

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

Rocky Mountain Power’s Application for)	Docket No. 22-035-01
Approval of the 2022 Energy Balancing)	
Account)	Direct Testimony
)	of Philip Hayet
)	For the Office of
)	Consumer Services

REDACTED VERSION

CONFIDENTIAL INFORMATION REDACTED

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

October 21, 2022

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 Exhibit OCS 1.1D.

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. My testimony addresses my review of Rocky Mountain Power’s (“RMP”) Energy
14 Balancing Account (“EBA”) filing for the period of January 1, 2021 through
15 December 31, 2021, my review of the recommended adjustments proposed by the
16 Utah Division of Public Utilities (“DPU”) in its direct testimony and the
17 accompanying audit report that was filed on September 21, 2022, and my review
18 of relevant discovery responses in this docket.

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

21 A. Yes. The DPU presents the results of what appears to be a detailed audit of the
22 RMP EBA filing and deferral balance. As a general matter, I believe the DPU

23 recommendations are reasonably supported by the information provided.
24 Consequently, OCS has focused on one issue; however, OCS reserves the right to
25 address other issues that will be raised in additional testimony filed in this
26 proceeding.

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

29 A. I agree with the DPU's findings related to the [REDACTED] outages caused by
30 a [REDACTED] that occurred on [REDACTED], and lasted until
31 [REDACTED].¹ Although the DPU primarily indicated that the [REDACTED]
32 [REDACTED] was associated with the outage of [REDACTED], the Company's response
33 to UAE 5.2 indicated that the [REDACTED], in fact, affected [REDACTED]
34 [REDACTED]. I do not believe that customers should be responsible
35 for the replacement power costs and lost PTCs associated with these outages. I am
36 addressing these outages strictly from a policy perspective, and I recommend that
37 in cases, such as this, where a [REDACTED]
38 [REDACTED], shareholders
39 rather than customers should be responsible for any costs arising from the outage
40 event. In this case, customers should not be responsible for outage costs that
41 amounted to approximately \$ [REDACTED], on a Utah basis.

42

¹ 22-035-01 RMP Confidential Response to UAE 5.1a.

43 **II. REVIEW OF THE GENERATION RELATED OUTAGES**

44 **Q. PLEASE DISCUSS THE POLICY BASIS SUPPORTING**
45 **DISALLOWANCES FOR THE OUTAGES.**

46 A. The [REDACTED] related costs were significant, especially compared to the
47 \$91 million deferral balance, and there is also an important principle at stake here.
48 Proper regulatory practice should require shareholders, not customers, to bear the
49 costs in cases involving [REDACTED],
50 [REDACTED]. The reason
51 for this is quite simple: the utility [REDACTED]
52 [REDACTED]
53 [REDACTED]
54 [REDACTED]. None of this is under the control of ratepayers. [REDACTED]
55 [REDACTED]
56 [REDACTED]
57 [REDACTED]
58 [REDACTED]
59 [REDACTED]
60 [REDACTED]
61 [REDACTED]
62 [REDACTED]
63 [REDACTED] Indeed it could even serve as a precedent for far more costly outages in
64 the future.

65 **Q. PLEASE DISCUSS THE OUTAGE EVENT.**

66 A. The circumstances associated with this outage event, as described herein, were
67 discussed in the DPU Audit Report, minimum filing requirements, and discovery
68 responses the Company provided. The outage event began on [REDACTED]
69 [REDACTED] that caused [REDACTED]
70 [REDACTED] Because of the [REDACTED]
71 which is electrically connected to several of PacifiCorp’s generating facilities,
72 including [REDACTED], PacifiCorp suffered the loss of the use of those generating
73 facilities for some period of time and had to seek approximately [REDACTED] GWh of
74 replacement energy.² The [REDACTED] resulted in replacement power costs
75 having to be incurred and production tax credits (“PTCs”) being lost over the period
76 of [REDACTED] [REDACTED].³ PacifiCorp explained that currently
77 there is an [REDACTED]
78 [REDACTED]

79 **Q. HOW DID THE [REDACTED]?**

80 A. At this point it appears that the cause of the [REDACTED] is under investigation and no
81 additional explanation about the cause is currently available in the record.
82 According to information provided in response to Confidential UAE 5.3, [REDACTED]
83 [REDACTED]

² 22-035-01 RMP to UAE 5.1 Confidential Attachment

³ *Id.*

84 [REDACTED]
85 [REDACTED]
86 [REDACTED]
87 [REDACTED]
88 [REDACTED]⁴

89 **Q. ARE YOU CONTENDING THAT PACIFICORP WAS PARTIALLY OR**
90 **FULLY RESPONSIBLE FOR CAUSING [REDACTED]**
91 **[REDACTED]?**

92 A. Not at this time, and the reason I am not contending that PacifiCorp was partially
93 or fully responsible for the outage is that PacifiCorp has not presented sufficient
94 technical details that would allow for such a determination to be made. However,
95 I do assert that PacifiCorp has not adequately justified these costs for recovery from
96 customers. [REDACTED] the
97 Company has been hesitant to share complete details with intervenors and state
98 agency parties. To date, PacifiCorp has neither shown that it acted prudently, nor
99 has it presented sufficient evidence that could be used to determine if it acted
100 prudently, and PacifiCorp has the burden of proving that it did act prudently. [See
101 the Public Service Commission’s (“PSC’s”) 2020 EBA final order in Docket No.
102 20-035-01, issued February 26, 2021, at page 10, in which the PSC states that the
103 Company must provide “substantial evidence that its actions with respect to an

⁴ 22-035-01 RMP Confidential Response to UAE 5.3

104 outage were prudent....”] Thus, irrespective of the general principle of
105 responsibility I articulated above, the specific instance of this outage should not be
106 allowed for recovery because the Company has not made its showing with
107 substantial evidence.

108 **Q. PLEASE STATE YOUR RECOMMENDATION.**

109 A. In the absence of meeting its burden of proof, and [REDACTED]
110 [REDACTED]
111 [REDACTED], I recommend that the PSC should hold PacifiCorp
112 responsible to pay for the replacement power costs and lost PTC.

113 **Q. WHAT IS YOUR ESTIMATE OF REPLACEMENT POWER COSTS AND**
114 **PTCS ASSOCIATED WITH THE OUTAGES?**

115 A. We have relied on information the Company recently provided in response to
116 Confidential UAE 5.1, which contains an estimate of replacement power costs and
117 lost PTCs. We have corrected one calculation that related to PacifiCorp’s PTC
118 estimate, in that PacifiCorp did not include an amount for the tax gross-up savings
119 that customers would have received associated with the lost [REDACTED] generation. We
120 have included a tax gross-up savings amount in our calculation. We have computed
121 additional replacement power costs, lost PTCs, and also interest associated with the
122 outages. After accounting for the additional costs, we have estimated a reduction to
123 the deferred balance of approximately \$ [REDACTED]. The derivation of our estimate
124 is included as Confidential Exhibit OCS 1.2D. While we relied on information the
125 Company supplied in UAE 5.1, included as Confidential Exhibit OCS 1.3D, which

126 was supplied shortly prior to the filing of this testimony, we will continue to review
127 the Company's calculation and may revise our estimate in a later round of
128 testimony.

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

130 **A.** Yes, it does.