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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of Rocky Mountain Power for Authority To Increase its Retail Electric Utility Service Rates in Utah and for Approval of Its Proposed Electric Service Schedules and Electric Service Regulations	Docket No. 07-035-93 OBJECTION TO THE PRESENTATION OF SUR-SURREBUTTRAL TESTIMONY AND EXHIBITS
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On May 27, 2008, Rocky Mountain Power's counsel stated an intent to present sur-surrebuttal testimony and exhibits at the revenue requirement hearing to begin June 2, 2008. The notice does not identify the testimony that is the subject of sur-surrebuttal, does not identify who will provide the sur-surrebuttal, and does not describe the exhibits, even rudimentarily. Rocky Mountain's counsel states that the Commission's December 27, 2007 Scheduling Order contemplates live sur-surrebuttal.

Rocky Mountain's presentation of sur-surrebuttal testimony and exhibits is improper under the Commission's generally applicable procedural rules and those specific to this docket. The December 27 Scheduling Order does not allow for,

speak to, implicate, and certainly does not contemplate any testimony or evidentiary exhibits other than as allowed in the Order. One may more accurately presume that the Commission's omitted reference to sur-surrebuttal was intentional. No party, particularly Rocky Mountain Power, requested in a proper and timely manner, that the Commission expand the type and timing of testimony provided for by the Order.

In this general rate case, the Commission has broad discretion to direct that parties comply with explicit rules to assure that the required hearing is orderly, just and expeditious. *R746-100-10 E. 3.* To that end, testimony and exhibits are to be pre-marked and accompanied by narratives or testimony providing explicit and detailed sources of information, statistical methods, assumptions, estimates, basis, formulas and an explanation of inputs or variables, among other requirements. *R746-100-10 F. 2.* The December 27 Scheduling Order required that all testimony was to be reduced to writing and filed with adverse parties for a reasonable time before it is presented in accordance with *R746-100-10 G.* The Commission made no provision in its Scheduling Order for any exception.

While *R746-100-10 J* provides an order of presentation of evidence, the Commission may order otherwise. Further, other rules permit the Commission to vary significantly from what are traditional practices in civil courts. Cross-examination may be limited to pre-filed, written cross. *R746-100-10 K.* The Commission may dispense any oral testimony by requiring written summaries. *R746-100-10 G.* Parties are to have full opportunity to cross-examine a witness on

prefiled testimony, the admission of which is premised upon an adverse party having been served with or have had access to it for a reasonable time before it is presented, generally at least 10 days. *R746-100-10 G*.

Rocky Mountain Power's presumptuous statement that the Scheduling Order contemplates live presentation of sur-surebuttal because it omitted any reference to written sur-surebuttal, is no doubt based upon the utility's belief that traditional practices in civil courts apply in quasi-judicial regulatory proceedings before this Commission: that the party with the burden of proof always gets the last word. A utility's burden of proof by substantial evidence, in any and all cases that propose rates, is based upon the fact that the utility is in the first instance an illegal monopoly allowed to exist only by strictly complying with statutory standards for how rates are determined and what rates shall be.

The traditional practice in civil courts simply does not apply. Utah's public utility regulatory scheme, the Commission's procedural rules, and the Scheduling Order in this docket, are designed to allow regulatory authorities and others, to examine in a comparatively short time, highly complex issues using large volumes of the data and information necessary to apply sophisticated financial, commercial and statistical models and methods. The examination can only occur if there is from the beginning, definite obligations to provide written testimony and exhibits on or before a date certain, permitting the regulatory authorities the time to perform the statutorily required analysis.

Utah's public utility regulatory scheme does not permit the type of undisclosed testimony and exhibits that Rocky Mountain intends to present. To permit Rocky Mountain Power to dictate when it must comply with the regulatory scheme, and when it will not, will result in a disorderly, unjust and prolonged hearing.

DATED this 30th day of May 2008.

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In the Matter of the Application of Rocky Mountain Power for Authority To Increase its Retail Electric Utility Service Rates in Utah and for Approval of Its Proposed Electric Service Schedules and Electric Service Regulations	Docket No. 07-035-93 CERTIFICATE OF SERVICE
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On May 30, 2008, a copy of the Utah Committee of Consumer Services' Objection to Presentation of Sur-surrebuttal Testimony and Exhibits was served upon the following by electronic mail.

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DATED this 30th day of May 2008.

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