

Before the Public Service Commission of Utah

Docket No. 17-057-20

**IN THE MATTER OF THE
PASS-THROUGH APPLICATION OF DOMINION ENERGY UTAH FOR AN
ADJUSTMENT IN RATES AND CHARGES FOR NATURAL GAS SERVICE IN
UTAH**

Prepared Surrebuttal Testimony of

Howard E. Lubow

DPU Exhibit 5.0 SR

On Behalf of the

Utah Division of Public Utilities

PUBLIC VERSION

May 31, 2018

1

2 **Introduction**

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

4 A. My name is Howard E. Lubow. My business address is Overland Consulting, 11551 Ash Street,
5 Suite 215, Leawood, Kansas 66211.

6

7 **Q. Did you submit direct testimony in this proceeding?**

8 A. Yes. My direct testimony was filed as DPU Exhibit 5.0 on April 23, 2018.

9

10 **Q. What is the purpose of your surrebuttal testimony?**

11 A. I will address the DEU rebuttal testimony filed on May 9, 2018, to the extent that it is relevant to
12 comments made regarding my direct testimony. I will also supplement my direct testimony as
13 may be appropriate, based upon discovery responses that were not provided in a timeframe
14 required to consider the material as of that time.

15

16 **Summary of Findings**

17 Q. Would you please summarize the major findings addressed in this testimony, as well as those
18 contained in the Surrebuttal Testimonies of Mr. Kenneth H. Ditzel and Mr. Frank T. DiPalma?

19 A. Yes. The following is a summary of the major findings contained in these testimonies.

20 • DEU entered into Peaking Services Agreements with Kern River Pipeline and DEQP on
21 May 18 and July 26, 2017, respectively. Neither the DPU nor the Commission itself had
22 indicated any support for or approval of these Agreements. DEU knew or should have
23 known that it had no formal or informal authorization to proceed with these
24 agreements.

25 • The DPU and its consultants have conducted an independent and objective review of
26 the DEU filings and found serious flaws in the assumptions made in reliance of the
27 proposed firm customer peaking requirements.

- 28 • The Design Peak Day and Design Peak Hour models and related results are based on
29 unreliable inputs and unsupportable criteria, leading to material overstatements of Peak
30 Day and Peak Hour load conditions.
- 31 • DEU has included interruptible load in the calculation of Design Peak Hour
32 requirements, thus materially overstating the volumes it alleges it needs to procure.
- 33 • Assuming that additional resources were needed to meet Design Day or Design Peak
34 Hour demands, DEU has failed to implement, or fully consider, least-cost options
35 available to it.
- 36 The DEU planning for Design Peak Day and Peak Hour conditions is inconsistent with general
37 industry practice.
- 38

39 **Procedural Schedule and Discovery Process**

40 **Q. Mr. Lubow, do you agree with Mr. Mendenhall's assertion that the parties have had adequate**
41 **time for discovery and to make their case in this proceeding?**

42 A. Yes and no. The schedule itself was agreed upon by the parties. In this sense, the timeline was
43 adequate for the purposes intended. However, the agreed upon time for the responses to
44 discovery were not adhered to by the Company. This delayed the time in which material could
45 be evaluated, as well as the ability to clarify or request additional material based on the
46 responses made during the discovery period.

47 The procedural schedule required that Parties respond to requests for data or discovery no later
48 than fourteen (14) days for requests served before April 13, 2018, and seven (7) days or best
49 efforts thereafter. Over 30% of the responses received were delinquent. This statistic does not
50 reflect the impact of omissions or incomplete answers in the material received during this
51 process. Ultimately, it was simply not possible to fully review all responses and develop our
52 analysis and direct testimony under these circumstances.

53

54 **Q. Mr. Mendenhall's testimony references that the parties had complained about a lack of**
55 **time to adequately present their case in Docket No. 17-057-09. Given your response, in**
56 **your opinion, is there a similar problem in this proceeding?**

57 A. No. This is a different issue. In the previous proceeding, much of the evidence relied upon
58 by DEU was filed in its Rebuttal Testimony, late in the process. The purpose of my
59 comments here is rather to clarify an issue of more relevance to the development of the
60 DPU case in this proceeding.

61

62 **Q. Did the delays in the receipt of DEU responses to discovery result in any material**
63 **impairment to the development of issues addressed in the DPU filing of its direct**
64 **testimony?**

65 A. No. I believe that we were generally able to cover the key areas of concern in our direct
66 testimony. However, I did indicate that we should be entitled to supplement this testimony,
67 where appropriate, based on material that was not otherwise reviewed at the time of the
68 filing on April 23rd.

69

70 **Consideration of the Prudence Standard in This Proceeding**

71 **Q. Mr. Lubow, are you aware that, among other things, the scope of these proceedings is**
72 **intended to address the prudence of DEU entering into the Kern River and DEQP peak hour**
73 **contracts?**

74 A. Yes. Based upon this Commission's Order in Docket No. 17-057-09 dated December 19, 2017,
75 that is my understanding.

76

77 **Q. Mr. Mendenhall has addressed what he believes to be the proper application of the prudence**
78 **standard as defined under the applicable Utah Statute. Have you reviewed that testimony,**
79 **and if so, do you concur with Mr. Mendenhall's comments on this subject?¹**

80

81 A. I did review this testimony. I do not concur with Mr. Mendenhall's statements as I believe that
82 his representation of the underlying facts, as well as his conclusions based upon such facts, are
83 incorrect.

84

¹ Rebuttal Testimony of Kelly B. Mendenhall at page 3, line 23 to page 4, line 46.

85 **Q. Would you please identify the statements made by Mr. Mendenhall that you find inaccurate**
86 **or otherwise misplaced as it relates to the consideration of the prudence standard and**
87 **provide your response to them?**
88

89 A. Mr. Mendenhall makes the following relevant representations:

90 In the spring of 2017, the time when the Company made the decision to enter
91 into contracts for Firm Peaking Service, it had a model that had been in place for
92 a number of years, and had been presented to the Commission, the Division of
93 Public Utilities (Division), the Office of Consumer Services (Office) and other
94 intervenors during a number of Integrated Resource Plan Proceedings...the
95 Commission's determination in this matter should be based on what the
96 Company knew at the time it made the decisions: that its model was sound and
97 that no parties had taken issue with the model assumptions. The Company has
98 utilized this model for many years, and until Docket No. 17-057-09, no party had
99 raised any concerns about the model or claimed that revisions (like those that
100 have come up in this docket) should be made to it. To the Company's
101 knowledge, at the time the relevant decisions were made, the model was
102 uncontested and, as discussed in Mr. Landward's direct and rebuttal testimony,
103 is one reasonable way to estimate Design Day demand.

104 Mr. Mendenhall's observation that the Company had a forecast model in place for a number of
105 years, and that "...it had been presented to the Commission...during a number of Integrated
106 Resource Plan Proceedings" is misleading, and not compelling in any event. The Commission,
107 the DPU and other parties do not become responsible for the validity of the DEU forecast model
108 simply by virtue of being provided DEU analyses generated by the model or in reliance on the
109 model. The accuracy and validity of the model resides with DEU. Responsibility for actions
110 taken by DEU in reliance on its model also resides with DEU. That being said, the prudence of
111 DEU entering into the peak hour agreements is not tied solely to the validity of its model,
112 independent of other factors also contributing to its decisions. These other factors are the
113 subject of the DPU testimony in this proceeding.

114 **Q. Mr. Mendenhall stated that DEU was unaware of any issues other parties may have had with**
115 **the model until Docket No. 17-057-09. Is this consistent with your understanding?**

116 A. No. The DPU has indicated that it has had concerns with the DEU representations of a need for
117 peak-hour services in recent years. These ongoing concerns were not necessarily confined to
118 the veracity of the model itself, but the DEU proposed “solution” to a “problem” lacking
119 sufficient basis to garner DPU’s support.

120

121 **Q. Do you know when DEU actually entered into its peak-hour services agreements with Kern**
122 **River and DEQP, and what DEU knew or should have known when it signed these agreements?**

123 A. Yes. It entered into the Kern River Agreement on May 18, 2017 and the DEQP Agreement
124 effective November 15, 2017.² While DPU’s ongoing concerns about the proposed need for
125 peak-hour services may have been informal in nature up to July 26, 2017, it was certainly clear
126 as of that date. The DPU testimony filed in Docket No. 17-057-09 made clear its view that it was
127 unconvinced that the Peak-Hour Services Agreements were necessary or in the public interest.
128 The DPU testimony recommended that this Commission authorize a further review of the DEU
129 planning process and consider the most economical options available to meet customer load
130 requirements.

131

132 **Q. Given this history of informal and formal expression of doubt, if not outright opposition to**
133 **these agreements, in your opinion, was it prudent for DEU to enter into these agreements last**
134 **year?**

135 A. No. Given the circumstances known at the time, DEU knew or should have known that it had no
136 formal or informal authorization to proceed with these agreements, and that in doing so, it was
137 proceeding at its own risk. Given the procedural schedule in Docket No. 17-057-09, DEU could
138 have waited to execute these agreements, pending a formal indication from this Commission as
139 to its view of these transactions. Even without these facts, a utility has a continuing duty of
140 prudence. In this context, that means when considering a new, novel product outside of

² Direct Testimony of William F. Schwarzenbach at page 19, lines 389-397. The actual date that the DEQP Agreement was executed was [Begin Confidential] [REDACTED]. [End Confidential] Response to Discovery DPU-2-30, Attachment 7 (Confidential).

141 standard industry practice, the utility should have reviewed all its underlying assumptions for
142 reasonableness.

143

144 **Q. In proceeding in this fashion, what is the financial exposure of DEU due to potential**
145 **disallowances that the Commission may choose to order?**

146 A. The amount represented in the 17-057-09 case associated with Kern River was \$864,500.³ The
147 DEPQ costs are approximately \$1.5 million.⁴ Since DEPQ is an affiliate, this cost would be largely
148 offset in consolidation of subsidiary financial results.

149

150 **Q. Mr. Lubow, did DEU proceed with the consideration and approval of these Peak-Hour**
151 **Agreements in a prudent manner, consistent with industry practice?**

152 A. No. As a result of major Commission ordered disallowances stemming back to a period several
153 decades ago, utilities have generally adopted a more prescriptive approach with regulators.
154 They provide information supporting major investment and operations decisions, subject to
155 review and approval of regulators as a condition of project or investment implementation.
156 Perhaps DEU viewed the financial exposure of not following this process to be small enough to
157 proceed without any explicit consent from the DPU or this Commission.

158

159 **Reliability Risk**

160 **Q. There were several references in the DEU rebuttal testimony to your role as a third-party**
161 **consultant, and in such a role, your inclination to “deploy risky solutions”.⁵ Is this a valid**
162 **characterization of your perspective representing the DPU in this proceeding?⁶**

163 A. Certainly not. My professional consulting experience has generally been on behalf of public
164 utilities or state regulators. Consultants who are expert witnesses always represent that they
165 are independent. I certainly view my consulting experience in that light. Consultants who

³ Direct Testimony of Howard E. Lubow at page 9, lines 236-238 in Docket No. 17-057-09.

⁴ Direct Testimony of Howard E. Lubow at page 8, lines 190-194.

⁵ Rebuttal Testimony of Michael L. Platt at page 5, lines 127-129.

⁶ Aside from Mr. Platt’s comments, Mr. Mendenhall also makes similar comments in his Rebuttal Testimony at page5, lines 66-71.

166 represent utilities, including myself, may be independent, but are retained in contested
167 proceedings only when their findings and conclusions are in alignment with the objectives of
168 their client. In this context, DEU would not retain Overland Consulting if it knew that its
169 independent findings and conclusions were likely to be inconsistent with the approval of the
170 Kern River and DEQP Peaking agreements.

171

172 **Q. Isn't this expectation of outcomes consistent with the interest of your clients also true when**
173 **representing state commissions?**

174 A. No. Commissions are interested in regulating utilities consistent with long-standing stakeholder
175 and policy objectives. In representing a Commission, or its Staff, Overland consistently
176 approaches the project requirements from an independent and unbiased perspective.
177 Specifically, as it relates to the work we performed in these recent DEU proceedings, the DPU
178 requested a review of the Peak-Hour issues raised by DEU without regard to any expected
179 outcome(s).

180

181 **Q. Does your role as a "third-party consultant" to the Commission imply a lower standard of duty**
182 **than the responsibility associated with that of a utility executive?**

183 A. Actually, if anything, I view it as being the opposite. Utilities develop strategic plans, and then
184 execute on those plans. Sometimes circumstances change, sometimes assumptions prove
185 incorrect, but only infrequently does a utility back away from a major initiative or capex
186 commitment once it is part of a strategic plan that has been approved by executive
187 management and its board of directors.
188 Theoretically, utilities are held responsible for imprudent judgments. However, in reality, the
189 cost of bad decisions is sometimes imposed upon customers through higher rates.
190 I have been involved in providing recommendations to Commissions in record proceedings, as
191 well as advice to Commissioners, for approximately 40 years. To the extent that Commissioners
192 base their decisions on record evidence, my recommendations in proceedings or advice to
193 Commissioners in deliberations, are generally relied upon. This arises from the quality of our
194 analysis and our record of our findings and conclusions being found to be correct.

195 My credibility, and the credibility of our firm, is premised on our industry experience and
196 expertise coupled with a commitment to an objective and unbiased approach to industry and
197 corporate issues.

198

199 **Q. Has your analysis, findings and recommendations resulted in proposals to “deploy risky**
200 **solutions” as represented by Mr. Platt?**

201 A. No. The analysis, findings and recommendations are consistent with industry practice and the
202 specific facts relevant to this case.

203

204 **Q. Mr. Mendenhall’s testimony includes comments about deficiencies addressed by various**
205 **witnesses regarding the DEU Design Peak Day model, concluding that those who are**
206 **responsible for this model “...are tasked with a very difficult responsibility...(t)heir goal is to**
207 **ensure that the Company’s customers *never lose service.*”⁷ Is this a valid way for this**
208 **Commission to consider the decisions made by DEU to enter into the Peak-Hour agreements in**
209 **this case, as well as the construction of an LNG facility in a proceeding also pending at this**
210 **time?**

211 A. It is not. Mr. Ditzel has reviewed and identified serious flaws in the DEU Design Peak Day model.
212 These flaws produce results that are more than Mr. Mendenhall’s characterization of
213 “...shooting at a target and if he misses that target, he’d rather miss high and ensure that
214 customers do not lose service.”⁸ The better analogy is that, based on DEU’s construction, we
215 cannot properly identify what the target is or where it is located.⁹ What we do know is that to
216 date no customer has lost service because of a lack of supply in any historic peak period
217 condition.

218 **Q. Do utilities and their regulators set reliability goals such that their customers “never lose**
219 **service”?**

⁷ Rebuttal Testimony of Kelly B. Mendenhall at page 3, line 23 to page 4, line 59.

⁸ Ibid at page 4, lines 56-59.

⁹ Mr. Landward characterizes it this way: “When a Design-Day event occurs, the accuracy of the estimate can be evaluated, and the modeling adjusted accordingly. Until that time, the Company is, in a manner of speaking, aiming at a target that it cannot see” Rebuttal Testimony at page 3, lines 56-62.

220 A. No. The standard for safe, adequate and reliable service does not imply that customers will
221 never experience an outage under any circumstance. This standard must be met while also
222 providing service at just and reasonable rates, in part, by minimizing costs. Efficient utility
223 planning involves the balance of providing reliable service, while doing so in a cost effective and
224 economical manner.

225

226 **Q. In making these comments, are you suggesting that, in fact, you or the DPU are willing to**
227 **“deploy risky solutions” that increases the risk of customer outages?**

228 A. Not at all. Regulators are highly sensitive to customer outages. As a general rule, regulators
229 expect utilities to address the root causes of customer outages, and to be capable of restoring
230 service in an expeditious manner when they occur. However, they do not expect that utilities be
231 allowed to commit unlimited funds for miniscule benefits to accomplish these objectives.
232 Based on the facts in this record, there is no reasonable likelihood of a customer outage due to
233 peak weather conditions, given DEU resources currently available, excluding the peak-hour
234 agreements.

235

236 **Q. DEU has represented the importance of having the ability to meet customer demands during**
237 **peak periods such that customers should never lose service. Is reliability of service associated**
238 **solely with this issue?**

239 A. No. DEU customers experienced an outage on January 6, 2017 in the Coalville area, leaving
240 about 600 homes without service. Transportation and interruptible customers were curtailed
241 during this period as a result of the outage. The circumstances of this outage had nothing to do
242 with experiencing a design peak-day. Gas customers are exposed to outage risk for a variety of
243 potential reasons. Design-Day capability is only one such possible cause. Design-Day
244 considerations should include consideration of the costs of outages or avoiding them.

245

246

247

248

249

250 **Required Peak Hour Volumes**

251 **Q. Mr. Platt states that “Using historic actual usage as an upper limit to plan for rare, extreme**
252 **future events is imprudent and inconsistent with industry practice. On the other hand, using**
253 **A historical temperature with up-to-date demand data is an industry best practice and should**
254 **be used to forecast these future extreme events.” Do you agree with these statements?**

255 A. Mr. Platt and other DEU witnesses have mischaracterized the intended purpose of providing
256 historical data as contained in my testimony. Mr. Platt represents that I have proposed to use
257 this data as a basis for determination of forecasting “...future extreme events”, and that in doing
258 so, that I have proposed a process that “...is imprudent and inconsistent with industry practice.”
259 Mr. Platt has misrepresented my testimony, as there is no proposal to develop design day
260 requirements on the basis of this historical analysis.¹⁰ There are, however, significant concerns
261 with the methodology employed by DEU to develop its design day forecast. Those concerns are
262 addressed in Mr. Ditzel’s direct testimony and in my direct testimony.

263 The deficiencies identified in the DEU forecast methodology and application help explain the
264 deviation in historical and design forecast data over a long-time horizon. That is, many utilities
265 in the US have experienced actual conditions consistent with peak design day assumptions over
266 the last thirty years or so, while DEU has not.

267

268 **Q. You mentioned that other DEU witnesses have mischaracterized the intended purpose of**
269 **providing historical data as addressed in your direct testimony. Would you please identify the**
270 **instances where this occurred?**

271 A. Yes. Mr. Schwarzenbach cites my testimony regarding the fact that DEU has not experienced a
272 Design Peak day in over 50 years, and that this testimony was intended to imply that there is no
273 current need for Firm Peaking Services. Mr. Schwarzenbach goes on to state that “(p)lanning

¹⁰ Mr. Mendenhall also makes similar, and equally erroneous, comments in his Rebuttal testimony at page 4, line 62 to page 5, line 68.

274 only for historical usage would not be prudent as the data show higher demand days are
275 possible.”¹¹

276

277 **Q. Was the intent of your testimony, in fact, to imply that only historical usage should be relied**
278 **upon in as the basis for determining a Design Peak day?**

279 A. It was not. However, in thinking about Mr. Schwarzenbach’s testimony, two points can made to
280 further clarify my direct testimony. The fact that the last design day was over fifty years ago is
281 of some relevance in assessing the reasonableness of the DEU Design Peak Day, in this sense. As
282 stated in my direct testimony, many utilities currently consider historical weather data over a
283 30-year time period, while DEU relies on about 90 years of historical data without regard to
284 temperature trends.¹²

285

286 **Q. Mr. Lubow, while DEU criticizes you for your review of historical data as presented in your**
287 **testimony, doesn’t DEU also rely upon and provide historical data in its evidence?**

288 A. Of course, it does. For instance, Mr. Landward goes back to 1932 to find what are apparently
289 the only two occurrences of consecutive days on record where daily mean temperatures are at
290 or below -5 degrees.¹³

291

292 **Q. In his Rebuttal Testimony, Mr. Landward states that the coldest temperature on record is an**
293 **assumption made by other “prudent utilities”.¹⁴ Do you agree with the accuracy of this**
294 **statement?**

295 A. Mr. Landward references an AGA survey that identifies three companies that use the coldest
296 temperature on record as the basis for estimating Design Peak Day demand. I would make the
297 following observations about these respondents:

¹¹ Rebuttal Testimony of William F. Schwarzenbach at pages 9-10, lines 205-210.

¹² Direct Testimony of Howard E. Lubow at page 10, lines 245-248.

¹³ Rebuttal Testimony of David C. Landward at page 7, lines 123-126.

¹⁴ Ibid at page 7, line 135 to page 8, line 140.

- 298 • These companies rely on weather only; they do not consider other variables as
299 employed in the DEU model.
- 300 • The three respondents referenced are part of a group of 39 respondents, representing
301 approximately 7.7% of the group.
- 302 • Consistent with the data in this survey, and more generally within the industry, many
303 utilities rely on the current practice of utilizing more recent data; generally, within the
304 last 30 years.

305

306 **Q. Are you aware that Mr. Landward specifically points out that companies who use a 30-year**
307 **Design-Day HDD criteria do so with some risk?¹⁵**

308 A. I am aware that Mr. Landward has cited an outage event impacting approximately 40,000
309 customers in the New Mexico Gas Company and Southwest Gas service areas. Mr. Landward
310 cites the actual and design HDDs for the Tucson and Sierra Vista region. He then concludes that
311 “DEU does not want to utilize a lower Design Peak Day estimate and then experience a Design
312 Peak Day demand at the higher range.” Based on the plain language of this testimony, any
313 reasonable person would conclude that the customer outage was attributable to an inadequate
314 estimate of Design Peak Day requirements.

315

316 **Q. Mr. Lubow, do you have any reason to believe that the customer outage referenced by Mr.**
317 **Landward occurred for some reason or reasons other than an inadequate forecast of Design**
318 **Peak Day conditions based upon a 30-year HDD criterion?**

319 A. While it is true that this outage occurred during a period of extreme cold weather, the factors
320 more directly contributing to the outage included:

321 • Well freeze-offs, gas processing plant shutdowns, and supply basin underperformance.
322 • Peak period gas demands in Texas, New Mexico, and Arizona.
323 • Pipeline demands exceeding available supplies.
324 • Impaired pipeline operating pressures.

325

¹⁵ Ibid at page 9, line 168 to page 10, line 183.

326 Specifically, the outage was not based on a lack of peak-day capacity available to serve LDC
327 customers.

328

329 **Q. Mr. Lubow, in his direct testimony, Mr. Platt provides the DEU analysis of its alleged**
330 **Peak Hour requirements, it is represented as being “at least 17% higher than the**
331 **Design Peak Day flow.” Based on this analysis, then concludes that the required “Firm**
332 **Peaking Services that are required for the 2017-18 heating season total to**
333 **approximately 340,375 Dth/day.”¹⁶ Is this analysis credible?**

334 A. No. Mr. DiPalma addresses Mr. Platt’s testimony, identifying the effects of inclusion or
335 exclusion of loads associated with Lake Side and transportation customers. These points
336 are valid, and point to an overstatement in the “Firm Peaking Services” needed.
337 However, the lack of credibility in DEU’s analysis, which is fundamental to the DEU
338 actions taken to supply these services, can be demonstrated in an even more
339 fundamental context.

340 The entire focus of DEU in this proceeding, consistent with the evidence presented in
341 Docket No. 17-057-09, is to identify, and then quantify, the needs of its firm customers
342 at the time of its peak hour. However, in coming to its determination that this 17%
343 differential exists during the time of the peak hour, DEU has included interruptible
344 customer volumes. If these interruptible customer volumes are excluded, the
345 differential is reduced to 7%, itself representing a 60% overstatement in “Firm Peaking
346 Services” needed, aside from the numerous other deficiencies raised in the DPU review
347 of the DEU filing. A clear and unequivocal statement of this discrepancy is contained in
348 a DEU response to discovery¹⁷, and is attached as Exhibit 5.1.

349

350

351

¹⁶ Direct Testimony of Michael L. Platt at page 3, line 50 to page 7, line 144.

¹⁷ Response to Discovery DPU 11.01.

352 **Lake Side Demand and the Unsteady-State Model**

353 **Q. Have you reviewed the statements made by Mr. Platt at Lines 16-94 of his Rebuttal Testimony**
354 **concerning the Lake Side demand during DEU peak conditions and its relevance to the DEU**
355 **assumptions driving Design-Peak Day and Design-Peak Hour requirements?**

356 A. Yes.

357

358 **Q. Are Mr. Platt's observations regarding the Lake Side demand particularly helpful in the**
359 **context of the determination of Design-Peak Day or Design-Peak Hour requirements that have**
360 **thus far led to the Kern River and DEQP peaking services recently added by DEU?**

361 A. No. I actually find this testimony to be a misleading characterization of the matters addressed in
362 the DPU testimony on this subject. Without restating the DPU testimony already submitted
363 into this record, the points made are straightforward, and can be summarized as follows:

- 364 • In determining the Design Peak Hour requirement, DEU has assumed the Lake Side
365 contract limit though there is no history of such usage during the heating season, and
366 during the peak-hour period identified by DEU.
- 367 • Given that the actual Lake Side demand during the Peak-Hour is less than the ratable
368 level on a peak day, it does not have any direct impact on the peak-hour excess demand
369 over ratable levels on that day.
- 370 • By virtue of the DEU inclusion of its contract demand in estimating the Peak-Hour
371 requirement, the amount of capacity required is necessarily higher than the result based
372 on the actual Lake Side usage.

373

374 **Q. Is it unreasonable for DEU to assume the Lake Side contract demand in developing design day**
375 **and design hour estimates?**

376 A. The simple answer is probably yes. I have addressed this point at Lines 449-472 of my direct
377 testimony. On its face, it seems intuitively reasonable to assume a contract right, whether
378 actually used or not. However, the economic dispatch of the Lake Side facility is not a random
379 occurrence. Lake Side is owned by PacifiCorp. It represents about 10% of the generation
380 capability. There are 72 generating units in the generation asset mix. There is little reason to
381 believe that the system load and dispatch of the generation facilities during the DEU peak would

382 vary materially from historical experience. As I addressed in my direct testimony, this
383 uncertainty could be eliminated by an amendment to the terms of the DEU agreement with
384 PacifiCorp. Given that PacifiCorp would be giving up a right that it is highly unlikely to ever
385 require, the cost is likely to be highly attractive in comparison to the pipeline peaking contracts
386 or other options under consideration by DEU at this time.

387

388 **Magnum Energy Storage Option**

389 **Q. Mr. Platt mentions that your testimony refers to the Magnum Energy storage proposal as an**
390 **“on-system” option, and that he believes that this is an inappropriate characterization. Can**
391 **you clarify this point?**

392 A. Yes. The Magnum proposal dated February 22, 2018 includes the following statement:

393 **[Begin Confidential]** [REDACTED]

394 [REDACTED]

395 [REDACTED]¹⁸ **[End Confidential]**

396 I believe that “on-system” is an appropriate reference to this option. The project includes the
397 construction of a pipeline with several delivery points connecting directly into the DEU system
398 without having to transport the gas through upstream transmission pipelines.

399

400 **Q. In Mr. Schwarzenbach’s Rebuttal Testimony, he refers to your discussion of the Magnum**
401 **Energy Storage options, indicating that your testimony “...implies that they should have been**
402 **considered to meet peak-hour demand requirements.” He then further states that “...the**
403 **Magnum Energy proposals were not received until long after the contracts for Firm Peaking**
404 **Services were signed” and that their “...most recent proposals are significantly higher than the**
405 **cost of the Firm Peaking Services.”¹⁹ Are these comments in any way relevant or responsive to**
406 **your testimony on this subject?**

407 A. No. My testimony was in direct response to Mr. Schwarzenbach’s direct testimony regarding
408 various options available to meet peak-hour requirements, including Magnum Energy storage.
409 The intent of this testimony is clear. It has nothing to do with Mr. Schwarzenbach’s comments

¹⁸ Response to Discovery DPU 2.17, Attachment 1, page 8. (Confidential)

¹⁹ Rebuttal Testimony of William F. Schwarzenbach at page 10, lines 219-225.

410 about some comparison to Firm Peaking Services, aside from it being one of the eight options
411 identified by Mr. Schwarzenbach himself as alternatives for added peaking capacity.²⁰

412

413 **LNG Facility**

414 **Q. At page 11 of Mr. Schwarzenbach’s rebuttal testimony, he references your testimony where it**
415 **states DEU’s intent to build “...an LNG facility to meet its peak-day needs going forward. He**
416 **then corrects this testimony in the following questions and answers:**

417 **Q. Does the Company plan to build an LNG facility to meet peak-hour demand**
418 **requirements?**

419 **A. No. The Company evaluated an LNG facility an option to meet peak-**
420 **hour demand but determined that Firm Peaking Service contracts**
421 **were a more cost effective solution. Use of Firm Peaking Services in**
422 **the last winter heating season has proven it to be a reliable resource**
423 **and they are currently available. An LNG facility would not be in**
424 **service for several years.**

425 **Q. Is the use of Firm Peaking Services the lowest cost option to meet the**
426 **peak-hour demand requirements?**

427 **A. Yes...**

428 **Has Mr. Schwarzenbach properly characterized your testimony?**

429 **A. No. He has not. The testimony he references actually points out the dramatic increase in cost of an LNG**
430 **facility over the cost of the Firm Peaking Services Agreements. It seems rather misleading to state that**
431 **DEU has no plan to build an LNG facility given its filing on April 30, 2018 in Docket No. 18-057-03 to do**
432 **just that; albeit now being represented as serving broader purposes.**

433

434 **Q. Do you agree that the Firm Peaking Services pipeline agreements are the lowest cost option to**
435 **meet peak-hour demand requirements?**

²⁰ Direct Testimony of William F. Schwarzenbach at page 11, lines 218-232.

436 A. No. My testimony, and the testimony of other DPU witnesses, leads to the conclusion that
437 these peaking services contracted by DEU were, and continue to be, unnecessary and not in the
438 public interest.

439 **Q. If this Commission were to find otherwise, would you then agree with Mr. Schwarzenbach's**
440 **conclusion that the Firm Peaking Services pipeline agreements are the lowest cost option to**
441 **meet peak-hour demand requirements.**

442 A. No. The Company has had, and continues to have lower cost alternatives as discussed in my
443 direct testimony.

444

445 **Load Control Option**

446 **Q. At page 9, lines 234 to 241, Mr. Platt states that you have erred in your estimation of the**
447 **amount of capacity that could be potentially reduced by curtailment of DEU's 13 largest**
448 **customers, excluding Lake Side. He points out that you mistakenly assumed that these flows**
449 **were all firm. Is he right, and if so, would you like to revise your testimony at this time?**

450 A. He is correct. I inadvertently used data associated with Daily Contract limits rather than the
451 Firm Contract limits. DPU Exhibit 5.2 provides the actual data relied upon in coming to the
452 volume referenced in my direct testimony. The firm capacity associated with the 13 largest
453 customers, excluding Lake Side, is 111,988 Dth.

454

455 **Q. Mr. Lubow, are you aware of the nature of the customer gas consumption within this group?**

456 A. Exhibit 5.2 provides a summary of the firm demand limit, the total daily contract limit, and the
457 type of customer for the 25 largest customers. Several of these customers, aside from Lake
458 Side, are power generators; many of the others use gas in their manufacturing process. Many of
459 these customers would likely consider a peak-hour interruption for reasonable compensation,
460 given the remote nature of such an event.

461

462 **Q. In the event of a major service interruption caused by cold weather, a major disaster, a**
463 **pipeline break or other restriction on deliverability, would these customers likely be curtailed?**

464 A. Yes. Under the DEU "Service Interruption Procedure" these customers would generally be
465 included as Termination Priority No. 1, being the most likely to be curtailed, aside from
466 Interruptible Curtailment.²¹

467
468 **Q. Regardless of the quantity associated with controlling these customer flows during a peak**
469 **period, did you conclude that this option, in and of itself, would necessarily be an offset to**
470 **"...any need for Firm Peaking Services", as stated in Mr. Platt's rebuttal?²²**

471 A. I made no such assertion in my direct testimony. However, a potential reduction of
472 approximately 112,000 Dth is significant as a component of the peaking requirements alleged by
473 DEU at this time. Should this Commission find that peaking requirements are needed, this
474 option would be highly cost-effective when compared to other alternatives.

475

476 **Industry Procedures and Best Practices**

477 **Q. Mr. Schwarzenbach criticizes the observation in your testimony that "LDCs generally rely upon**
478 **upstream pipelines to continue to provide service, whether they are contractually obligated to**
479 **do so or not." He then goes on to state that "Simply relying on upstream pipelines to provide**
480 **sufficient firm service during a peak hour is not reasonable..."²³ Was it the intent of your**
481 **testimony to recommend to DEU should rely on this industry practice for planning purposes?**

482 A. No. The direct testimony that Mr. Schwarzenbach quotes is in response to a specific question
483 regarding industry practice in situations where an LDC does not have on-system storage
484 available to it. He has taken this response out of context, and then rebuts a point not found in
485 my testimony. Mr. Schwarzenbach's rebuttal testimony is particularly curious since he himself
486 made an almost identical observation in a response to discovery which was prepared by him. I
487 have attached this response as Exhibit 5.3.

488

489

²¹ Response to Discovery DPU 10.09, Attachment at pages 4 and 5 of 17.

²² Rebuttal Testimony of Michael L. Platt at page 9, lines 234-237.

²³ Rebuttal Testimony of William F. Schwarzenbach at page 10, lines 216-217.

490 **DPU Major Findings and Conclusions**

491 **Q. Based on the DPU evidence in this case, what findings do you recommend the Commission**
492 **make at this time?**

493 A. It is my opinion that the record evidence supports that following findings.

- 494 • The DEU resources currently available, absent the Peaking Services Agreements from
495 upstream pipelines, are sufficient to provide safe, adequate and reliable service. There
496 is no credible evidence that the Peaking Services Agreements are necessary to continue
497 to meet this standard.
- 498 • The costs arising from these agreements have been imprudently incurred by DEU, and
499 would impose unreasonable and unnecessary costs on customers, if allowed in rates.
- 500 • DEU should modify its Design Peak Day and Design Peak Hour models to correct the
501 many flaws and unreasonable assumptions identified in the DPU review conducted in
502 this case.
- 503 • DEU should review current industry and best practices and revise its planning process
504 and procedures to conform with industry norms.

505

506 **Q. Does this conclude your Surrebuttal Testimony?**

507 A. Yes, it does.

508

509

510