

Rocky Mountain Power
Docket No. 17-035-39
Witness: Nikki L. Koblaha

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF UTAH

ROCKY MOUNTAIN POWER

Surrebuttal Testimony of Nikki L. Koblaha

November 2017

1 **Q. Are you the same Nikki L. Kobliha who previously provided rebuttal testimony in**
2 **this case on behalf of Rocky Mountain Power (“Company”), a division of**
3 **PacifiCorp?**

4 A. Yes.

5 **PURPOSE AND SUMMARY OF SURREBUTTAL TESTIMONY**

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

7 A. I respond to the rebuttal testimony filed by the Utah Association of Energy Users
8 witness Mr. Kevin C. Higgins and confirm the reasonableness of the Company’s tax
9 rate sensitivity analysis.

10 **Q. Please summarize your testimony.**

11 A. Since the Company filed rebuttal testimony, the political environment surrounding
12 potential federal tax reform has grown somewhat clearer because there are now
13 competing bills in the House and Senate that contain specific details of each proposal.
14 That said, there remains very little certainty about the outcome of federal tax reform,
15 particularly because current estimates indicate that neither bill can meet the
16 requirements necessary to pass the Senate with a simple majority vote. Therefore,
17 without substantial changes that increase revenue, neither bill could become law today.
18 Based on the Company’s assessment of the current political environment, the
19 25 percent effective tax rate used for the Company’s tax rate sensitivity analysis
20 remains reasonable, along with the continued availability of the 100 percent production
21 tax credit (“PTC”) under the current phase-out provisions.

22 **SURREBUTTAL TESTIMONY**

23 **Q. Mr. Higgins reiterates his concern that changes in the federal tax code pose a**
24 **material risk to customers in this case. (Higgins Rebuttal, lines 44-45.) Has the**
25 **introduction of specific legislation changed your earlier assessment that, if any**
26 **federal tax reform is actually enacted, the most likely outcome is a reduction of**
27 **the effective corporate tax rate to 25 percent?**

28 A. No. Based on the deep political divisions between the two parties on the goals of tax
29 reform and the large economic impact surrounding all the major areas of tax reform,
30 the Company believes that at this time it is pure speculation to try to determine the
31 ultimate outcome of tax reform in 2017. Therefore, for purposes of modeling a tax
32 sensitivity for repowering, the Company assumed, as a reasonable proxy for tax reform
33 impacts, a congressional compromise on the corporate income tax rate, reducing the
34 rate to an *effective* rate of 25 percent, as compared to the current *statutory* rate of
35 35 percent. As set forth in Mr. Rick T. Link’s rebuttal testimony, the wind repowering
36 project produces net benefits to customers if the Company’s effective tax rate is reduced
37 to 25 percent. (Link Rebuttal, lines 700-703.)

38 **Q. Please explain the difference between the effective tax rate the Company used in**
39 **its sensitivity modeling and a statutory tax rate.**

40 A. The 25 percent tax rate the Company assumed for purposes of its sensitivity modeling
41 is an *effective* tax rate, not a *statutory* tax rate. An effective tax rate accounts for the
42 base statutory rate, but also incorporates numerous other factors, including the impact
43 of excluding certain deductions from taxable income (*i.e.*, a broadening of the tax base
44 to which the new tax rate is applied). Even though both the House and Senate versions

45 of the Tax Cuts and Jobs Act propose a 20 percent statutory corporate tax rate, the
46 effective tax rate will be higher if deductions are eliminated or limited.

47 **Q. Do the House and Senate versions of the tax reform bill clearly meet the budgetary**
48 **requirements of the Senate reconciliation rules?**

49 A. No. In their current form, it is not clear that either the House or Senate version of the
50 tax reform bill will meet the Senate budgetary requirements of the Senate reconciliation
51 rules to avoid requiring 60 senators to pass the bill, versus a bare majority. This could
52 require an increase in statutory tax rates, or an increase in the effective tax rate, or some
53 combination of the two.

54 **Q. Does the Company believe that tax reform will impact the phase-out of the PTCs?**

55 A. No. Even if tax reform is passed, the Company does not believe it will impact the
56 existing phase-out of the PTC previously enacted by the Protecting Americans from
57 Tax Hikes Act (“PATH Act”). Although the House bill contains provisions regarding
58 modification of the PTC, the Senate draft does not. Key Republican senators have
59 indicated that the final bill will retain the current PATH Act phase-outs and current four-
60 year safe harbor.

61 **Q. Under the most likely schedule for tax reform legislation, will the Company have**
62 **time to assess tax changes before irrevocably committing to the wind repowering**
63 **project?**

64 A. Yes. In my rebuttal testimony, I noted that the window for Congress to enact tax reform
65 legislation is likely to close by early 2018 given the run-up to the mid-term
66 Congressional elections. (Kobliha Rebuttal, lines 246-248.) There has been no change
67 in this projected schedule. Thus, in early 2018, the Company should know the outcome

68 of potential legislative changes that might impact corporate tax rates and impact the
69 customer value of the repowering project. This will give the Company time to assess
70 tax law changes, if any, on an individual facility basis before moving forward with the
71 repowering project.

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

73 A. Yes.