# UTAH RATEPAYERS ASSOCIATION

EDUCATION AND LOBBYING FOR RATEPAYERS OF UTILITY-TYPE SERVICES WITH LIMITED OR NO ALTERNATIVES

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Julie Orchard
Public Service Commission
Heber Wells Building, 4th Floor
Salt Lake City, Utah 84111

30 July 2006

Dear Julie,

08-035-38 – PROPOSED SCHEDULE

In its 29 July *Cover Letter*, Rocky Mountain Power (hereinafter sometimes RMP, Company, or utility) states that its position "is that all motions should be filed within 30 days of the date the Company filed its application". During the Scheduling Conference earlier yesterday, RMP represented that its *Application* in this matter had been served on all parties to Docket 07-035-98 (of which I was one), but immediately accepted my statement that I had not received it and moved to provide me with hard and electronic copies.

In her 29 July email transmitting the utility's *Proposed Scheduling Order* and *Cover Letter*, Yvonne Hogle wrote that she "will send our application filing by email to Michele Beck, Colleen Bell, Roger Ball and Holly Smith tomorrow." Tom Brill of the Utah Division of Public Utilities (hereinafter, Division) was kind enough to provide me with a hard copy before I departed yesterday but, as of this writing, I still await an electronic copy. The Utah Ratepayers Association's (hereinafter Association, or URA) position therefore is that filing and service of RMP's *Application* will not be complete until I receive the promised email, probably later today. That will have the effect of postponing the effective date for new rates by 13 days, to 27 March 2009.

Consistent with the Company's position expressed in its letter yesterday and quoted in the first paragraph of this letter, at the earliest the deadline for filing dispositive and test period motions should be 30 days from today, or 29 August. Unfortunately, 29 August will be a Friday and will no longer be a State business day, so it will not be possible to file such motions until 1 September.

We attach a copy of the utility's *Proposed Scheduling Order* amended in consequence of RMP's failure to properly serve its *Application* until 30 July. It will be readily apparent that the effect is to put all the events that the utility has proposed should take place in August 2008 through February 2009 back by exactly two weeks.

We note that RMP's *Proposed Scheduling Order* allowed 7 calendar days (until 14 August) for the Commission to determine requests for intervention filed on 7 August. It allowed 4 of those days to file objections on 11 August, a Saturday, so that the practical date would be 13 August, leaving just one State business day for the Commission to decide and issue an order. We instead recommend that the Commission require objections to be filed no later than 23 August, leaving the Commission 2 State business days to issue its decision. We further recommend that these time-scales be adopted for objections to, and the determination of, intervention requests filed after 21 August.

We further note that the Company's *Proposed Scheduling Order* incorrectly shows the date of yesterday's Scheduling Conference as 30 July.

Rocky Mountain Power quotes UCA 746-100-10J: "applicants … shall first present their case in chief, followed by other parties … followed by the proposing party's rebuttal." The Company then asserts that, as "the applicant in this case (it) should rebut the other parties' response to the applicant's case in chief, whether as rebuttal or sur-surrebuttal testimony (and) should be able to respond to other parties' objections or adjustments thereto." The utility appears to treat its Application and accompanying testimony as its case-in-chief, and intervenors' responses thereto as the latter's direct testimony.

The Association will appreciate it if the Commission will clarify in its anticipated *Scheduling Order* whether it expects intervenors' direct testimony to be limited to novel evidence (which does not appear to have been the Commission's custom and practice) or to contain rebuttal of RMP's case-in-chief, and therefore whether it should be categorized as the intervenors' cases-in-chief or direct testimony, or rebuttal testimony. (There are two issues: what is to be permitted in each round of testimony; and how it should most accurately be labeled.) If it is to contain only novel evidence, it could sensibly be labeled "direct", and the Company's next round "rebuttal", but if it may contain rebuttal of the utility's case-in-chief, it might more appropriately be labeled "rebuttal", and RMP's next round "sur-rebuttal".

It is the Association's position that every party should be able to reply to the testimony of any other party. As we wrote in our 25 July *Request to Intervene*: "the legal rights and interests of URA members and ratepayers-at-large alike may or may not coincide with 'the public interest', etc" in which the Division is statutorily charged with acting, or "with those of 'a majority of residential consumers *as determined by the committee* and those engaged in small commercial enterprises'" that the Utah Committee of Consumer Services is similarly charged with advocating. Nor may they coincide with positions advanced by intervenors such as the Utah Association of Energy Users and Utah Industrial Energy Consumers. It is crucial to our ability to protect the interests for which we have sought intervention that the URA be permitted to rebut not only the Company's case-in-chief, but also any position that may be put forward by any other party. We therefore anticipate being able to file testimony on 19 January and 4 February 2009 (5 and 21 January in RMP's *Proposed Scheduling Order*) in rebuttal of any party's previously filed testimony and have included suitable language in our *Amended Scheduling Order*.

Yours sincerely,

ROGER J BALL
Chancellor & Moderator, Utah Ratepayers Association