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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. 08-035-38  <b>ROCKY MOUNTAIN POWER'S REPLY TO UIEC'S OPPOSITION TO ROCKY MOUNTAIN POWER'S MOTION FOR APPROVAL OF TEST- PERIOD</b>
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Pursuant to the Scheduling Order issued by the Commission on August 1, 2008, and the Supplement to August 1, 2008, Scheduling Order issued by the Commission on August 26, 2008, Rocky Mountain Power, a division of PacifiCorp (the "Company" or "RMP"), hereby replies to UIEC's Opposition to Rocky Mountain Power's Motion for Approval of Test-Period.

The Commission should reject the filing by UIEC because it is improperly filed outside of the schedule established by the Commission for consideration of Test Year Issues<sup>1</sup> (“Supplemental Scheduling Order”). Alternatively if the Commission does not reject the UIEC filing on that basis, the Commission should clarify that the Company need not respond to the filing except as set forth in the Commission’s Supplemental Scheduling Order discussed below.

## I. FACTUAL SUMMARY

The Company filed this rate case on July 17, 2008. On July 30, 2008, the Company submitted a proposed schedule to the Commission. Following the submission of comments from other parties to the docket regarding the proposed schedule, on August 1, 2008, the Commission issued a scheduling order (“August 1<sup>st</sup> Scheduling Order”).

The August 1<sup>st</sup> Scheduling Order required all parties to file any motions to dismiss the case by August 18, 2008,<sup>2</sup> with responses due by August 28, 2008, and replies by September 8, 2008. The Commission set a hearing on the motions to dismiss for September 10, 2008.

Pursuant to the scheduling order, on August 18, 2008, the following documents were filed: (1) UAE Intervention Group’s Motion for Determination That Rocky Mountain Power’s Application and Schedules Are Incomplete and Inadequate; (2) Utah Committee of Consumer Services’ First Response To Application; and (3) UIEC’s Motion to Dismiss The Application Of Rocky Mountain Power. The following day, August 19, 2008, the Division of Public Utilities’ filed its Motion On the 240-day Statutory Time Period and Other Issues. Thereafter, the Company filed its response to those motions on August 28, 2008.

On August 18, 2008, the Company filed a Motion for Approval of Test Period (“Test Period Motion”). The Company included in that motion a proposed schedule for the submission of evidence in support of and in opposition to the Test Period Motion.

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<sup>1</sup> Supplement to August 1, 2008, Scheduling Order, Docket No. 08-035-38 (August 26, 2008).

<sup>2</sup> Although the actual filings were not necessarily referred to as “motions to dismiss” and the relief sought was not exclusively dismissal of the Company’s 2008 rate case, for simplicity in this Reply the filings will be referred to as the “motions to dismiss.”

On August 20, 2008, the Commission held a scheduling conference to set a schedule for the procedures for resolving the Test Year portion of the case. As a result of that conference the Commission issued the Supplemental Scheduling Order that created a schedule to “address Rocky Mountain Power’s (RMP) Motion of [sic] Approval of Test-Period (Test-Period Motion) filed August 18, 2008.” This Supplemental Scheduling Order” requires all non-Company parties to submit their testimony on the test order motion by October 2, 2008. Thereafter, reply testimony is due by October 16<sup>th</sup>. Finally, the Commission scheduled a hearing on the Test Period Motion for October 28, 2008.

On August 28, 2008, UIEC filed its Opposition to Rocky Mountain Power’s Motion for Approval of Test-Period (“Opposition”). The Opposition references the August 1<sup>st</sup> scheduling order and states in its conclusion that the Test Period Motion is set for hearing on September 10, 2008, pursuant to the August 1<sup>st</sup> scheduling order.

## **II. ARGUMENT**

UIEC’s Opposition should be rejected as out of compliance with the Commission’s Supplemental Scheduling Order. In that order the Commission laid out the schedule for resolution of the Test Period Motion, which is set for hearing on October 28, 2008. Accordingly, the Commission should not hear argument or rule on the Test Year Motion—or UIEC’s Opposition filing--at the September 10, 2008 hearing, which was set for hearing on the motions to dismiss. Indeed, as contemplated in the Supplemental Scheduling Order, resolution of the Test Period Motion will require prior submission of extensive written testimony. Thus, the Commission should reject the UIEC’s Opposition filing.

In the alternative, even if the Commission decides not to reject the Opposition, the Commission should clarify that it is maintaining the schedule announced in its Supplemental Scheduling Order, and that therefore, the Company need not respond to the Opposition except as set out in that order.

The UIEC filed its petition to intervene on July 28, 2008,<sup>3</sup> and has effectively been a party to the proceedings since that date. It participated in the resolution of the scheduling issues and received all relevant Commission orders and filings by parties to the docket. Thus, UIEC should be aware that the hearing set for September 10, 2008, is not a hearing on the Test Period Motion.

The Commission will not prejudice any party to the docket if it maintains the schedule laid out in its Supplemental Scheduling Order and hears argument on the Test Period Motion on October 28, 2008. However, the parties will be substantially prejudiced if the Commission rules on the Test Period Motion on September 10<sup>th</sup> prior to the submission of testimony on the issue.

### **III. CONCLUSION**

For the reasons described above, the Company respectfully requests that the Commission rule on the Company's Motion for Approval of Test Period following a full hearing on the issue on October 28, 2008.

RESPECTFULLY SUBMITTED this 8<sup>th</sup> day of September, 2008.

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<sup>3</sup> The petition was granted on August 18, 2008.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of Rocky Mountain Power’s Reply to UIEC’s Opposition to Rocky Mountain Power’s Motion for Approval of Test-Period was served by email this 8th day of September, 2008, to the following:

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