

BEFORE THE UTAH PUBLIC SERVICE COMMISSION

Rocky Mountain Power's Application
for Approval of the 2022 Energy
Balancing Account

DOCKET NO. 22-035-01

REDACTED SURREBUTTAL TESTIMONY

AND EXHIBITS

OF

KEVIN C. HIGGINS

On Behalf of

Utah Association of Energy Users

December 5, 2022

TABLE OF CONTENTS

I. INTRODUCTION AND SUMMARY 1

II. OVERVIEW AND CONCLUSIONS..... 1

III. NEW EBA COST ITEMS PROPOSED BY RMP..... 3

IV. RMP’s REQUEST FOR RECOVERY ASSOCIATED WITH WYOMING WIND
PLANT..... 4

LIST OF EXHIBITS

UAE CONF Exhibit 2.1 CONFIDENTIAL RMP Responses to UAE Data Requests 5.1
(Revised) and 6.1-6.6

UAE CONF Exhibit 2.2 CONFIDENTIAL Attachment 1 to RMP Response to UAE Data
Request 5.1

1 **I. INTRODUCTION AND SUMMARY**

2 **Q. Please state your name and business address.**

3 A. My name is Kevin C. Higgins. My business address is 111 East Broadway, Suite 1200,
4 Salt Lake City, Utah, 84111.

5 **Q. By whom are you employed and in what capacity?**

6 A. I am a Principal in the firm of Energy Strategies, LLC, a private consulting firm that
7 specializes in economic and policy analysis applicable to energy production,
8 transportation, and consumption.

9 **Q. Are you the same Kevin C. Higgins who prefiled direct testimony on behalf of the**
10 **Utah Association of Energy Users Intervention Group (“UAE”) in this proceeding?**

11 A. Yes, I am.

12

13 **II. OVERVIEW AND CONCLUSIONS**

14 **Q. What is the purpose of your surrebuttal testimony in this proceeding?**

15 A. My testimony responds to the rebuttal testimony of Rocky Mountain Power (“RMP”)
16 witnesses Craig M. Eller and Jack Painter and to the rebuttal testimony of Division of
17 Public Utilities (“Division”) witnesses Philip DiDomenico and Dan F. Koehler.

18 **Q. Please summarize your primary conclusions and recommendations.**

19 A. I offer the following conclusions and recommendations:

20 (1) I continue to recommend that the Commission reject RMP’s request to include
21 the new Energy Imbalance Market (“EIM”) Body of State Regulators (“BOSR”) and
22 Western Power Pool Western Resource Adequacy Program (“WRAP”) fees in the Energy

23 Balancing Account (“EBA”). In total, these two adjustments reduce the EBA cost
24 allocated to Utah by **\$102,464** (excluding interest).

25 (2) I continue to recommend that the Commission approve the correction of a
26 small error in the amount of production tax credits (“PTCs”) applicable to the EBA. This
27 correction reduces the EBA cost allocated to Utah by **\$785**. RMP has accepted this
28 correction.¹

29 (3) Regarding the outage associated with the Aeolus substation fire, I conclude
30 the following:

31 (a) the Commission should not consider the Investigation Report submitted
32 with RMP’s rebuttal testimony to be dispositive for determining the responsibility for
33 replacement power costs because it was submitted too late in the process to be of use and
34 because it fails to explain how it reached its conclusions;

35 (b) it is unclear whether RMP has met its burden of demonstrating that it is
36 entitled to recover replacement power costs associated with the Aeolus event and it
37 would not be unreasonable for this Commission to reject RMP’s request to recover those
38 costs; and

39 (c) if the Commission permits RMP to recover the replacement power costs
40 associated with the Aeolus event, it should rule that such recovery is subject to refund
41 (with interest) pending a final resolution of this issue, which would likely occur after the
42 scheduled hearing in this docket.

¹ See Response Testimony of Jack Painter at lines 40-50.

43 **III. NEW EBA COST ITEMS PROPOSED BY RMP**

44 **Q. In your direct testimony, did you propose to exclude any new cost items in RMP's**
45 **EBA filing?**

46 A. Yes. RMP seeks to include in the EBA new fees associated with the EIM BOSR and the
47 WRAP. In my direct testimony, I recommended that the Commission reject RMP's
48 request to include the new EIM BOSR and WRAP fees in the EBA because those fees are
49 outside the scope of the costs authorized to be recovered through Schedule 94.

50 **Q. How did RMP respond?**

51 A. RMP asserts that the EIM BOSR fee and the WRAP fee are related to net power costs
52 ("NPC") and should, therefore, be included in the EBA.²

53 **Q. How do you respond to RMP's rebuttal testimony on this issue?**

54 A. Schedule 94 lists the specific non-NPC component costs that may be included in the
55 EBA. As I noted in my direct testimony, neither the EIM BOSR fee nor the WRAP fee
56 are included in that list, which Schedule 94 requires to be identified in a rate case.³ In
57 response RMP does not claim that either fee is included in the specifically-enumerated
58 set of costs listed in Schedule 94, and does not assert that the costs have been approved as
59 Base EBA Costs in the most recent rate case. Instead, RMP argues that the EIM BOSR
60 fee and WRAP fee are administrative costs that are related to NPC and that, therefore,
61 they should be included in the EBA.

² See Rebuttal Testimony of Jack Painter, pages 1-3.

³ See Schedule 94 at 94.3 ("The EBA rate will be calculated using all components of EBAC as defined in the Company's most recent general rate case, major plant addition case, or other case where Base EBAC are approved.").

62 Neither the EIM BOSR fee nor the WRAP fee are NPC or NPC components as
63 those terms are defined in Schedule 94. They are not non-NPC items that have been
64 approved by this Commission to be included in the EBA. The fees are outside the scope
65 of the costs authorized to be recovered through Schedule 94 and, therefore, are an
66 unwarranted expansion of the EBA mechanism. I recommend that the Commission reject
67 RMP's claim that any cost that RMP asserts is "related to" NPC should be included in the
68 EBA. This adjustment reduces the Utah EBA costs by **\$102,464** plus interest.

69 **IV. RMP's REQUEST FOR RECOVERY ASSOCIATED WITH WYOMING**
70 **WIND PLANT.**

71 **Q. In your direct testimony, did you address issues associated with RMP's request to**
72 **recover actual NPC revenues associated with Wyoming wind plant?**

73 A. Yes, I identified two issues. First, I noted that RMP's filing contains a small error
74 associated with the PTC calculation for the TB Flats II wind project. Second, I noted my
75 concerns with RMP's calculation of a deferred EBA balance that includes actual NPC
76 revenues associated with a transformer failure at the Aeolus substation, which required
77 curtailment of several wind projects in Eastern Wyoming for a period of time.

78 **Q. How did RMP respond to the error you identified regarding the PTC calculation for**
79 **the TB Flats II wind project?**

80 A. In response to UAE data requests in this docket, RMP indicated that it had included
81 negative megawatt-hour generation at TB Flats II prior to the in-service date of that plant,
82 and had included that negative megawatt-hour generation in its calculation of PTCs

83 included in the Company’s EBA request.⁴ The Division and UAE noted this error in their
84 direct testimony, and RMP acknowledged the error in its Response Testimony.⁵

85 In his Response Testimony, RMP witness Mr. Painter accepts the correction,
86 acknowledging that the error correction “reduces the Company’s request in this case by
87 \$785, including interest.”⁶

88 **Q. What do you recommend regarding this adjustment?**

89 A. I recommend that the Commission accept the adjustment and reduce the Company’s
90 request in this case by **\$785**, including interest. While the dollar amount of this correction
91 is very small, it is important to recognize that PTC credits to customers should not be
92 reduced by the attribution of negative megawatt-hours prior to the in-service date of a
93 wind plant.

94 **Q. How did RMP respond to the issue you raised regarding RMP’s inclusion in its**
95 **deferred EBA calculation the Actual NPC revenues associated with a transformer**
96 **failure at the Aeolus substation?**

97 A. UAE, the Division, and the Office have each presented testimony expressing concerns
98 about the transformer failure, and about RMP’s request to include Actual NPC revenues
99 associated with the transformer failure while declining to provide information in response
100 to data requests about the cause of the failure and the status of any investigation. In its
101 Rebuttal Testimony, RMP responded to those concerns by providing—for the first time—
102 a report of an investigation commissioned by RMP that expresses various conclusions

⁴ See UAE Ex. 1.1 (Response to UAE Data Request 4.1(c)).

⁵ See Response Testimony of Jack Painter at lines 40-50.

⁶ See Response Testimony of Jack Painter at line 49.

103 about the cause of the transformer failure but very little information about how those
104 conclusions were formed. This confidential report (“Investigation Report”) was provided
105 to the parties as Exhibit RMP___(CME-1R), which was attached to the Rebuttal
106 Testimony of RMP witness Craig Eller.

107 **Q. Do you have a recommendation regarding the information provided in the**
108 **Investigation Report?**

109 A. Yes. I recommend that the Commission not consider the Investigation Report, and any
110 testimony describing it or the conclusions set forth therein, to be dispositive for
111 determining the responsibility for recovery of replacement power costs associated with
112 this incident for at least two reasons. First, the Investigation Report was provided to the
113 parties too late in the process to allow the parties to properly review and respond to it.
114 Second, the Investigation Report presents numerous conclusions without explaining the
115 basis for those conclusions or presenting any information that would allow the parties or
116 this Commission to determine whether it is reasonable to reach those conclusions.

117 **Q. Please explain further why you conclude that the Investigation Report was provided**
118 **to the parties too late in this process for the parties to properly review it and**
119 **respond to it.**

120 A. The Investigation Report was not provided until RMP filed its Rebuttal Testimony in this
121 docket—eight months after RMP filed its Application in this docket and less than three
122 weeks before the hearing. This deprived the parties an opportunity to conduct adequate
123 discovery regarding the Investigation Report. As discussed below, in what little

124 discovery the parties have been able to conduct RMP was unable to provide any useful
125 information about the Investigation Report or the conclusions set forth therein.

126 Moreover, the Division was prevented from considering the information presented
127 in the Investigation Report in its investigation of RMP's Application. Commission rules
128 require RMP to provide certain information with its Application in each EBA docket.
129 The Division is then given several months to conduct an investigation of that information
130 and to make recommendations regarding RMP's EBA request. The Investigation Report
131 was provided well after the Division's investigation was complete, despite the fact that
132 parties had been requesting additional information about the event at the Aeolus
133 substation through numerous data requests to RMP. RMP responded to those data
134 requests by declining to provide information, citing potential litigation with third parties.⁷

135 The parties to this case have had very little opportunity to properly consider the
136 Investigation Report and conduct an investigation based on the information provided in
137 it. For that reason, and for the reasons set forth below, the Commission should not
138 consider the Investigation Report to be dispositive for determining the responsibility for
139 recovery of replacement power costs associated with this incident.

140 **Q. Please explain further why you conclude that the Investigation Report fails to**
141 **explain the basis for its conclusions or to provide supporting information.**

142 A. The Investigation Report addresses the fire at the Aelous substation and reaches various
143 conclusions about what caused that fire and who is at fault. It does not, however, explain

⁷ See UAE Ex. 1.1 & Confidential UAE Ex. 1.2.

144 how those conclusions were reached or provide any information that would allow the
145 reader to determine if the conclusions are reasonable. For example, [REDACTED]

146 [REDACTED]

147 [REDACTED]

148 [REDACTED]

149 [REDACTED]

150 [REDACTED]

151 [REDACTED]

152 [REDACTED] The Investigation Report provides no support for any of these
153 conclusions. It does not explain what information the investigator relied on to reach
154 these conclusions, does not provide any data, or what expertise the investigator has in
155 conducting the kind of investigation described.

156 UAE submitted data requests to RMP seeking additional information, but no
157 additional information was provided.¹¹ UAE cited each of the conclusions from the
158 Investigation Report referenced above and requested that RMP provide additional
159 information or documents about those conclusions. In response, [REDACTED]

160 [REDACTED]

161 [REDACTED]

162 [REDACTED]

⁸ See UAE CONF Ex. 2.1 (UAE Data Request 6.2).

⁹ See UAE CONF Ex. 2.1 (UAE Data Request 6.4).

¹⁰ See UAE CONF Ex. 2.1 (UAE Data Request 6.3).

¹¹ See generally UAE CONF Ex. 2.1

163 [REDACTED]

164 [REDACTED]

165 [REDACTED]

166 [REDACTED] As such, the Investigation Report, along with any testimony
167 of any RMP witness that describes the conclusions set forth in the Investigation Report,
168 should not be considered to be dispositive for determining the responsibility for recovery
169 of replacement power costs associated with this incident. .

170 **Q. Do you believe RMP has demonstrated that it is reasonable for the Company to**
171 **recover the EBA-related revenues associated with the Aeolus transformer failure?**

172 A. I stated in my direct testimony that the answer to this question is not clear based on the
173 information available to me. That remains the case. RMP has the burden to demonstrate
174 that revenues it seeks to recover from ratepayers are the result of prudent utility practice.
175 I do not believe that the information provided to UAE, or to the Commission, is sufficient
176 for anyone to make any conclusions about the reason for the substation outage. As such,
177 it does not appear that the Company has made a clear demonstration that it is reasonable
178 for it to recover the EBA-related revenues associated with the substation outage.

179 **Q. What is your recommendation in this matter?**

180 A. I continue to believe that it would not be unreasonable for the Commission to reject
181 RMP's request to recover actual EBA costs associated with the Aeolus substation outage.
182 I also continue to recommend that, if the Commission is inclined to permit the Company
183 to recover the deferred amounts associated with the substation outage, I recommend that
184 the Commission rule that such recovery is subject to refund (with interest) pending a final

185 resolution of this issue, which would likely occur after the scheduled hearing in this
186 docket. The EBA process should not require the Company to jeopardize potential
187 recovery from a party at fault when that recovery could benefit ratepayers, but that
188 consideration should not require ratepayers to forego an opportunity to question whether
189 the Company has acted prudently. A Commission ruling that the Company's recovery at
190 this stage is subject to refund (with interest) in a future proceeding balances the interests
191 of the Company and the ratepayers.

192 I am not a lawyer and, in making this recommendation, I offer no legal opinion as
193 to whether the Commission has the authority to reach this result. Obviously, the
194 Commission must first determine whether the EBA statute or other authority permits it to
195 issue an order consistent with my recommendation herein.

196 **Q. Has RMP indicated how the transformer failure affected generation production on**
197 **RMP's system?**

198 A. Yes. In my direct testimony I noted that RMP has provided some Confidential responses
199 to UAE data requests on this point. RMP initially indicated that [REDACTED]

200 [REDACTED]
201 [REDACTED]
202 [REDACTED]
203 [REDACTED]

¹² See CONFIDENTIAL UAE Ex. 1.2 (RMP Response to UAE Data Request 5.1(a)).

204 [REDACTED]
205 [REDACTED]
206 RMP recently updated its response to UAE’s data request and asserted that there
207 was an error in its initial calculations.¹⁴ RMP now indicates that [REDACTED]

208 [REDACTED]
209 [REDACTED]
210 [REDACTED]
211 [REDACTED]
212 [REDACTED]
213 [REDACTED]

214 **Q. Have other parties sought to quantify the NPC effects of the event at the Aeolus**
215 **substation?**

216 A. Yes. In its Rebuttal testimony, the Division [REDACTED]
217 [REDACTED]
218 [REDACTED] The Division witnesses explain their
219 calculation methodology in their testimony

¹³ The NPC (non-PTC) impact and PTC impact referenced in my testimony are based on figures provided by RMP in a spreadsheet provided in connection with its CONFIDENTIAL Response to UAE Data Request 5.1. This spreadsheet, titled “Attach UAE 5.1 CONF” has been filed herewith as CONFIDENTIAL UAE Exhibit 1.3. The NPC (non-PTC) impacts are set forth in the Tab labeled “NPC without PTC - Summary”. The PTC impacts are set forth in the tab labeled “PTC”.

¹⁴ See CONFIDENTIAL UAE Ex. 2.1 (RMP Confidential Response to UAE Data Request 5.1).

¹⁵ See CONFIDENTIAL UAE Ex. 2.2 (“Attach UAE 5.1 1st Revised CONF”). The NPC (non-PTC) impacts are set forth in the Tab labeled “NPC without PTC - Summary”. The PTC impacts are set forth in the tab labeled “PTC”.

¹⁶ See Confidential Rebuttal Testimony of Philip DiDomenico and Dan F. Koehler at line 247.

220 **Q. Have you sought to separately calculate the cost of replacement power for the**
221 **Aeolus event?**

222 A. No, I have not.

223 **Q. Does this conclude your direct testimony?**

224 A. Yes, it does.