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*Attorneys for Rocky Mountain Power*

**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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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. 09-035-23

**ROCKY MOUNTAIN POWER'S  
NOTICE OF FILING ITS 2009  
PRELIMINARY FORECAST  
UNDER SEAL AND REQUEST FOR  
RELIEF**

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Pursuant to the Order of the Utah Public Service Commission (“Commission”) of October 19, 2009 (“MSP Order”), Rocky Mountain Power, a division of PacifiCorp (“Rocky Mountain Power” or “Company”), hereby files six copies (in electronic CD format) of the 2009 Preliminary Forecast dated August 17, 2009, together with all applicable work papers, that the Company previously filed in the Multi-State Process (“MSP”). The Preliminary Forecast is

being filed under seal (with copies to the parties who have executed the Protective Order), and the Company requests the filing NOT be placed in the record of filings in this Docket until the Commission has ruled upon the Company's Petition for Immediate Stay and For Reconsideration of the MSP Order ("Petition") filed with the Commission by the Company on Thursday, October 22, 2009.

### **BACKGROUND AND EXPLANATION**

On October 19, 2009, the Commission issued its MSP Order, which injects into this rate case docket issues currently under consideration in the MSP. The Commission also ordered that the Company file the 2009 Preliminary Forecast dated August 17, 2009, which the Company had provided on a confidential basis in the MSP. For the reasons set forth in detail in the Company's Petition of October 22, 2009, the Company strongly believes that the Commission should immediately stay, and after reconsideration, vacate the MSP Order.

Given the short time since the Company's Petition was filed, the Commission has not acted upon the Company's request for an immediate stay of the MSP Order. In the meantime, today is the date that the Company was ordered to file the 2009 Preliminary Forecast.

As noted in the Petition, the MSP Order creates the potential that any communications outside this Docket by a party to the Commission or its staff regarding cost allocation to the Utah jurisdiction would constitute an unlawful ex parte communication. Thus, the Commission and its staff could not participate in the pending MSP collaborative process. The Company believes the ex parte restrictions in the MSP were triggered by issuance of the October 26, 2009 order. To relieve the ex parte restrictions, the order must be vacated and no filings pursuant to the order may remain in the **filing** record. Please note that the Company does not believe a filing has to be

admitted into the **evidentiary** record to trigger the ex parte restrictions; the restrictions are triggered before that.

The Company is uncertain whether the Utah public records laws would permit the Commission to expunge the 2009 Preliminary Forecast from the public record of filings in this Docket once it has been accepted for filing. Thus, the Commission should avoid including the Forecast in the filing record in this Docket until it has had the opportunity to consider the consequences and rule on the Company's request for immediate stay.

Wherefore, the Company requests the Commission acknowledge receipt of this timely filing but decline to accept the same for filing in the filing record in this Docket until the Commission has ruled upon the Company's related request for immediate stay of the MSP Order.

DATED:       October 26, 2009.

Respectfully submitted,

ROCKY MOUNTAIN POWER

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## CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing **ROCKY MOUNTAIN POWER'S NOTICE OF FILING ITS 2009 PRELIMINARY FORECAST UNDER SEAL** to be served upon the following by electronic mail to the addresses shown below on October 26, 2009:

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