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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of:)	DOCKET NO.
Rocky Mountain Power's Application)	23-035-01
for Approval of the 2023 Energy)	
Balancing Account)	
)	
)	
)	

PUBLIC HEARING

Proceedings held: Friday, January 26, 2024
9:00 a.m. -- 2:37 p.m.

At: Public Service Commission of Utah
Heber Wells Building
160 East 300 South
Fourth Floor, Room 403

REPORTED BY: Tammy M. Breed, CCR No. 7801

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1 SALT LAKE CITY, UTAH; FRIDAY JANUARY 26, 2024

2
3 PRESIDING OFFICER: All right. Let's go on
4 the record, please.

5 Good morning. This is the time and place
6 noticed for a hearing in Rocky Mountain Power's
7 Application for Approval of the 2023 Energy Balancing
8 Account, Commission Docket No. 23-035-01.

9 My name is Michael Hammer, and I am the
10 Commission's designated Presiding Officer. I am joined
11 up here, of course, by Commissioner Harvey and
12 Commissioner Clark.

13 Let's go ahead and take appearances
14 beginning with Rocky Mountain Power.

15 MR. KUMAR: Thank you. On behalf of Rocky
16 Mountain Power my name is Ajay Kumar, and appearing with
17 me is Matt Moscon for Mayer Brown.

18 PRESIDING OFFICER: I'm sorry, will you
19 repeat your last -- your sir name for me again.

20 MR. KUMAR: Ajay Kumar.

21 PRESIDING OFFICER: And for the Division of
22 Public Utilities?

23 MS. SCHMID: Patricia E. Schmid with the
24 Utah Attorney General's Office for the Division. Our
25 witnesses today are Mr. Dan Koehler and Mr. Gary Smith.

1 Thank you.

2 PRESIDING OFFICER: For the Office of
3 Consumer Services?

4 MR. MOORE: Yes, Robert Moore for the Office
5 of Consumer Service. Our witness today is Alyson
6 Anderson.

7 PRESIDING OFFICER: And interveners?

8 MR. RUSSELL: Philip Russell on behalf of
9 the Utah Association of Energy Users.

10 PRESIDING OFFICER: Thank you.

11 Are there any preliminary issues the parties
12 would like to address before we call witnesses?

13 MR. KUMAR: Yes, your Honor, I think there's
14 two issues that we'd like to just quickly address just
15 procedurally. I think one is the use of confidential
16 session. We're planning to have Mr. Painter go first
17 followed by Mr. Meredith, who's appearing
18 telephonically, and then Mr. Richards and finally
19 Mr. Fritzl. Due to the nature of their testimony we
20 request that Mr. Richards' and Mr. Fritz's testimony
21 sessions be held in confidential session.

22 PRESIDING OFFICER: Ms. Schmid?

23 MS. SCHMID: The Division agrees with that.

24 There is a slight possibility that one or
25 more of the Division's questions to another witness

1 might involve confidential information, but if so, I
2 will move then to have just a brief portion closed.

3 PRESIDING OFFICER: And no objection to
4 closing the hearing for Mr. Richards and Mr. Fritz's
5 testimony?

6 MS. SCHMID: Correct, no objection.

7 PRESIDING OFFICER: Mr. Moore?

8 MR. MOORE: No objection.

9 PRESIDING OFFICER: Mr. Russell?

10 MR. RUSSELL: No objection.

11 COMMISSIONER CLARK: This is Commissioner
12 Clark, from my perspective that process is going to be
13 necessary for us to have the kind of discussion of these
14 issues that we need to in order to fully understand the
15 presentations of the parties. So I'm -- I support that
16 and support a finding that it's in the public interest
17 for the session to be closed.

18 MR. MOSCON: I should have mentioned --
19 sorry, this is Matt Moscon.

20 Mr. Koehler, who of course rebuts positions
21 of those same witnesses, we may need to have that in
22 private -- or closed session as well for the same
23 reasons. And I know we could have brought that up
24 later, but as long as we're having a discussion, I'll
25 flag that I may have questions that need to be in a

1 closed session for Mr. Koehler as well.

2 PRESIDING OFFICER: All right. Thank you.

3 Then the Commission finds under Utah Code
4 Section fif- -- Title 54, Section 321, Subsection 4,
5 that it is in the best interest of the public to close
6 the hearing for the portions of witness testimony that
7 will be confidential. I'll ask Counsel to remind us
8 when the time comes to do so, and we -- we can close the
9 hearing to the public.

10 You said there was a second issue,
11 Mr. Kumar?

12 MR. KUMAR: It's really just a procedural
13 preference of -- of yours. Would you like us to mark
14 and move our exhibits at the beginning of the hearing,
15 or should we do that witness by witness?

16 PRESIDING OFFICER: I have no preference.
17 Ms. Schmid?

18 MS. SCHMID: The Division requests that we
19 mark our cross exhibits as we go through them.

20 And as to the question of the other exhibits
21 that have been pre-filed, the Division has no
22 preference.

23 PRESIDING OFFICER: Mr. Moore?

24 MR. MOORE: No preference.

25 PRESIDING OFFICER: Mr. Russell?

1 MR. RUSSELL: I don't have a preference. We
2 typically do it witness by witness. And that's --
3 usually the cadence in it allows for people to raise
4 objections at that time so...

5 But I -- in this hearing I don't have a
6 preference.

7 MR. KUMAR: If we go witness by witness, I
8 just wanted to make sure we were doing it the right way.

9 PRESIDING OFFICER: Understood.

10 Yeah, we'll do it witness by witness. That
11 seems to be everyone's preference.

12 All right. Are you ready to call your first
13 witness, Mr. Kumar?

14 MR. KUMAR: Yes, we are. We would like to
15 call Mr. Jack Painter.

16 Whereupon --

17 JACK PAINTER
18 having been first duly sworn to testify to the truth,
19 was examined and testified as follows:

20

21 EXAMINATION

22 BY MR. KUMAR:

23 Q. Mr. Painter, could you please state and spell
24 your full name for the record.

25 A. Yes, my name is Jack Painter; J-a-c-k,

1 P-a-i-n-t-e-r.

2 Q. And how are you employed by the Company?

3 A. I am a Net Power Cost Specialist.

4 Q. And have you caused to be filed a direct --
5 direct response and surrebuttal testimony in this
6 proceeding?

7 A. Yes.

8 MR. KUMAR: Your Honor, if I may mark -- I'm
9 going to mark our application as RMP Exhibit 1.

10 Mr. Painter's direct testimony is RMP
11 Exhibit 2.

12 I think he has two attachments to this
13 direct system, so I'll mark those 3 and 4.

14 Actually, I believe that he only has one
15 attachment to his testimony, so it will just be 3.

16 And then I will mark Mr. Painter's response
17 testimony as RMP Exhibit 4.

18 And his rebuttal testimony as RMP Exhibit 5.

19 And his surrebuttal testimony as RMP
20 Exhibit 6.

21 PRESIDING OFFICER: Thank you, Mr. Kumar.

22 And just for your convenience, typically when documents
23 are filed and on the Commission's website we don't --
24 parties don't necessarily mark them. You're welcome to
25 do so.

1 MR. KUMAR: Sorry. I just wanted to make
2 sure. It's been a while since I've done this in Utah.

3 Q. (BY MR. KUMAR) Do you have any changes or
4 corrections to your testimony, Mr. Painter?

5 A. No.

6 Q. And if I were to ask you the same questions in
7 this testimony today, would you give the same answers?

8 A. Yes.

9 Q. And have you prepared a summary for the
10 Commission?

11 A. I have.

12 Q. Could you please provide that summary?

13 A. Yes.

14 Good morning, Commissioner Clark, Commissioner
15 Harvey, and Judge Hammer. My name is Jack Painter, and
16 I'm Net Power Cost Specialist for Rocky Mountain Power.

17 The Company filed its annual Energy Balancing
18 Account, or EBA, application May 1st, 2023, for the
19 deferral period of January 2022 through December 2022.
20 The Company requested recovery of \$175 million, which
21 consisted of:

22 \$220.8 million for the deferral of excess EBA
23 costs which are calculated as the difference between
24 actual net power costs, wheeling revenue, and production
25 tax credits and the base net power cost, wheeling

1 revenue, and production tax credits, a \$52.6 million
2 credit for sales made to a special contract customer,
3 and \$6.9 million in costs related to smaller items,
4 including interest and other costs and credits.

5 The Division of Public Utilities and Office of
6 Consumer Services filed testimony in this proceeding
7 with various recommendations. Through the various
8 rounds of testimony, the parties revised and withdrew
9 some of their recommendations. At this point, the
10 remaining proposed adjustments in this case that are in
11 front of the Commission today are:

12 A reduction of approximately \$405,000, including
13 interest, for replacement power cost associated with two
14 events at the Company's thermal generating plants. I
15 will note that this amount is the corrected amount from
16 Table 2 of Daymark's rebuttal testimony. The Company's
17 response to this adjustment will be addressed by
18 Mr. Richards; and a reduction of \$6.5 million, including
19 interest, for hedging transactions, will be addressed by
20 Mr. Fritzl.

21 Throughout this proceeding, the DPU and OSC have
22 expressed concerns regarding the Company's coal
23 inventory and impact on the dispatch of those resources.
24 Although both ultimately withdrew their request in this
25 case, they did indicate they will be exploring this in

1 the upcoming 2024 EBA filing. I want to reiterate the
2 Company's commitment to provide the necessary
3 information to facilitate this review including
4 information we provide -- we agreed to provide in my
5 response and rebuttal testimony.

6 On behalf of Rocky Mountain Power, I respectfully
7 request the Commission approve the EBA as filed and
8 issue an order approving the Company's requested
9 recovery of \$175 million in EBA costs making the interim
10 rates on Schedule 94 final.

11 Thank you.

12 MR. KUMAR: I'd like to move for the
13 admission of Mr. Painter's direct response, rebuttal,
14 and surrebuttal testimony at this time.

15 PRESIDING OFFICER: It's admitted.

16 MR. KUMAR: Mr. Painter's available for
17 cross-examination.

18 PRESIDING OFFICER: Ms. Schmid?

19 MS. SCHMID: Thank you.

20 CROSS-EXAMINATION

21 BY MS. SCHMID:

22 Q. Good morning, Mr. Painter.

23 A. Good morning.

24 MS. SCHMID: Mr. Moore of the Office is
25 going to help me by distributing some exhibits. So if

1 you will give me just a moment, he will do that.

2 Pardon me, could we go off the record for
3 just one moment?

4 PRESIDING OFFICER: Any objection?

5 (No response.)

6 PRESIDING OFFICER: Let's go off the record.
7 (Pause in the proceedings.)

8 PRESIDING OFFICER: Okay, we're back on the
9 record.

10 MS. SCHMID: Thank you.

11 Q. (BY MS. SCHMID) Mr. Moore has kindly just passed
12 out Ms. Alyson Anderson's testimony, her surrebuttal
13 testimony, and I'd like to ask you some questions about
14 that.

15 A. Okay.

16 Q. This cross exhibit has not been premarked for
17 identification, so if we could please mark it as DPU
18 Cross Exhibit 1. And there's a little sticker ideally
19 in the corner where we could write 1. First page?

20 Maybe there's not a sticker.

21 A. Okay. There's a space.

22 Q. There's a space. Okay. Thank you.

23 MS. SCHMID: Could you please mark that is
24 DPU Cross Exhibit 1?

25 THE WITNESS: Uh, yes. Can I have a pen?

1 (Witness complying.)

2 Q. (BY MS. SCHMID) Have you read Ms. Anderson's
3 surrebuttal testimony?

4 A. I have.

5 Q. I have some questions about that.

6 Could you please turn to and review pages 1 and
7 2, lines 16 through 42 of her testimony.

8 Then could you please read lines 16 through 20
9 into the record.

10 A. (As read): In rebuttal, RMP witness Jack Painter
11 states, "The Company has provided significant evidence
12 of the prudence of our dispatch decisions while the OCS
13 has offered no evidence that the Company did not
14 appropriately and prudently dispatch its coal
15 resources." How do you respond?

16 Q. It looks like she may have just taken part of
17 your testimony and not included the entire testimony.

18 Do you feel the need to go back to your testimony
19 and insert the first clause of that sentence?

20 A. No.

21 Q. Would you then turn to your rebuttal, lines 13
22 through 16. I'm just going to ask you to read one more
23 thing into the record, and then I think we may be done
24 with reading things into the record.

25 If you could turn to your rebuttal page 1, lines

1 13 through 16.

2 A. (Witness complying.) Okay.

3 Q. Could you please read that into the record?

4 A. Do you want me to start with the sentence in the
5 middle of line 13?

6 Q. Yes, the one that starts with, My testimony...

7 A. (As read): My testimony presents arguments
8 against this proposal and explains that the Company has
9 provided significant evidence of the prudence of our
10 dispatch decisions while the OSC has offered no evidence
11 that the Company did not appropriately and prudently
12 dispatch its coal resources.

13 Q. Thank you.

14 If we turn back to Ms. Anderson's surrebuttal, I
15 will read lines 35 through 36 into the record just for
16 expediency. And if you'll double-check that I read
17 correctly.

18 (As read): In the above statement, Mr. Painter
19 appears to shift RMP's burden of proof to the OSC and
20 misconstrues my direct testimony as taking a position on
21 the prudence of the Company's dispatch decision.

22 A. That was correct.

23 Q. Do you agree with OSC's interpretation that you
24 are shifting Rocky Mountain Power's burden of proof at
25 some point to the OSC?

1 A. I do not.

2 Q. So you agree that the burden of proof always
3 stays with Rocky Mountain Power in this docket? And I'm
4 asking this just from a lay person's perspective and
5 your perspective as a net power specialist. I'm not
6 asking for a legal opinion.

7 A. That is correct.

8 Q. Let's talk about the EBA process generally. The
9 EBA process is a detailed process and by statute it
10 takes 300 days and sometimes it seems like it takes much
11 longer, but those are the only days we have. I'm going
12 to give you a simplified synopsis of the EBA process and
13 ask if you generally agree. And again, it's not a
14 complete recital because that would be very lengthy.

15 So for this process, RMP files and application,
16 supporting information and testimonies, and answers data
17 requests. Other parties submit data requests to the
18 Company, review answers, submit more rounds of
19 testimony. Then we have a hearing. We may have an
20 interim hearing. We have a regular hearing, which is
21 today. And that is how it generally goes, do you agree
22 with that?

23 A. From a very high level standpoint. Yes.

24 Q. Thank you.

25 Do you agree that the data response process is

1 governed by the scheduling order issued in this docket?

2 A. To my understanding, yes.

3 Q. Subject to check, will you accept that the
4 scheduling order states, (as read):

5 Discovery turnaround times shall be: 21 calendar
6 days until November 7th, 2023; ten calendar days until
7 January 8th, 2024; and seven calendar days thereafter.

8 Did I read -- will you accept subject to check?

9 A. Subject to check, yes.

10 Q. And so during this data response process and data
11 request process, isn't it likely that the parties and
12 Rocky Mountain Power are preparing multiple rounds of
13 testimony?

14 A. Throughout the EBA process, yes, multiple rounds
15 of testimony would be prepared.

16 Q. So do you agree that there may be many days
17 between when a party submits a data request and gets the
18 information that it needs?

19 A. How would we define many; but yes, there would be
20 multiple days in between the time from when a request is
21 submitted until it's submitted.

22 Q. Thank you.

23 Do you agree that parties have to get information
24 about the EBA from the Company?

25 A. Yes.

1 Q. Do you agree that the parties get this
2 information through reviewing the Company's filings,
3 having discussions, sending the Company DRs, and
4 reviewing the Company's responses?

5 A. Yes.

6 MS. SCHMID: Mr. Moore is now going to
7 distribute another document. This would be a copy of
8 Utah Code 54-a-1 (sic).

9 And, Mr. Moore, while you're doing that
10 could you also finish passing out the two yellow pages
11 that you started to pass out. They're DPU DR 17.4 and
12 the Company's responses.

13 I apologize for the cumbersome process.

14 PRESIDING OFFICER: Mr. Moore, did you
15 intend to hand out two different documents? We each
16 received two copies of Chapter 4a.

17 MS. SCHMID: There should be only one of 4a
18 and then one of 17 --

19 MR. MOORE: I think the pages probably stuck
20 together.

21 MS. SCHMID: So those two, the white page
22 document and then the seven -- yellow.

23 PRESIDING OFFICER: When you referenced 17,
24 you're referring to the Data Request?

25 MS. SCHMID: Yes.

1 Thank you, Mr. Moore.

2 Q. (BY MS. SCHMID) Could you please take a quick
3 look at the white sheet that Mr. Moore has passed out.
4 It contains among other statutes Utah Code 54-4a-1(1)-e
5 (sic).

6 MS. SCHMID: And I'd request that we mark
7 this as DPU Cross Exhibit 2.

8 Q. (BY MS. SCHMID) Could you please read 54-a-1- --
9 (1)(e) into the record.

10 A. Is it the -- starting with, "require any
11 person...?"

12 Q. Yes.

13 A. "require any person or entity subject to the
14 jurisdiction of the Public Service Commission to..."

15 And would you like me to read the further points?

16 Q. Yes.

17 A. "provide information, reports, and other data
18 compilations relevant to matters within the jurisdiction
19 of the commission;

20 "provide access to inspect and copy records and
21 other data compilations relevant to matters within the
22 jurisdiction of the commission;

23 "permit inspection of properties and tangible
24 things used in providing public utility service; and

25 "engage in other methods of discovery authorized

1 by the commission."

2 Q. Thank you.

3 Now let's talk a little bit about what I'm going
4 to refer to as the Idaho report. That is the document
5 on yellow paper that Mr. Moore just -- that Mr. Moore
6 has distributed this morning. It's the Division's Data
7 Request 17.4, and then the Company's Response and
8 Supplemental Response.

9 MS. SCHMID: And if we could mark that DPU
10 Cross Exhibit 4 (sic).

11 THE WITNESS: You said Cross Exhibit 4?

12 MS. SCHMID: Yes, please.

13 PRESIDING OFFICER: Did you intend to mark
14 it 3?

15 MS. SCHMID: Thank you.

16 PRESIDING OFFICER: So we'll mark it as 3
17 then.

18 MS. SCHMID: Thank you.

19 Q. (BY MS. SCHMID) Do you agree -- looking at this
20 exhibit, do you agree that when the Division became
21 aware of the Idaho report, it asked the Company to
22 provide a copy of that report?

23 A. Yes.

24 Q. Can you explain why the Company reluctantly
25 provided the report, but stated in its responses that

1 the Company continues to object to this request as
2 outside the scope of this proceeding and not reasonably
3 calculated to lead to the discovery of admissible
4 information?

5 MR. KUMAR: Your Honor, I would object to
6 the extent that this requires a legal opinion from the
7 witness.

8 PRESIDING OFFICER: One moment.

9 The objection is sustained.

10 Ms. Schmid, if you could rephrase.

11 MS. SCHMID: I'll just move on, thank you.

12 Q. (BY MS. SCHMID) Then let's turn back to the DPU
13 Cross 54-4a and then the rest and take another look at
14 54-4a-1(1)(e), which you read into the record. And I'm
15 asking you this question in your capacity as a
16 non-lawyer, but as an expert witness for the Company. I
17 am not asking for a legal opinion.

18 Do you see anything in 54-4a-1(1)(e) that allows
19 the Company to refuse to provide any documents to the
20 Division, subject to appropriate confidentiality
21 provisions?

22 And again, I'm just asking for your opinion as to
23 whether or not you see words to that effect there.

24 A. Not that I see, no.

25 Q. So then don't you agree that it is the Company's

1 duty as a regulated public utility to provide the
2 documents the Division requests, again subject to
3 appropriate confidentiality provisions?

4 A. For --

5 Q. Again based on -- based on your --

6 A. Right. So --

7 Q. -- layman's understanding.

8 A. Yeah, I don't want to interpret the objection and
9 that, but to my understanding, you know, the Company
10 would be required to provide documents that are, you
11 know, within the scope of the proceeding and...

12 Q. Do you -- do you see any words in this section of
13 the code you read into the record that say, in the scope
14 of this proceeding?

15 A. I do not.

16 MS. SCHMID: Okay. Thank you. Those are
17 all my questions. Thank you very much. Could you
18 please leave the 54-4 cross exhibit when you -- on the
19 desk when your turn as a witness is over?

20 THE WITNESS: Yes.

21 MS. SCHMID: Thank you.

22 The Division has no more questions for this
23 witness at this time.

24 PRESIDING OFFICER: Mr. Moore?

25 MR. MOORE: No questions, thank you.

1 PRESIDING OFFICER: Mr. Russell?

2 MR. RUSSELL: I do, but it will be very
3 brief.

4 CROSS-EXAMINATION

5 BY MR. RUSSELL:

6 Q. Mr. Painter, could you turn to your direct
7 testimony and -- starting at line 46, please.

8 A. Yeah. Page 3 of my direct testimony, line 46?

9 Q. Line 46. It is page 3, yes, at the top there.

10 Here you have a question and answer regarding
11 whether -- I'll read the question. (As read): Does the
12 Company agree with the DPU's assertion that it did not
13 prudently dispatch its coal facilities during the
14 calendar year 2022?

15 In response you say, (as read): No, the Company
16 generated 297 gigawatt hours more than its forecasted
17 coal generation and at a lower cost...

18 Am I reading it incorrectly or?

19 A. Yeah, that's not page 3 or line 46 on my direct
20 testimony.

21 Q. Maybe I'm in your response testimony.

22 It is page 3 of your response, I think.

23 A. Okay. Yes.

24 Q. Sorry about that. We'll start over.

25 So on page 3, line 46 of your response testimony,

1 there's a question and an answer, and I'll start over.

2 So the question starts, (as read): Does the
3 Company agree with the DPU's assertion that it did not
4 prudently dispatch its coal facilities during the
5 calendar year 2022?

6 And in response you say, (as read): No, the
7 Company generated 297 gigawatt hours more than its
8 forecasted coal generation and at a lower cost of \$20.47
9 per megawatt hour than its forecasted cost of \$21.45 per
10 megawatt hour. The increased generation combined with
11 the lower dollars per megawatt hour cost resulted in a
12 decreased total coal cost of \$22 million when compared
13 to the forecast.

14 My question to you is: Should the Commission
15 consider whether the actual costs are higher or lower
16 than the forecasted costs in determining the prudence of
17 the Company's actions in resulting in the actual costs?

18 A. I do think it's important to recognize that --
19 compared to forecast, that the Company was able to meet
20 that obligation as far as generation. So, yes.

21 Q. Okay. And I'm -- I'm -- just to make sure I'm
22 clear about this, your understanding is that -- or your
23 belief is that, a result that shows actual costs in any
24 particular category that is lower than the forecasted
25 cost is evidence of prudence?

1 A. I do not think that is the only factor to
2 determine prudence, but I do think it's one factor that
3 is important.

4 Q. Okay. And similarly then, actual cost that would
5 be higher than the forecasted cost would be evidence of
6 imprudence under the same standard that you just
7 articulated, right?

8 A. No, I do disagree with that.

9 Q. And why would we have a standard where actual
10 costs that are lower in one category than the forecasted
11 would be evidence of prudence, but actual costs that are
12 higher are not?

13 A. In this case for the piece of testimony we're
14 referring to, the important part is the amount of --
15 that I'm referring to here are the amount of megawatt
16 hours that the Company generated from its coal
17 resources. The indication of higher cost doesn't
18 necessarily have impact upon prudence. There could be
19 decisions -- or sorry, factors that contribute to that
20 that are well within the Company acting in a prudent
21 manner.

22 Q. I'm going to have you turn to your rebuttal
23 testimony, line 268.

24 MR. KUMAR: I'm sorry, Mr. Russell, could
25 you repeat the line number for me?

1 MR. RUSSELL: 268.

2 Q. (BY MR. RUSSELL) Are you there?

3 A. Yes.

4 Q. Okay. Here again you have a question and answer,
5 and the question here states, (as read): The OCS notes
6 that the size of the deferral balance has increased in
7 that this is the largest ever deferral balance and there
8 are significant differences between the actuals and
9 forecasts. Has the Company provided an explanation of
10 the cost drivers causing this increased balance.

11 And in your response you say, (as read): Yes.
12 The Company's baseline MPC forecast was set in 2020 for
13 a 2021 test year and natural gas and power market
14 conditions have changed significantly since. My direct
15 testimony provided an overview of the drivers causing
16 these variances. Comparing actual conditions from 2022
17 to a normalized forecast set in 2020, does not provide
18 any indication or evidence regarding the prudence of the
19 actual costs that were incurred in 2022. There will be
20 differences. And with the change in natural gas
21 markets, power markets, and significant weather events
22 that has occurred since 2020, the changes in actual
23 operations when compared to a forecast are dramatic.

24 This testimony that I just read from your
25 rebuttal testimony, do you stand by that statement?

1 A. I do.

2 MR. RUSSELL: Okay. That's all the
3 questions I have.

4 PRESIDING OFFICER: Any redirect, Mr. Kumar?

5 MR. KUMAR: Yes.

6 REDIRECT EXAMINATION

7 BY MR. KUMAR:

8 Q. Mr. Painter, if we could turn to DPU Cross
9 Exhibit 3, which I believe DPU Data Request 17.4.

10 A. (Witness complying.)

11 Q. And you're generally familiar with the Idaho
12 report that was provided in this preceding?

13 A. I am.

14 Q. And at any point in this preceding did the
15 Company delay in providing the latest information on the
16 Idaho report?

17 A. It did not.

18 Q. And did the Company expeditiously supplement the
19 response to this when the report was made available?

20 A. Yes, it did.

21 Q. And, Mr. Painter, do you often review data
22 requests in the course of your position?

23 A. I do.

24 Q. And with regards to the objection in that data
25 request, do you often see that data -- that objection?

1 A. I -- yes, I have seen that objection before.

2 Q. Is it fairly common?

3 A. I don't know if I would call it common, but I've
4 seen it more than a few times.

5 Q. About how many data requests would you roughly
6 say that you review in a year?

7 A. In a year?

8 Q. (Nodding.)

9 A. In all jurisdictions?

10 Q. Yes.

11 A. Hundred into thou- -- up to 1,000.

12 Q. Yes.

13 And would you say that this objection is -- you'd
14 see it in maybe 10 to 20 -- can you give a rough
15 percentage of how often you see it?

16 A. I -- if I just had to completely kind of try to
17 put a number, in the 5 to 10 percent range.

18 Q. Uh-huh.

19 And is it a fairly standard boilerplate
20 objection, you would say?

21 A. Yes, it does read that way.

22 Q. Okay. Can you also describe maybe some reasons
23 why the information that's provided in that Idaho report
24 may be not as applicable to the conditions in Utah?

25 A. Yes. The Idaho report contained information

1 specific to Idaho as far as their base net power cost
2 and forecast.

3 Q. Okay.

4 A. Which is different than the base net -- or than
5 the base and forecast net power cost in Utah. And it is
6 -- would not be appropriate to make comparisons with
7 much of the data in that report for those reasons.

8 Q. Now could you turn to your response testimony,
9 Mr. Painter. I believe Mr. Russell asked you some
10 questions regarding the comparison between the forecast
11 and actuals with regards to coal generations on page 3
12 of your response testimony?

13 A. That is correct.

14 Q. Could you provide maybe some additional color on
15 how the Commission should look at the comparison of
16 gigawatt hours that were forecasted and gigawatt hours
17 that actually occurred and how the Commission should
18 consider that information in their review of the EDA?

19 A. Yes. I -- what is important to take away from
20 this specific Q and A are the fact that the Company was
21 able to over generate its coal resources compared to its
22 forecast. Since the forecast, the Company has not added
23 any additional coal resources, and so it doesn't have
24 the same opportunity to have growth. The model that
25 would have been used to forecast its coal resource is an

1 optimization model that completely optimizes the system,
2 including its coal resources. Because coal resources
3 are some of the Company's cheapest resources, that model
4 will maximize them to the fullest extent.

5 And so I think it is important information to
6 note that the Company, even facing coal inventory supply
7 issues, was able to meet and exceed its original
8 forecast and generation for coal resources.

9 MR. KUMAR: I have no further redirect
10 questions for Mr. Painter.

11 PRESIDING OFFICER: Any request for recross?

12 MS. SCHMID: Yes, please.

13 PRESIDING OFFICER: Go ahead, Ms. Schmid.

14 RE-CROSS-EXAMINATION

15 BY MS. SCHMID:

16 Q. The redirect discussed the differences between
17 Utah and other states EBA statutes and processes. I
18 didn't address that, but I didn't object because I
19 wanted the Commission to get as much full and complete
20 information on the record as possible. But I do have a
21 couple questions pertaining to those differences.

22 Does Utah have a sharing band in its EBA?

23 A. It does not.

24 Q. Does Oregon?

25 A. Yes.

1 Q. Can you briefly describe that sharing band?

2 A. Oregon contains a 90 percent company and
3 10 percent customer sharing band.

4 Q. Are there any other unique characteristics of
5 Oregon's EBA procedure process and statutes that you
6 reference in that section of your testimony?

7 MR. KUMAR: Your Honor, at this point I
8 would object. I think we're going a little bit beyond
9 the scope of my redirect. My redirect was limited to
10 the Idaho report.

11 PRESIDING OFFICER: Ms. Schmid?

12 MS. SCHMID: For some reason, maybe I
13 misunderstood, but I was thinking that you also
14 testified about the Oregon and Washington EBA in your
15 response. That's what I wrote down, but I could be
16 mistaken.

17 MR. KUMAR: I think -- I mean, I believe my
18 questions were limited to how the Idaho EBA report would
19 have differences from the Utah. I don't recall asking
20 any questions about Oregon or Washington.

21 MS. SCHMID: Okay. In that case, I withdraw
22 this line of questions. Thank you.

23 PRESIDING OFFICER: Thank you.

24 Any other questions?

25 MS. SCHMID: No.

1 PRESIDING OFFICER: Any other request for
2 recross?

3 MR. RUSSELL: I've got a couple questions,
4 if you don't mind.

5 PRESIDING OFFICER: Go ahead, Mr. Russell.

6 RECCROSS-EXAMINATION

7 BY MR. RUSSELL:

8 Q. On redirect counsel for the Company asked you a
9 couple questions related to -- getting back to your --
10 what are we calling it -- response testimony. And I'll
11 paraphrase, and you can disagree with the paraphrase if
12 you'd like. But your -- your testimony in response to
13 those questions was that it's -- that it is important
14 that the Company produced more megawatt (sic) hours from
15 coal resources in 2022 than what had been projected.
16 And you believe that that's something that the
17 Commission should consider, right?

18 A. Yes, I do think that's important.

19 Q. Okay. And going back to our discussion, the
20 discussion that you and I had about your rebuttal
21 testimony, with respect to your testimony there where
22 you say that things have changed since those projections
23 were made in 2022 for a 2020 -- excuse me, when those
24 projections were made in 2020 that were forecast in 2021
25 where the markets have changed, expectations have

1 changed -- I assume load forecasts have changed as well,
2 right?

3 A. I cannot speak to the load forecast specifically.

4 Q. Okay. So you don't know whether the reason that
5 the Company produced more megawatt hours from coal in
6 2022 compared to the forecast that was made in 2020 is
7 just greater load than had been forecast back in 2020?

8 A. While it's possible, the piece of rebuttal
9 testimony that we were discussing where I stated that
10 market power prices and gas prices changed is the
11 significant portion of how you cannot compare the old
12 forecast to what is actually occurring today's market.

13 And as I stated earlier with the coal resources,
14 the Company's coal resources haven't changed during that
15 time frame and are the same -- the same resources. And
16 that's why I think it's important to state that the
17 Company was able to exceed it's generation for coal
18 resources, where actual operations and actual conditions
19 today are irrelevant to that forecast have to do with
20 the natural gas prices with market power prices, the
21 weather events that are not taken into account in a
22 normalized forecast. And those are the things that
23 matter the most in that they cannot compare to the
24 original forecast.

25 Q. Okay. I think I followed that, but doesn't it

1 also follow that if natural gas price forecasts in 2020
2 were lower than actuals, that that would affect the
3 projections of -- of generation from coal resources as
4 well, yes?

5 A. All matters of market prices, gas prices,
6 (incomprehensible) conditions, weather events can impact
7 actual operations of the Company's resources. And as --
8 is impossible to determine any one specific factor that
9 could change how the Company system operates, but you
10 can look at the picture as a whole and when comparing
11 what occurred in calendar year 2022 versus the original
12 forecast, that the significant change that matters the
13 most are natural gas prices in the market and market
14 power prices.

15 Q. Okay. And then by the same token don't
16 assumptions about things like natural gas prices also
17 affect assumptions about production from other resources
18 like coal? Just as a general matter.

19 A. It could, but because coal resources are the
20 Company's cheap -- one of its cheapest resources, those
21 resources are always maximized first in the optimization
22 model.

23 Q. And was that the case when natural power -- when
24 MPCs were -- were forecasted in 2020? Were coal
25 resources always cheaper than gas resources in that

1 forecast?

2 A. I would have to look that up to verify it, but
3 with reasonable knowledge, on average, coal resources
4 would be less expensive than natural gas resources.

5 MR. RUSSELL: Okay. Thank you. I
6 appreciate the exchange.

7 PRESIDING OFFICER: If there's nothing else,
8 Mr. Kumar, we'll turn to commissioner questions.

9 Commissioner Harvey?

10 COMMISSIONER HARVEY: Thank you.

11 EXAMINATION BY COMMISSIONER HARVEY:

12 Q. I do have a number of questions. I think I'll
13 begin talking about the data request, more so the
14 process than the actual request, because I want to
15 understand it a little bit better.

16 First of all, for this DPU exhibit, the one on
17 the yellow paper, I believe it's marked 3, when did the
18 DPU submit that to the Company, do you know?

19 A. I would have to confirm. I think the date on
20 this request is the date that we filed it and not that
21 it was submitted. So I do not think I can answer that
22 from this exhibit.

23 Q. Okay. Thanks.

24 In the Company responses to these data requests,
25 there was this objection that was noted in the cross-

1 examination. I'd like to understand what the Company
2 sort of thinks that means, as there was nothing ever
3 filed with the Commission objecting to anything or
4 asking for any relief.

5 So what does the Company hope to accomplish by
6 putting something like that in a response?

7 A. I think with that particular question --

8 MR. KUMAR: I mean, Your Honor, to the
9 extent that we could -- this might be more of a legal
10 question. A lot of the objections are crafted by the
11 attorneys of the Company, so I don't know...

12 COMMISSIONER HARVEY: Well, I -- I'm trying
13 to understand, since it came up a lot in the cross, just
14 how relevant it is. And like I say, nothing ever came
15 to the Commission. So I just want to understand what it
16 is, but I don't know if there's a way to find that out
17 apparently.

18 MR. KUMAR: I don't know if this is
19 appropriate, but I -- I could speak to how the Company
20 and how the -- so the legal process behind how
21 objections are included in data requests, if that...

22 PRESIDING OFFICER: I think that would be
23 appropriate and helpful.

24 MR. KUMAR: Yes.

25 To the -- it's my understanding -- and this

1 is standard across all the jurisdictions the Company
2 operates in -- that if an objection is not included in a
3 data request then the objection is waived at the point
4 that the -- any evidence is submitted into the record.
5 So oftentimes standard objections are often included
6 when there is a concern, you know, even a slight concern
7 about the admissibility of a possible data request in
8 order to ensure that that objection is preserved and
9 maybe raised at the time of hearing if there are
10 evidentiary questions that need to arise.

11 COMMISSIONER HARVEY: Thank you.

12 Q. (BY COMMISSIONER HARVEY) All right. In your
13 response to the questions about that objection,
14 Mr. Painter, you said that you didn't think some of the
15 data in the Idaho report was relevant?

16 A. That's correct.

17 Q. Do you think that all of the data is irrelevant
18 or just some?

19 A. No, just some, the parts that contain -- or that
20 pertain to comparing what occurred to Idaho's forecasted
21 or base net power cost would not be applicable to -- to
22 look at from a Utah perspective. But there are
23 components of that report of the discussion of the coal
24 supply inventory issues the Company was facing impacted
25 the Company as a whole and the system as a whole.

1 Q. All right. Thank you.

2 All right. I would like to turn to the actual
3 coal dispatch issues that were raised as well. I don't
4 know if these are going to be confidential or not, so I
5 will try to describe my question before I ask it and you
6 can decide whether you want to say that.

7 The first one relates to -- or the first set of
8 questions relate to the dispatch stack, I think it's
9 often referred to in terms of lower cost resources going
10 up. In testimony -- not today, but in testimony there
11 was made mention of a change to the price that the
12 dispatch model and dispatch employees saw for coal
13 resources during certain time periods. Is that number
14 confidential, or can I ask using that number?

15 MR. KUMAR: Are we referring to the number
16 and sort of the marginal cost as the Company may have
17 used for dispatching its coal resources?

18 COMMISSIONER HARVEY: Yes.

19 MR. KUMAR: I think we would likely consider
20 that number confidential, especially if it also gets
21 into how we've changed the -- the dispatch of our
22 resources, just because that could be competitively
23 sensitive information regarding -- that could provide --

24 COMMISSIONER HARVEY: Okay.

25 PRESIDING OFFICER: To facilitate

1 Commissioner Harvey's question, we will close the
2 hearing.

3 Let's go off the record for one moment.

4 (Pause in the proceedings.)

5 PRESIDING OFFICER: Let's go back on the
6 record.

7 And before we go to your question,
8 Ms. Schmid, in terms of closing the hearing, is there
9 any concern among the parties about the individuals who
10 are present in the room?

11 MR. KUMAR: No.

12 PRESIDING OFFICER: No concerns? Okay.

13 Ms. Schmid?

14 MS. SCHMID: Is the Commission's rationale
15 for closing this portion of the hearing the same as it
16 was for closing other parts?

17 PRESIDING OFFICER: Yes, I -- the Commission
18 determines it's in the best interest of the public for
19 the Commissioner to -- for the Commission to obtain
20 confidential information in order to make its decision.
21 My understanding is that it's anticipated that
22 Commissioner Harvey's about to ask a question that will
23 require confidential information for an appropriate
24 response.

25 MS. SCHMID: Thank you.

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*****HEARING CLOSED*****

(The following portion has been
designated confidential.)

Page 45, Line 1 through Page 52, Line 6

REDACTED

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5 (End of confidential portion.)

6 MS. SCHMID: Before Mr. Kumar calls his next
7 witness while we're on the record, I forgot to move for
8 the admission of DPU Cross Exhibit 1, which is the
9 surrebuttal testimony of Ms. Anderson from the OCS; DPU
10 Cross Exhibit 2, which is a copy from the Utah Code that
11 includes 54-4a-1; and DPU Cross 3. I'd like to note
12 that DPU Cross 3 is a series -- is the DPU's question
13 and then the Company's response. That interchange is in
14 is Mr. Painter's reb- -- response testimony, but I
15 offered it for the ease of the Commission and of the
16 parties, so I would like to move for its admission too.

17 So in summary, I'd would like to move for
18 the admission of Cross Exhibit 1, Cross Exhibit 2, and
19 Cross Exhibit 3.

20 PRESIDING OFFICER: Any objection?

21 MR. KUMAR: No objection.

22 PRESIDING OFFICER: They are admitted.

23 MS. SCHMID: Thank you.

24 PRESIDING OFFICER: Mr. Kumar.

25 MR. KUMAR: Yes. The Company would like to

1 call Mr. Robert Meredith if -- I believe he's available
2 telephonically.

3 PRESIDING OFFICER: Mr. Meredith, can you
4 hear me?

5 ROBERT MEREDITH: Yes, I can.
6 Can you hear me okay?

7 PRESIDING OFFICER: We can.

8 Whereupon --

9 ROBERT MEREDITH
10 having been first duly sworn to testify to the truth,
11 was examined and testified as follows:

12

13 PRESIDING OFFICER: One moment, we need to
14 adjust the volume so the court reporter can hear you
15 better.

16 (Pause in the proceedings.)

17 PRESIDING OFFICER: Go ahead, Mr. Kumar.

18

19 DIRECT EXAMINATION

20 BY MR. KUMAR:

21 Q. Mr. Meredith, could you please state or spell
22 your -- state and spell your name for the record?

23 A. Yes. My name is Robert Meredith; R-o-b-e-r-t.
24 Meredith is spelled M-e-r-e-d-i-t-h.

25 Q. And what is your -- how are you employed by the

1 Company?

2 A. I'm employed by the Company as the Director of
3 Pricing and Tariff Policy.

4 Q. And did you cause to be filed direct testimony
5 and I believe two additional -- sorry, one additional
6 exhibit --

7 A. Yes.

8 Q. -- in this preceding?

9 Do you have any changes or corrections to that
10 testimony or exhibits?

11 A. I do not.

12 Q. And if I were to ask you those same questions
13 today, would you give the same answers?

14 A. I would.

15 Q. Have you prepared a summary of your testimony for
16 the Commission?

17 A. I have.

18 Q. Could you please provide that summary?

19 A. Sure.

20 Good morning, Commissioner Clark and Commissioner
21 Harvey. In my direct testimony I presented the
22 Company's proposed rate spread and prices for the 2023
23 Energy Balancing Account or EBA. The Company's proposed
24 increase to the EBA is \$97.4 million or about 4.6
25 percent. This net change is the difference between the

1 current collection level of \$77.7 million and the new
2 proposed collection level of \$175.0 million for the 2023
3 EBA. The proposed rate spread and rate design for the
4 2023 EBA has been prepared in a manner consistent with
5 prior EBA balances and they are not contested by any
6 party in this proceeding. This concludes my summary
7 statement.

8 MR. KUMAR: Your Honor, I'd like to move for
9 the admission of Mr. Meredith's testimony and exhibits
10 at this time.

11 PRESIDING OFFICER: They're admitted.

12 MR. KUMAR: And we'd like to make
13 Mr. Meredith available for cross-examination.

14 PRESIDING OFFICER: Ms. Schmid?

15 MS. SCHMID: No questions.

16 PRESIDING OFFICER: Mr. Meredith -- sorry.
17 Mr. Moore?

18 MR. MOORE: No questions. Thank you.

19 PRESIDING OFFICER: Mr. Russell?

20 MR. RUSSELL: No questions. Thank you.

21 PRESIDING OFFICER: Commissioner Clark?

22 COMMISSIONER CLARK: No questions. Thank
23 you.

24 PRESIDING OFFICER: Commissioner Harvey?

25 COMMISSIONER HARVEY: No questions.

1 PRESIDING OFFICER: Okay. Thank you,
2 Mr. Meredith. We appreciate your testimony.

3 MR. KUMAR: And to the extent necessary, we
4 request Mr. Meredith be excused from these proceedings.

5 PRESIDING OFFICER: You're excused,
6 Mr. Meredith.

7 THE WITNESS: Okay. Thank you.

8 PRESIDING OFFICER: Mr. Kumar, is -- I
9 understand your next witness is likely to testify with
10 respect to confidential information?

11 MR. KUMAR: Yes, that's correct.

12 PRESIDING OFFICER: Any objection to closing
13 the hearing at this juncture?

14 MS. SCHMID: (Nodding.)

15 PRESIDING OFFICER: All right. We'll go
16 ahead and close the hearing.

17 *****HEARING CLOSED*****

18
19 (The following portion has been
20 designated confidential.)

21
22 Page 56, Line 16 through Page 135, Line 1

23 REDACTED

24
25 (End of confidential portion.)

1 PRESIDING OFFICER: If any counsel asks a
2 question that he or she anticipates could result in the
3 disclosure of confidential information in response,
4 please notify me in advance and we can reevaluate the
5 issue.

6 Ms. Schmid, go ahead and call your first
7 witness.

8 MS. SCHMID: Thank you.

9 As its first witness, the Division calls
10 Mr. Gary Smith. Could he please be sworn.
11 Whereupon --

12 GARY SMITH
13 having been first duly sworn to testify to the truth,
14 was examined and testified as follows:

15
16 DIRECT EXAMINATION

17 BY MS. SCHMID:

18 Q. Could you please state and spell your full name.

19 A. Gary Smith; G-a-r-y, S-m-i-t-h.

20 Q. By whom are you employed, and what is your title?

21 A. The Division of Public Utilities, and I'm a
22 Utility Technical Consultant.

23 Q. Your business address?

24 A. Is 160 East 300 South, Salt Lake City, Utah.

25 Q. Have you as part of a team participated in this

1 docket on behalf of the Division.

2 A. Yes.

3 Q. As a result of these activities, did you prepare
4 and cause to be filed or participate in the filing of
5 your direct testimony marked -- it should be marked
6 Exhibit 1, I believe, but I'm not sure it is. But it
7 will be his testimony Exhibits 1.1 through Exhibit
8 1.1(f) and also your rebuttal testimony, which was filed
9 on the 8th with its exhibits 1.1 through 1.3?

10 A. Yes.

11 Q. Do you have any changes or corrections?

12 A. I do, I have one correction. I think this is
13 known already, but on page 4 of my rebuttal testimony,
14 as Footnote 6, it references Data Request 17, and it
15 should be 14.

16 Q. With that correction, if you were asked to
17 prepare and file your direct and rebuttal testimonies
18 with your exhibits today, would your answers be the same
19 today as they were in the filed documents?

20 A. Yes.

21 Q. Do you adopt your test- -- as part of your
22 testimony here today, your direct and rebuttal testimony
23 with your exhibits?

24 A. Yes.

25 MS. SCHMID: The Division would like to move

1 for the admission of Mr. Smith's direct testimony filed
2 on 11/7/23, which has been marked on its cover sheet as
3 DPU 0.0 DIR with its exhibits, and his rebuttal
4 testimony marked as -- filed on January 8th, 2024 with
5 its three exhibits.

6 PRESIDING OFFICER: They're admitted.

7 Q. (BY MS. SCHMID) Have you had an opportunity to
8 prepare a summary today?

9 A. I have.

10 Q. Could you please share that with us?

11 A. Yes.

12 Good afternoon, Commissioners. Thank you for the
13 opportunity to address Rocky Mountain Power's (Company)
14 application for cost recovery in the Energy Balancing
15 Account or EBA and the recommendations of the Division
16 and its consultant Daymark Energy Advisors.

17 The Division has reviewed the Company's May 1st,
18 2023 application for EBA cost recovery and recommends
19 allowing the recovery of approximately \$168.1 million
20 Utah allocated dollars in the Company's Energy Balance
21 Account -- Company's Energy Balance for the year --
22 calendar year 2022. Sorry.

23 This is approximately 6.9 million less than the
24 recovery amount requested by the Company's application
25 filing. The Division's recommended disallowance is

1 based on the following adjustments (the following
 2 numbers are all Utah Allocated amounts and include
 3 accrued interest):

4 405,000 for replacement power costs related to
 5 forced outages where due consideration for the
 6 circumstances of the outage was determined to be
 7 deficient and imprudent. This revised amount is
 8 \$373,000 less than the recommended amount in the
 9 Division's initial direct testimony.

10 6.5 million to remove hedged power positions not
 11 required under the Company's updated Energy Risk
 12 Management Policy, and not shown to be prudent by
 13 substantial evidence.

14 In addition to these adjustments, the Division
 15 requested additional information through workshops
 16 related to the dispatch of the Company's plant resources
 17 to be held during the 2022 EBA review. The Company has
 18 agreed to this request.

19 The Company also agreed to work with the DPU to
 20 update its list of accounts included in the Electric
 21 Service Schedule No. 94 to remove inaccurate -- or
 22 inactive accounts and clarify category types.

23 Of note, but not requested for adjustments, the
 24 Company's Production Tax Credit-eligible wind facilities
 25 generated less energy than expected in 2022, increasing

1 the EBA deferral request by approximately 10 million.
 2 This is the second consecutive year with an increase in
 3 the requested deferral cost recovery due to the
 4 inclusion of PTCs in the EBA.

5 As a point of clarification, the Division sent
 6 its first 2022 EBA deferral year data request to the
 7 Company on March 24th, 2023, and filed its first coal
 8 related data request on June 2nd, 2023 (with subsequent
 9 coal related data requests). The second data request
 10 was received on -- or -- or -- let's see...

11 The following were just received -- filed after
 12 that one was received. The October 18th data request
 13 referred -- referenced in the Company's rebuttal
 14 testimony was the date of the Division's request that
 15 included a request for a copy of the investigative
 16 report ordered by the Idaho Public Utility Commission,
 17 not the first coal related data request of the Division.
 18 The Division requested a copy of this investigative
 19 report once it became aware of that report and that the
 20 Company would prepare it and not once the Division
 21 determined that coal dispatch was an area of review.

22 The Division's witnesses from Daymark, Mr. Phil
 23 DiDomenico and Mr. Dan Koehler will testify to Daymark's
 24 EBA review and specifically address the recommended
 25 adjustments to the Company's 175 million request for

1 recovery resulting from unsubstantiated hedge
2 transactions and outage events deemed imprudent.

3 And this concludes my testimony.

4 Q. I have a question, I'd like to clarify something,
5 and I could have misheard this.

6 When you were talking about workshops related to
7 the dispatch of the Company's plant resources, what I
8 heard is that these workshops would be held during the
9 2022 EBA review. But I believe it should be the 2024
10 EBA. Could you tell me what it -- and us what it should
11 be?

12 A. Held during the 2024 EBA review. Let's see...

13 Yeah.

14 Q. Thank you.

15 A. So if I misread that, I apologize.

16 Q. With that, Mr. Smith is available for cross
17 examination questions and questions from the Commission
18 and Mr. Hammer.

19 PRESIDING OFFICER: Mr. Moore?

20 MR. MOORE: No questions. Thank you.

21 PRESIDING OFFICER: Mr. Russell?

22 MR. RUSSELL: No questions. Thank you.

23 PRESIDING OFFICER: Mr. Kumar?

24 MR. KUMAR: Just a handful of clarifying
25 questions.

1 PRESIDING OFFICER: Uh-huh.

2 CROSS-EXAMINATION

3 BY MR. KUMAR:

4 Q. Mr. Smith, it may be up there on the stand with
5 you, do you have a copy of DPU Cross Exhibit No. 3?

6 A. Cross Exhibit 3?

7 Q. Yeah, there's a pile up there.

8 A. Oh. Yeah. Okay.

9 Q. And I'm talking with regards to the DPU Data
10 Request 17.4, as identified in this cross exhibit, isn't
11 it true that this was served on the Company on October
12 13th?

13 A. I don't have that on here. I know it was in
14 October.

15 Q. Okay.

16 A. And if I got the date wrong, I apologize.

17 MR. KUMAR: Your Honor, may I approach the
18 witness? I'm going to hand him -- it's already been
19 marked in the record. It's pages 7 and 8 of Mr. Jack
20 Painter's rebuttal testimony.

21 PRESIDING OFFICER: Go ahead.

22 MR. KUMAR: I'm not going to identify it as
23 cross exhibit because it's already been admitted into
24 the record in Mr. Painter's testimony.

25 Q. (BY MR. KUMAR) But do you have -- can you review

1 what I believe is the bottom of page 7 of Mr. Painter's
2 testimony beginning with line 144 to page 8, line 154.

3 A. You want me to read that?

4 Q. Not out loud. Just read it to yourself.

5 A. (Witness complying.) Okay.

6 Q. And in that it specifies that the DPU submitted
7 that Data Request 17 on October 13th, correct?

8 A. That's what it says, yes.

9 Q. And the normal turn around time at this point --
10 at that point in the EBA is 21 days; is that correct?

11 A. That is correct.

12 Q. And the Company provided a response eight days
13 early?

14 A. They did. They basically said -- and I can read
15 it here if you'd like -- that they would -- they were
16 okay with submitting it. I mean, they didn't really
17 provide anything other than that.

18 Q. But they identified -- they -- they did provide
19 -- and if we turn to 17.4, they did provide the previous
20 comments? The Company did provide the previous comments
21 that had been filed?

22 A. Oh, right, yeah. Yes, that's what was already
23 prepared.

24 Q. Yeah.

25 The -- but the -- since the coal report had not

1 been completed or filed yet --

2 A. That was not.

3 Q. That was not provided?

4 A. Right.

5 Q. But it was provided. And if you turn over to DPU
6 Cross Exhibit 3, it was provided, and this response was
7 supplemented when it was available?

8 A. Correct.

9 MR. KUMAR: I have no further questions.

10 PRESIDING OFFICER: Any redirect,
11 Ms. Schmid?

12 MS. SCHMID: None.

13 PRESIDING OFFICER: Commissioner Harvey?

14 COMMISSIONER HARVEY: Just a quick question.

15 EXAMINATION BY COMMISSIONER HARVEY:

16 Q. In your summary and in your testimony you
17 mentioned the wind power credits were less than had been
18 expected, right?

19 A. Yes, the wind generation was less -- wait. No,
20 the PTCs were less.

21 Q. Right.

22 A. So, yes, the generation was less. Yes.

23 Q. Those are directly tied, correct?

24 A. Correct.

25 Q. Do you know whether that was because it was just

1 a less windy year or if there were mechanical issues or
2 there was some other reason?

3 A. It appears that it was mostly due to
4 environmental reasons, not necessarily outages or so
5 forth.

6 COMMISSIONER HARVEY: Okay. Thank you.

7 PRESIDING OFFICER: Commissioner Clark?

8 COMMISSIONER CLARK: No questions. Thank
9 you.

10 PRESIDING OFFICER: Thank you, Mr. Smith.

11 Ms. Schmid, would you like to call your next
12 witness?

13 MS. SCHMID: Yes, please.

14 The Division would like to call Mr. Dan
15 Koehler.

16 Whereupon --

17 DANIEL KOEHLER

18 having been first duly sworn to testify to the truth,
19 was examined and testified as follows:

20

21 DIRECT EXAMINATION

22 BY MS. SCHMID:

23 Q. I'm going to ask you a few introductory
24 questions, and then I'll ask that the session be closed.

25 MS. SCHMID: If the Commission prefers,

1 however, I would move that the session be closed now.
2 But I have no preference.

3 PRESIDING OFFICER: If we're not going to
4 divulge any confidential information, I think we should
5 keep it open.

6 MS. SCHMID: We -- after a few preliminary
7 questions, Mr. Koehler will be discussing confidential
8 information.

9 PRESIDING OFFICER: Go ahead and notify me
10 when that's the case.

11 MS. SCHMID: Okay. Thank you.

12 Q. (BY MS. SCHMID) Good morning -- afternoon.
13 Could you please state your name for the record?

14 A. Yes, it's Dan Koehler; K-o-e-h-l-e-r.

15 Q. Your business address?

16 A. It's 370 Main Street, Suite 325 in Worcester,
17 Massachusetts.

18 Q. By whom are you employed?

19 A. I am with Daymark Energy Advisors. I am employed
20 as a principal consultant and vice president.

21 Q. Can you give us just a brief sentence or two
22 about Daymark?

23 A. Sure.

24 Daymark Energy Advisors is an energy consultancy.
25 We offer investment, regulatory, and management advisor

1 services to clients across the North American
2 electricity and natural gas sectors. Our expertise and
3 experience are interdisciplinary, and we work in areas
4 including transmission planning and marking analytics,
5 clean energy policy, competitive portfolio --
6 competitive TEU procurement and portfolio structuring,
7 market design and regulatory economics, and utility
8 tariffs and rate design.

9 Q. Did the Division hire Daymark as its consultant
10 in this docket?

11 A. Yes.

12 Q. In just a sentence or two, could you tell us what
13 the Division hired Daymark to do?

14 A. The Division hired Daymark to help them with
15 their review of the EBA filing of the Company's, and
16 particularly we reviewed outages. We reviewed the tens
17 of -- well, we reviewed a sample of the tens of
18 thousands of power and natural gas transactions that
19 were settled during 2022 for accuracy and prudence.

20 We reviewed certain issues specific -- specific
21 cost drivers, such as the PTC.

22 And finally, we were asked to review PacifiCorp's
23 compliance with risk management and corporate governance
24 policies.

25 Q. Is this your first time testifying before the

1 Utah Commission?

2 A. It is, yes.

3 Q. Because of that, would you please give us some of
4 your background in terms of experience and education
5 that allow you to testify as an expert on the issues
6 that you are speaking to today?

7 A. Sure.

8 So I have a BA in applied mathematics with a
9 focus in economics from Yale University and a pub- --
10 master's in public policy and management from the
11 University of Southern Maine.

12 After service in the Peace Corps and a brief
13 nonprofit stint, I spent the last 14 years working for
14 Daymark, advising developers, utilities, investors, and
15 regulators on utility rate design, wholesale market --
16 wholesale market dynamics, risk management, and the
17 deployment of energy infrastructure across North America
18 and Hawaii.

19 I've been involved as a consultant for the
20 Division in each and every Energy Balancing Account
21 docket since the initial filing in Docket No. 11, 035,
22 200. I have filed witness testimony in -- I have to
23 consult my notes here -- in the last nine cases,
24 beginning with Docket 15, 035, 03. And I reviewed the
25 Company's trading practices and risk management policies

1 overs the last 11 and a quarter years.

2 Q. Have you ever worked as an energy trader?

3 A. I have not. I occasionally advise clients in
4 facilitating commercial transactions for power, but it's
5 not a major focus of my work.

6 Q. Have you ever worked for a large utility?

7 A. No, I have not.

8 Q. What specifically in your background or
9 experience do you draw on for the conclusions you offer
10 today and in your prefiled testimony?

11 A. So in my career I have extensive experience
12 advising clients that are making multimillion dollar and
13 even billion dollar spending investment decisions under
14 uncertainty. So I spent 14 years helping developers,
15 utilities, end users, and other entities with analysis
16 that allow them to make the best decisions possible
17 under inherent uncertainty. This goes to the heart of
18 the issues I've testified to today.

19 MS. SCHMID: The Division also has another
20 Daymark witness available who will address certain
21 questions, and Mr. Koehler will talk just a little bit
22 about which questions Mr. DiDomenico will answer. But
23 I'm going to ask Mr. Koehler to go through Daymark's
24 exhibits, and then I'll ask for them to be admitted.

25 Q. (BY MS. SCHMID) So did you prepare or cause to

1 be prepared the direct testimony of Philip DiDomenico
2 and Dan F. Koehler -- Koehler for the Division --

3 A. Maple jar.

4 Q. -- on November 7th, 2023 with attached exhibits?

5 A. Yes.

6 Q. And did you cause to be prepared and filed the
7 testimony of Philip DiDomenico and Dan Koehler the
8 rebuttal testimony filed on January 8th of this year
9 with exhibits?

10 A. Yes.

11 Q. Do you have any changes or corrections to those
12 exhibits?

13 A. No, I do not.

14 Q. If I were to ask you the same questions that are
15 in the presubmitted testimony today, would your answers
16 today be the same as they were in the written documents?

17 A. Yes, they would be.

18 MS. SCHMID: With that, the Division moves
19 for the admission of the direct and rebuttal testimony
20 with exhibits of Mr. Philip DiDomenico and Mr. Koehler.

21 PRESIDING OFFICER: They're admitted.

22 Q. (BY MS. SCHMID) So you and Mr. DiDomenico filed
23 joint testimony. He's available through the wonders of
24 the internet. What type of questions will he be
25 answering instead of you?

1 A. I would recommend asking him about the plant
2 outage questions. I do not know plant maintenance.

3 MS. SCHMID: At this point I would request
4 that the session be closed because Mr. Koehler is going
5 to discuss and present confidential information during
6 his summary.

7 PRESIDING OFFICER: All right. We'll close
8 this session at this time.

9 Ms. Paschal, will you signal to me when
10 we've ceased streaming?

11 MS. PASCHAL: It's stopped.

12 (The hearing was then closed.)

13

14 (The following portion has been
15 designated confidential.)

16

17 Page 150, Line 12 through 170, Line 22

18

REDACTED

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(End of confidential portion.)

23
24 PRESIDING OFFICER: I apologize for the
25 interruption. Go ahead.

1 Q. (BY MR. MOORE) Have you prepared a summary for
2 the Office of Consumer Services' position?

3 A. I have.

4 Q. Please proceed.

5 A. Good afternoon. In my direct testimony I
6 supported one of the Division of Public Utilities issues
7 with Rocky Mountain Power Company's application for
8 approval of the 2023 Energy Balancing Account.

9 Initially, the DPU expressed a specific concern
10 regarding whether the coal resources were economically
11 dispatched, particularly in the context of the magnitude
12 of the EBA request. The DPU requested the ability to
13 make out-of-period adjustments during the audit of the
14 2024 EBA after reviewing the forthcoming Rocky Mountain
15 Power report requested by the Idaho Public Utilities
16 Commission.

17 This issue was resolved during the course of this
18 proceeding, and currently the OCS does not take a
19 position on the 2023 EBA, which should not be construed
20 as support or opposition. This concludes my summary.

21 MR. MOORE: Ms. Anderson is now available
22 for cross and questions from the Commission and Judge
23 Hammer.

24 PRESIDING OFFICER: Ms. Schmid?

25 MS. SCHMID: No questions.

1 PRESIDING OFFICER: Mr. Russell?

2 MR. RUSSELL: No questions. Thank you.

3 PRESIDING OFFICER: Mr. Kumar?

4 MR. KUMAR: No questions.

5 PRESIDING OFFICER: Commissioner Clark?

6 COMMISSIONER CLARK: No questions. Thank
7 you.

8 PRESIDING OFFICER: Commissioner Harvey?

9 COMMISSIONER HARVEY: No questions.

10 PRESIDING OFFICER: Thank you for your
11 testimony, Ms. Anderson.

12 So no other witnesses, Mr. Moore?

13 MR. MOORE: No other witnesses.

14 PRESIDING OFFICER: Mr. Russell, do you have
15 a witness you'd like to call?

16 MR. RUSSELL: UAE does not have a witness in
17 this docket. Thank you.

18 PRESIDING OFFICER: All right. Is there
19 anything we need to address from any party before we
20 adjourn?

21 (No response.)

22 PRESIDING OFFICER: All right. Thank you,
23 everyone, for your participation. Have a wonderful
24 afternoon. We're adjourned.

25 (The proceedings concluded at 2:37 p.m.)

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REPORTER'S CERTIFICATE

STATE OF UTAH)
)
COUNTY OF UTAH)

I, Tammy M. Breed, CSR No. 7801, a Certified Reporter, hereby certify:

THAT I reported the taking of the HEARING BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH, commencing on FRIDAY, JANUARY 26, 2024, AT 9:00 A.M.;

THAT prior to being examined, the witnesses were duly sworn to testify to the truth. That I thereafter transcribed my said shorthand notes into typewriting and that the typewritten transcript of said hearing is a complete, true, and accurate transcription of said shorthand notes.

I further certify that I am in no way related to any of the parties, nor am I in any way interested in the outcome thereof.

IN WITNESS THEREOF, I have subscribed my name on this 8th day of February, 2024.



TAMMY M. BREED, C.C.R. No. 7801

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Utah Rules of Civil Procedure
Part V. Depositions and Discovery
Rule 30

(E) Submission to Witness; Changes; Signing.

Within 28 days after being notified by the officer that the transcript or recording is available, a witness may sign a statement of changes to the form or substance of the transcript or recording and the reasons for the changes. The officer shall append any changes timely made by the witness.

DISCLAIMER: THE FOREGOING CIVIL PROCEDURE RULES
ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.
THE ABOVE RULES ARE CURRENT AS OF APRIL 1,
2019. PLEASE REFER TO THE APPLICABLE STATE RULES
OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

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COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

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