

**REDACTED**

Rocky Mountain Power

Docket No. 23-035-01

Witness: Brad Richards

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF UTAH

ROCKY MOUNTAIN POWER

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**REDACTED**  
Surrebuttal Testimony of Brad Richards

January 2024

1 **Q. Are you the same Brad Richards who previously filed response testimony in this**  
2 **proceeding on behalf of PacifiCorp, dba Rocky Mountain Power (“the Company”**  
3 **or “Rocky Mountain Power”)?**

4 A. Yes.

5 **PURPOSE OF TESTIMONY**

6 **Q. What is the purpose of your testimony in this case?**

7 A. My testimony responds to the rebuttal testimony of Mr. Philip DiDomenico and  
8 Mr. Dan F. Koehler of Daymark Energy Advisors, Inc. (“Daymark”) who submitted  
9 rebuttal testimony on behalf of the Division of Public Utilities (“DPU” or “Division”).

10 **Q. To what issues raised by Daymark in its rebuttal testimony do you respond?**

11 A. My testimony addresses the rebuttal arguments put forth by Daymark in support of its  
12 recommendations to adjust the recovery requested in this proceeding for replacement  
13 power costs associated with the outage event at Craig Unit 1 and the derate event that  
14 occurred at Dave Johnston Units 1 and 2 and also respond to concerns that have been  
15 raised about the Company’s Significant Event Reports (“SER”).

16 **Q. Do any of Daymark’s rebuttal arguments change the Company’s position that its**  
17 **actions were prudent with respect to these events?**

18 A. No. As described in further detail in my testimony, the Company has acted prudently  
19 and diligently with respect to its plant operations.

20 **CRAIG UNIT 1 ( [REDACTED] )**

21 **Q. Daymark alleges that the Company’s actions were inconsistent because it canceled**  
22 **a major overhaul for Craig Unit 1, but still performed the Mercury and Air Toxics**  
23 **Standards (“MATS”) inspection and did not seek an exemption or waiver from**  
24 **the Environmental Protection Agency (“EPA”), how do you respond?**

25 A. Daymark continues to conflate two separate issues, based solely on the fact that both  
26 an overhaul and a MATS inspection and tune-up require an offline period to complete.  
27 A planned overhaul is generally characterized by substantial maintenance and capital  
28 investment in replacement components, which often have a service life exceeding [REDACTED]  
29 [REDACTED], the remaining operating life of the unit. The decision to cancel the final overhaul  
30 was not made to avoid an offline period, rather that decision was made because the  
31 remaining operating life of the unit did not support incurring the significant capital  
32 costs of a major overhaul. There is no inconsistency because the determining factors  
33 are not related. The decision to cancel the major overhaul was based on the cancellation  
34 of capital projects. The MATS tune-up was based on complying with regulatory  
35 requirements.

36 **Q. How does Daymark characterize the canceled overhaul?**

37 A. Daymark criticizes the Company’s actions with respect to the canceled overhaul,  
38 stating the decision was based on the timing of the planned retirement of the unit, and  
39 that the Company’s decision could increase the risk of outage events and potential  
40 replacement power costs.

41 **Q. Are you aware of any recent Public Service Commission of Utah (“Commission”)**  
42 **orders with regards to economic decisions made by the Company for generation**  
43 **plants near retirement?**

44 A. Yes. In the 2022 energy balancing account proceeding, Daymark recommended an  
45 adjustment for replacement power costs associated with an outage at the Company’s  
46 Dave Johnston 3 plant. In that outage event, the Company had made an economic  
47 decision to not replace a costly component on a unit that was nearing retirement.  
48 Daymark used similar arguments to as it has here to criticize the Company’s decision  
49 to avoid incurring substantial costs for a unit that was scheduled to be retired in the  
50 near term. The Commission noted that the component at issue was “generally a  
51 significant (i.e. seven-figure) capital investment” and determined the Company’s  
52 decision to not incur a significant cost to replace a component on a plant that was near  
53 retirement was reasonable and appropriate.<sup>1</sup> In the case of the Craig Unit 1 outage, the  
54 Company made a similar economic decision to avoid incurring a significant expense of  
55 an overhaul, and used its judgment to determine that complying with EPA required  
56 MATS testing was reasonable.

57 **Q. Daymark’s rebuttal testimony states “He [Mr. Richards] claims that any decision**  
58 **regarding the appropriateness of a waiver in this instance is for the EPA, not the**  
59 **Company, to decide.”<sup>2</sup> To which statement in your response testimony is Daymark**  
60 **referring?**

61 A. It is unclear what statements in my testimony Daymark is referring to, and no citation

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<sup>1</sup> *Rocky Mountain Power’s Application for Approval of the 2022 Energy Balancing Account*, Docket No. 22-035-01, Order at 19-21 (Jan. 9, 2023).

<sup>2</sup> Rebuttal Testimony of Philip DiDomenico and Dan F. Koehler Exhibit DPU 2.0 R at 10:136-138 (Jan. 9, 2024).

62 is provided in that portion of the Daymark rebuttal testimony. However, I did state  
63 beginning on line 88 of my response testimony that Daymark did not provide any  
64 evidence that such a waiver would likely have been granted.

65 **Q. In alleging imprudence on the part of the Company for not seeking a waiver from**  
66 **the EPA to avoid conducting the mandatory MATS activities, has Daymark**  
67 **provided any citations for EPA rules regarding such waivers, or specific**  
68 **information about whether or not their allegations are supported by common**  
69 **industry practice?**

70 A. No, to my knowledge they have not.

71 **Q. What is the Company's understanding of the requirement that required this**  
72 **outage to occur?**

73 A. After discussion with the Company's environmental attorneys, I would like to clarify  
74 that this requirement is not just a testing requirement, but a requirement to perform the  
75 periodic tune-up under the MATS. The tune-up was specifically required under a  
76 section of the Clean Air Act which requires the use of Maximum Achievable Control  
77 Technology ("MACT") to achieve emissions reductions.<sup>3</sup> The tune-up is much more  
78 than just a test, it is a way of maintaining and repairing the burners and other  
79 combustion system components to ensure they are functioning properly and not  
80 emitting higher levels of emissions than they should.

81 This outage was necessary to reduce emissions of dioxins and furans by  
82 implementing the work practice standard of periodic tune-ups that EPA determined  
83 after extensive evaluation to be the maximum achievable control technology for those

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<sup>3</sup> 42 U.S.C. §7412(d)(2).

84 pollutants. Without periodic tune-ups, combustion can become inefficient and release  
85 greater amounts of hazardous air pollutants.

86 **Q. Based on available information, does the EPA have the ability to waive this**  
87 **requirement?**

88 A. No, after discussions with the Company's environmental attorneys, it is my  
89 understanding that the United States Circuit Court for the District of Columbia has  
90 ruled in the past that the EPA cannot grant exemptions from these MACT standards,  
91 these standards apply continuously.<sup>4</sup>

92 **Q. Should the Commission adopt Daymark's recommendation to reduce the**  
93 **Company's request in this case for replacement power costs associated with this**  
94 **outage?**

95 A. No. The Company's decision to cancel the major overhaul but still perform the  
96 mandatory MATS inspection and tune-up was reasonable given the arguments  
97 presented in my testimony. The Commission should reject Daymark's  
98 recommendation.

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<sup>4</sup> See *Sierra Club v. EPA*, 551 F.3d 1019, 1028 (D.C. Cir. 2008) (Finding that a separate exemption granted by the EPA violates the Clean Air Act's requirement was not appropriate, noting that "[i]n requiring that sources regulated under section 112 meet the strictest standards, Congress gave no indication that it intended the application of MACT standards to vary based on different time periods.")

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**DAVE JOHNSTON UNITS 1 AND 2 ( [REDACTED] )**

100 **Q. In rebuttal testimony Daymark continues to argue that the Company's request in**  
101 **this case be reduced for replacement power costs associated with these derate**  
102 **events, claiming they were caused by the [REDACTED]**  
103 **[REDACTED]. Do you agree?**

104 **A. No. The Company [REDACTED]**  
105 **[REDACTED]**  
106 **[REDACTED]**  
107 **[REDACTED]**

108 **Q. Has Daymark presented anything in their rebuttal to address the incorrect**  
109 **assumptions raised in your response testimony?**

110 **A. No. Daymark's recommendation is based on the assumption that [REDACTED]**  
111 **[REDACTED]**  
112 **[REDACTED]**  
113 **[REDACTED]**  
114 **[REDACTED]**  
115 **[REDACTED]**  
116 **[REDACTED]**  
117 **[REDACTED]**  
118 **[REDACTED]**  
119 **[REDACTED]**  
120 **[REDACTED]**

121 Q. Prior to this event, was there any reason to believe [REDACTED]  
122 [REDACTED]?

123 A. No, the differences in [REDACTED] were unforeseen and the plant had no reason to  
124 expect that the [REDACTED]  
125 [REDACTED].

126 Q. Was the [REDACTED]?

127 A. No. [REDACTED]  
128 [REDACTED].

129 Q. Why was an SER created for this event?

130 A. Although the [REDACTED]  
131 [REDACTED]  
132 [REDACTED]  
133 [REDACTED].

134 Q. What is your recommendation to the Commission regarding Daymark's claims  
135 that a disallowance of replacement power costs associated with this event is  
136 warranted?

137 A. I recommend that the Commission reject the proposed disallowance. As stated in my  
138 response testimony, the Company acted prudently in [REDACTED]  
139 [REDACTED]  
140 [REDACTED]  
141 [REDACTED]  
142 [REDACTED].



143 **SIGNIFICANT EVENT REPORTS**

144 **Q. Daymark states that the Company’s SERs should be treated as regulatory**  
145 **documents and should be thoroughly reviewed for conclusive accuracy, how do**  
146 **you respond?**

147 A. The Company clarifies that its SERs are reviewed for accuracy. Additionally, the  
148 Company’s Generating Availability Data System events are also internally audited and  
149 reviewed for accuracy before being reported to the North American Electric Reliability  
150 Corporation. The Company has a regulatory responsibility to track and report events  
151 which affect the available generation of each unit, including beginning and end times  
152 of events, event classifications, available generation losses and primary causes. Also,  
153 the Company seeks to further investigate equipment failures, personnel errors or other  
154 factors affecting the operations of the Company’s thermal fleet.

155 The Company created its SER program to support process improvement and the  
156 Company’s efforts on operational excellence, this program may be useful for regulatory  
157 review, but the SER process was not expressly created for regulatory purposes. The  
158 Company understands that the DPU is interested in primarily investigating past outages  
159 as they relate to EBA proceedings. However, the Company’s SERs are intended to  
160 facilitate an understanding of past events in order to address current and future  
161 operational requirements and potential operational challenges.

162 Some observations or speculated potential sources of failure may later prove  
163 useful in providing additional insight to future interruptions at either the same unit or  
164 at other generating units within the Company’s fleet. Additionally, a root cause is not  
165 always readily identifiable for every single event, and observations or speculations

166 made in SERs, while potentially useful for disseminating lessons learned, are not root  
167 causes.

168 The Company's SER process as described in my response testimony is an  
169 important element in the Company's thermal operations. The Company does not intend  
170 to restrict its personnel from exploring and recording a variety of observations, and in  
171 suggesting potential causes, even in the absence of a conclusive root cause  
172 determination.

173 **Q. What does Daymark request with respect to documentation provided by the**  
174 **Company for outages?**

175 A. Daymark requests that the events for which the SERs are provided are included in the  
176 outage summary spreadsheets provided by the Company in the filing requirements. The  
177 Company agrees and all SERs provided will pertain to events in the referenced outage  
178 summary.

179 **CONCLUSION AND RECOMMENDATION**

180 **Q. What is your recommendation to the Commission?**

181 A. I recommend that the Commission reject the recommended disallowances for the  
182 thermal events addressed above. My testimony demonstrates the Company was prudent  
183 in its actions.

184 **Q. Does this conclude your surrebuttal testimony?**

185 A. Yes.