an amount greater
51 than what is actually included in customer rates. The fundamental question now at issue
52 is what is in current rates and that question must be resolved by reference to the actual
53 litigation and past orders' language. RMP's request to use \$7.9 million as the base
54 Pension Settlement Loss rather than the approved \$11.9 million results in retroactive
55 ratemaking and single item ratemaking by ignoring the litigated outcome and ordering

⁴ See UAE Petition at p. 8 et seq.

⁵ See Response in Opposition to Petitions at p. 7 et seq.

⁶ Docket No. 20-035-04, Order on Petitions for Review, Reconsideration, or Rehearing, pages 6 through 9.

⁷ Docket No. 21-035-14, Rebuttal Testimony of Nicholas L. Highsmith, lines 52 through 59.

56 language and relying on an interpretation of the underlying Excel sheets and files that
57 RMP itself actively resisted until after the orders became final and unappealable.

58 **Q. WHY SHOULDN'T THE COMMISSION CORRECT RMP'S ERROR?**

59 Commission orders must be clear and not rely on veiled interpretations that are
60 inconsistent with the orders' language. As I alluded to in my earlier testimony, RMP's
61 current interpretation requires the Commission to declare current rates were set based on
62 the underlying spreadsheets and calculations, not the actually-litigated items on which the
63 Commission specifically ruled. Mr. Highsmith's testimony glosses over this important
64 point, insisting without meaningful discussion that current rates include what the
65 spreadsheets' math works out to, not what the Commission explicitly decided and
66 ordered. RMP failed to correct its mistake when it had repeated opportunities to do so.
67 There is at least some indication RMP made a strategic decision not to correct its
68 arguments during the previous case.⁸ Utah's portion of this error is approximately \$1.74
69 million annually and does not rise to the level to justify an exception to the standard
70 prohibiting retroactive ratemaking or single item ratemaking. In any event, it would not
71 qualify for retroactive ratemaking because there was nothing unforeseen about the way
72 RMP included the materials in its filings.

73 Once the Commission sets rates the aggregate revenue requirement is ultimately
74 recovered through the aggregate revenues and aggregate costs, and the company has an

⁸ Docket No. 21-035-14, Direct Testimony of Donna Ramas for the Office of Consumer Services, lines 445 through 476.

75 opportunity to earn its rate of return. Actual revenues and costs rarely match
76 expectations. Errors in one item of the revenue-requirement formula may be offset by a
77 corresponding change in another component. Correcting any single deviation in isolation
78 is likely to result in erroneous rates because there is no corresponding consideration of
79 the other components that might also change. In short – we don't know what other errors
80 exist that might offset this one, and we can't spend the periods between rate cases
81 searching for each one. Even aside from a retroactive ratemaking concern, the
82 Commission should protect the sanctity of its orders by refusing to interpret them in
83 contradiction to their plain language. Because of these issues, the Division recommends
84 the amount of the base Pension Settlement Loss remain at the approved \$11.9 million.

85 **Q. RMP ARGUES THAT UPDATING THE CALCULATION OF THE REVENUE**
86 **REQUIREMENT IN THE 2020 GRC FOR PENSION SETTLEMENT LOSS**
87 **WOULD HAVE RESULTED IN A HIGHER REQUESTED RATE CHANGE FOR**
88 **CUSTOMERS. DOES THE DIVISION HAVE ANY COMMENT?**

89 A. Yes. A correction of RMP's revenue requirement calculation in its supporting GRC
90 exhibits would have corrected the \$4 million discrepancy and increased the revenue
91 requirement by \$4 million on a total company basis. This would have allowed the
92 correction to be fully vetted during the GRC. As noted above, RMP apparently made a
93 strategic decision to not correct the filing.

94 RMP's proposal to adjust the approved \$11.9 million Pension base amount to \$7.9
95 million in this docket has the same effect of raising customer rates by \$4 million (total

96 company), but without the necessity of being fully vetted in a GRC and in direct
97 contravention of the actual litigation in that GRC.

98 **Q. DID THE DIVISION CONSIDER OTHER REMEDIES TO ADDRESS THE \$4**
99 **MILLION MATH ERROR?**

100 A. Yes. The Division considered using the \$7.9 million as the base amount and adjusting the
101 actual annual pension amount by the same capitalization percentage used by RMP to
102 derive the \$7.9 million. The purpose of the adjustment to the actual annual amount would
103 be to preserve the consistency and comparability of the adjusted base number proposed
104 by RMP with adjusted actual numbers going forward.

105 The Division rejected this option because it perpetuates the erroneous capitalization of
106 pension costs that gave rise to the \$4 million discrepancy in the first place, it undermines
107 the reliability of the Commission's orders, and it alters base rates outside of a general rate
108 case.

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

110 A. The Division supports the annual true-up of the Pension Settlement Loss and believes the
111 base amount to be trued up is \$11.9 million.

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

113 A. Yes.

CERTIFICATE OF SERVICE

I certify that on August 3, 2021, I caused a true and correct copy of the foregoing Surrebuttal Testimony of Jeffrey Einfeldt to be filed with the Public Service Commission and served by the Utah Division of Public Utilities to the following in Utah Docket 21-035-14 as indicated below:

BY Electronic-Mail:

Rocky Mountain Power

Jana Saba

Emily Wegener

Joelle Steward

jana.saba@pacificorp.com

emily.wegener@pacificorp.com

joelle.steward@pacificorp.com

Utah Association of Energy Users

Phillip Russell

Kevin Higgins

Courtney Higgins

prussell@jdrsllaw.com

khiggins@energystrat.com

chiggins@energystrat.com

Office of Consumer Services

Michelle Beck

Alyson Anderson

Alex Ware

mbeck@utah.gov

akanderson@utah.gov

aware@utah.gov

Utah Attorney General's Office

Assistant Attorney Generals

Justin Jetter

Patricia Schmid

Robert Moore

jjetter@agutah.gov

pschmid@agutah.gov

rmoore@agutah.gov

/S/ Madison Galt

Madison Galt, Legal Assistant
Utah Division of Public Utilities