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State of Utah
DEPARTMENT OF COMMERCE
Office of Consumer Services

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To: The Public Service Commission of Utah

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Date: November 10, 2009

Subject: Office of Consumer Services' Comments on the Application of Rocky Mountain Power for Approval of an Electric Service Agreement between Rocky Mountain Power and Praxair, Inc.
Docket No. 09-035-101.

1 Background

On October 22, 2009¹, Rocky Mountain Power (Company) filed for Public Service Commission (Commission) approval of a one year Electric Service Agreement (ESA) between Rocky Mountain Power and Praxair, Inc. (Praxair). The current ESA expires on December 31, 2009. The new ESA would begin on January 1, 2010 and terminate on December 31, 2010.

2 Issues

The Office has carefully reviewed the ESA and the Application for approval as filed by the Company. The ESA lays out the terms and conditions for RMP providing service as well as the rates² Praxair will pay during the contract term. What is conspicuously absent is any justification for Praxair to be considered a special contract customer. Not only is there a lack of justification, but there are also no provisions in the contract that in any way identify or compensate Praxair for characteristics that would set it apart from a standard

¹ The date is approximate as the Application was not dated.

² Exhibit 1 of the ESA.

Schedule 9 customer. The special contract ties rates to Schedule 9, but without justification essentially provides Praxair with an exemption from any rate increase during the course of the year due to general rate cases or major plant additions.

The Office believes that the Commission should require the Company to utilize predictable criteria for determining when customers should be subject to regular tariffed rates and when circumstances warrant special contract provisions and/or rate provisions. The current contract simply provides Praxair a lag in the impact from rate increases in exchange for no identifiable benefit. Praxair should be treated as a Schedule 9 customer and subject to the same requirements and rates as any other similarly situated customer.

2.1 Price Adjustment.

The charges identified in Exhibit 1 of the ESA are fixed for the term of the agreement. However, the contract contains the following language addressing the application of costs from the potential implementation of an Energy Cost Adjustment Mechanism, Demand-Side Management Surcharge and Greenhouse Gas Emissions.

- 1) Energy Cost Adjustment Mechanism (ECAM). Customer agrees, upon implementation of an energy cost adjustment mechanism (ECAM) approved by the Commission, to pay its portion of the Commission determined ECAM surcharge, to be implemented concurrently with the Commission ordered effective date for customers under Schedule 9.
- 2) Demand-Side Management Surcharge. Customer represents that is has and will continue to implement demand-side management measures and practices. Rocky Mountain Power and Customer agree that Customer will be subject to demand-side management surcharges if so ordered by the Commission; and
- 3) Greenhouse Gas Emissions. Customer agrees to be charged, and to pay on the timeline set forth by the Commission, as approved in any rate case, ECAM proceeding, or other order by the Commission, Customers' proportionate share of any and all Greenhouse Gas Costs deemed by the Commission to increase or affect the cost of producing power delivered hereunder this agreement.

Each of these issues currently or potentially has cost impacts for customers of Rocky Mountain Power. If the Commission approves an ECAM, or other energy cost adjustment mechanism or greenhouse gas related costs are imposed it is appropriate that all customers should bear their fair share of those costs on the Commission ordered timeline.

There is an additional item that the contract language failed to include, major plant additions. As indicated by the language regarding an ECAM or greenhouse gas related costs the Company and Praxair acknowledge the appropriateness that all customers impose costs on the electric system and therefore have a shared responsibility for those costs. As with the issues identified above the Office believes all customers should be subject to any costs arising from single item rate cases as approved and determined by the Commission under Statute §54-7-13.4. The Office recommends that the Commission

require the ESA be modified to include a provision that Praxair will incur its share of any major plant addition costs approved by the Commission under Statute §54-7-13.4 as determined by the Commission in those cases.³

3 Recommendations

The Office recommends that the Commission deny the ESA due to the lack of evidence supporting the need for a special contract and require that Praxair be served under Rocky Mountain Power's Schedule 9.

However, if the ESA is to be approved the Office recommends that the Commission require:

- 1) the contract to be automatically increased when general rates are increased;
- 2) the ESA be modified to include a provision specifying that Praxair will be subject to any costs attributed to major plant additions as determined by the Commission in those cases; and
- 3) that the Company include similar language regarding ECAM, DSM costs, greenhouse gas related costs and major plant additions in future ESAs.

³ The Company has indicated its intention to file two major plant addition cases in 2010. The first of which is expected in February 2010.