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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 |
| |) | UIEC’S RESPONSE TO ROCKY MOUNTAIN POWER’S REPLY |
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The group of industrial customers whose names appear on this record and who are identified on the record as the Utah Industrial Energy Consumers (“UIEC”), submits this Response to Rocky Mountain Power’s Reply, wherein Rocky Mountain Power (“RMP” or the “Company”) requests that the Utah Public Service Commission (“Commission”) reject a proposed UIEC adjustment regarding revenues from a certain Nevada Energy (“NVEnergy”) contract.

The main reason the UIEC raised this issue was to demonstrate the unequal way in which RMP treats updates. RMP has all the information and the intervenors must uncover what may not have been disclosed through discovery. The UIEC did this by asking for the information regarding the NVEnergy contract in its Data Request No. 9.1. RMP provided the contract without objection in response to UIEC’s data request. See UIEC Confidential Exhibit Cross No. 1.

RMP claims that it did not include revenues from the NVEnergy contract because it was not approved until December 2, 2009. RMP Br. at 2. However, RMP included other contracts that were similarly not yet approved if it was favorable to RMP to do so. See, e.g., DPU Br. at 3–; OCS Br. at 12–. Therefore, this argument fails.

Furthermore, RMP’s objection to the consideration of this evidence at this late date is untimely. The contract was admitted into evidence without objection from RMP on December 14, 2009. Hr’g Tr. 523:9-14. RMP’s witness, Mr. Duvall was cross-examined regarding this contract on December 14. Hr’g Tr. 499:15-507:14. In fact, on the morning of December 17, counsel for RMP entered into the record the name of the index that was referenced in the contract for pricing purposes. Hr’g Tr. 980:11-24. Finally, as shown in Exhibit A, attached hereto, seven representatives of the Company

were served a copy of UIEC's Response to the Public Service Commission's Data Response by electronic mail on December 23, 2009, at 9:20 a.m. It is unlikely that all seven failed to receive it. If the Company objected to the introduction of this information, the time to do so was at the hearing, not more than five weeks later.

As very eloquently explained in the post-hearing brief of the Division of Public Utilities ("DPU"), updates have been and continue to be a problem. Updates have become such a problem as a result of the Company's insistence on filing forecasted test years (which also aggravated the problems with the cost of service study). Updates will continue to be a serious point of contention in the future as long as forecasted test years are filed unless a rulemaking is conducted to finalize their treatment in general and single-item rate cases.

RESPECTFULLY submitted this 21st day of January, 2010.

/s/ Vicki M. Baldwin

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CERTIFICATE OF SERVICE

(Docket No. 09-035-23)

I hereby certify that on this 21st day of January 2010, I caused to be e-mailed, a true and correct copy of the foregoing UIEC's **RESPONSE TO ROCKY MOUNTAIN'S REPLY** to:

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