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**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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**In the Matter of Rocky Mountain Power  
Advice No. 09-08, seeking an Adjustment to  
the DSM Tariff Rider, Schedule 193.**

**Docket No. 09-035-T08**

**RMP Advice No. 09-08**

**Rocky Mountain Power's Response to  
Petition of Utah Association of Energy  
Users' Request for Agency Action to  
Investigate and Revise DSM Programs  
and Cost Recovery Mechanisms and  
Utah Industrial Energy Consumers'  
Protest and Request for Hearing**

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Rocky Mountain Power, a division of PacifiCorp, ("Rocky Mountain Power" or the "Company"), hereby moves the Public Service Commission of Utah ("Commission") to: (1) set a schedule at the July 14, 2009, Technical Conference that will allow for the timely resolution of this matter; (2) deny the Petition filed by the Utah Association of Energy Users ("UAE") for: (i) a review of existing and planned demand side management ("DSM") programs, including a review of the cost-effectiveness of and expenditure caps for the Company's DSM programs; and (ii) a thorough review of and appropriate adjustments to the DSM cost recovery mechanism and associated procedures; and (3) deny the Petition filed by the Utah Industrial Energy Consumers ("UIEC") for: (i) consideration of proposals for a DSM tariff rider opt out provision; (ii) to

review the cost-effectiveness of existing DSM programs; and (iii) to examine the prudence of the Company's decision to continue offering DSM programs; and (4) order the extraneous issues raised by UAE and UIEC to be addressed through the DSM advisory committee either informally or through a formal rulemaking proceeding before the Commission. In support of this Motion, Rocky Mountain Power states as follows:

1. On June 11, 2009, the Company filed Advice No. 09-08 with the Commission requesting an effective date of August 1, 2009 for its third Revision of Sheet No. 193.2, Schedule 193, Demand Side Management Cost Adjustment. Advice No. 09-08 requests an adjustment to the DSM Cost Adjustment tariff rider ("DSM surcharge") to collect a total of approximately \$85.4 million from August 1, 2009 through July 31, 2010. The proposed surcharge will support the continued acquisition of cost effective energy efficiency and load management resources and will allow the Company to recover the \$22.0 million<sup>1</sup> of DSM expenditures previously incurred by the Company which have not been recovered.

2. The current DSM surcharge allows the Company to collect approximately \$29.1 million on an annual basis, which is approximately 2.1 percent of customer's bills. If granted, the proposed adjustment would increase the DSM surcharge to an average of 6.2 percent. This adjustment is necessitated by an increase in the rate of acquisition of energy efficiency and load management resources through Commission approved programs, which has caused DSM program expenditures to rise above what is currently being collected through the DSM surcharge. In addition, the adjustment is necessary to allow the Company to recover the under-collected balance in the Utah DSM balancing account.

3. On June 24, 2009, UAE petitioned the Commission to: (i) suspend the proposed August 1, 2009 effective date of Advice No. 09-08; (ii) conduct a review of existing and planned

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<sup>1</sup> Balance in the Utah DSM balancing account as of June 30, 2009

DSM programs, including the cost-effectiveness and appropriate spending caps for each program; (iii) conduct a thorough review of and appropriate adjustments to the DSM cost recovery mechanisms and associated procedures; and (iv) establish an appropriate schedule for filing comments and testimony and hearings to resolve the issues raised in Advice No. 09-08 and UAE's petition.

4. On June 23, 2009, UIEC filed a Petition to Intervene and Protest and Request for Hearing. In its filing, UIEC requested that the Commission: (i) suspend the proposed tariff and set a schedule for further proceedings; (ii) consider proposals for an appropriate DSM surcharge opt out provision; (iii) determine whether the proposed surcharge will result in just and reasonable rates; (iv) review the cost effectiveness of the Company's present DSM programs; and (v) examine the prudence of the Company's decision to continue offering DSM programs in the face of changing load and price characteristics.

5. Rocky Mountain Power believes that UAE's and UIEC's proposals to review the cost effectiveness of the Company's existing DSM programs are unwarranted. The Commission has existing guidelines in place which are used in determining the cost effectiveness of the Company's DSM programs.<sup>2</sup> Pursuant to those guidelines, all new DSM programs and modifications to existing programs proposed by the Company are scrutinized for cost effectiveness by the Commission prior to their approval and implementation. The DSM surcharge adjustment proposed by Rocky Mountain Power reflects only those programs which have been approved by the Commission. Consequently, the DSM programs (and their associated costs) reflected in the Company's proposed DSM surcharge increase have already been demonstrated to be cost effective using Commission approved methodologies. If UAE and UIEC wished to challenge the cost effectiveness of the Company's DSM programs, the dockets

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<sup>2</sup> See Docket No. 92-2035-04

in which those programs were approved was the proper forum and time to do so. The Commission determined in those dockets, based on the evidence presented by all parties, that each of Rocky Mountain Power's existing DSM programs were prudent and just and reasonable.. Through their petitions, UAE and UIEC are inappropriately seeking to turn back the clock to re-challenge the prudence of the programs after they have been approved by the Commission and implemented by the Company. Allowing for the review of the Company's DSM programs in this proceeding is duplicative to the efforts that occurred at the time that the Commission approved the programs and will unduly delay the resolution of this proceeding. Further, the Company provided the cost effectiveness results of its DSM portfolio for calendar year 2008 in Table 2 in Advice No. 09-08. As demonstrated in this table, the Company's DSM portfolio for 2008 was demonstrated to be cost effective by each test prescribed under the Commission approved DSM evaluation guidelines.

6. UAE's proposal to review planned DSM programs is not relevant to this proceeding as the Company's request only reflects existing programs which have been approved by the Commission. Additionally, the Company is concerned with UAE's proposal to consider spending caps on DSM programs. Imposing spending caps on existing DSM programs will limit the amount of cost effective DSM that the Company is able to acquire. Limiting the amount of DSM that the Company is able to acquire will challenge the Company's ability to achieve the energy efficiency goals for the State of Utah set forth in the Executive Order entitled *Improving Energy Efficiency* signed by Governor Jon Huntsman on May 30, 2006, which states it is the policy of the State of Utah to increase energy efficiency by 20% by 2015, and in the Joint Resolution on Cost Effective Energy Efficiency and Utility Demand Side Management enacted in the 2009 Legislative Session in which the Legislature expressed support for cost effective

energy efficiency and load management programs for customers of Rocky Mountain Power and encouraged the setting of an electricity savings goal designed to reduce projected electric sales of Rocky Mountain Power by an amount equal to not less than 1 percent of its annual retail sales. Additionally, as Rocky Mountain Power remains in a resource deficit position, the Company believes prudence dictates that it continue to acquire cost effective DSM resources.

7. Rocky Mountain Power believes that UAE's proposal to conduct a review of the DSM cost recovery mechanism is not appropriate in the context of this proceeding. The existing DSM surcharge mechanism was put in place in Docket No. 02-035-T12 and has not been challenged since its implementation. The Company's proposed surcharge adjustment is consistent with the methodology established in that docket. The Company has implemented DSM programs approved by the Commission and incurred costs for those programs in good faith with the expectation that the expenditures incurred would be recovered through the Commission approved surcharge. Allowing UAE to challenge the appropriateness of the existing DSM surcharge mechanism in this proceeding at a time when the Company has incurred \$22.0 million in DSM expenditures which have not been reimbursed and is anticipating significant expenditures for Commission approved DSM programs within the next 12 months is akin to changing the rules of the game while in play and is patently unjust. Additionally, allowing consideration of this issue within this proceeding will unduly delay the resolution of the matter at hand in this proceeding, which is to set a DSM surcharge rate that will allow the Company to continue the acquisition of cost effective DSM resources and to recover expenditures already incurred which have not been recovered.

8. In addition, UIEC's request to address proposals for DSM surcharge opt out provisions is not relevant to the matters of this proceeding. The Company already offers a

Commission approved “opt out” provision for customers through the Schedule 192 Self Direction Credit program. Under this program, customers are able to “opt out” of the surcharge by implementing their own DSM measures for which they will receive a credit against the DSM surcharge included on their bills equivalent to 80% of the qualifying costs of the DSM measures installed. Allowing discussion of this issue within this proceeding will only contribute to delaying the resolution of this proceeding.

9. Rocky Mountain Power believes also that UIEC’s proposal to examine the prudence of the Company’s decision to continue DSM programs in the face of changing load and price characteristics is contrary to all direction the Company has received from the State of Utah and the Commission and should not be considered in this proceeding. As referenced earlier in paragraph 6, the Governor of the State of Utah and the Legislature are supportive of cost effective energy efficiency and load management programs and setting energy efficiency goals for the State and the Company, of which the Company’s DSM programs are an integral part. Further, section 63M-4-303(1)(f) of the Utah Code states that it is the policy of the State of Utah to pursue energy conservation, energy efficiency, and environmental quality. And as stated in paragraph 6, the Company remains in a resource deficit position and believes the continued acquisition of cost effective DSM resources is an effective and necessary component in reducing the resource gap.

10. Rocky Mountain Power suggests that these issues raised by UAE and UIEC be addressed by the DSM advisory committee separate from this proceeding. The Company believes that a formal rulemaking proceeding, which would include input from the DSM advisory committee and other interested parties, is the appropriate forum to revisit these issues. By attempting to turn the Company’s filing into a de facto rulemaking to address extraneous

issues, UAE and UIEC are obviously seeking to delay cost-recovery for programs that the Commission has already determined are prudent, cost-effective, and just and reasonable.

11. Allowing the extraneous issues raised by UAE and UIEC to be addressed will unduly delay the resolution of this proceeding. Delaying the implementation of a surcharge adjustment will only serve to worsen the situation facing the Company, and ultimately its customers. As of May 31, 2009, the uncollected DSM expenditures totaled \$16.6 million. As of June 30, 2009 the uncollected balance amounted to \$22.0 million. Over the course of 1 month, June 2009, DSM expenditures exceeded DSM surcharge revenues by \$5.4 million. As is explained in the Company's advice letter in this proceeding, a similar trend is expected to continue through July 2010. Each week that the implementation of a surcharge adjustment is delayed contributes to the growth of the under-collected balance. As addressed in the Company's advice letter in this proceeding, this situation is contributing to the challenge the Company is facing to maintain its financial ratios and credit ratings while generating the substantial funds necessary to finance the capital investment program necessary to meet customer demands for electricity. In light of this escalating situation, Rocky Mountain Power respectfully requests that the Commission set a schedule for this proceeding which will allow for the timely resolution of this issue.

12. The Company is committed to acquiring cost-effective DSM resources for the benefit of all of its customers and desires to maintain a collaborative approach with the DSM advisory committee on a going-forward basis to ensure that its programs best meet Utah's need for affordable energy resources.

13. Rocky Mountain Power has operated in good faith by implementing its DSM programs as reviewed and supported by the DSM advisory committee and approved by the

Commission. The Company has implemented the programs as directed by the Commission and has incurred significant expenditures while so doing with the expectation that recovery of those expenditures would be recovered through the DSM surcharge as approved by the Commission in Docket No. 02-035-T12. The Company is entitled to recover the funds it has expended in offering the Commission approved DSM programs using the same rules under which it spent the money. The attempts by UAE and UIEC to delay the implementation of this proceeding and to change the rules of DSM evaluation and cost recovery at this time is clearly inequitable to the Company, which has implemented its DSM programs as directed by the Commission.

WHEREFORE, Rocky Mountain Power respectfully requests the Commission: (1) set a schedule at the July 14, 2009, Technical Conference that will allow for the timely resolution of this matter; (2) deny the Petition filed by UAE for: (i) a review of existing and planned demand side management programs, including a review of the cost-effectiveness of and expenditure caps for the Company's DSM programs; and (ii) a thorough review of and appropriate adjustments to the DSM cost recovery mechanism and associated procedures; and (3) deny the Petition filed by UIEC for: (i) consideration of proposals for a DSM tariff rider opt out provision; (ii) to review the cost-effectiveness of existing DSM programs; and (iii) to examine the prudence of the Company's decision to continue offering DSM programs; and (4) order the extraneous issues raised by UAE and UIEC to be addressed through the DSM advisory committee either informally or through a formal rulemaking proceeding before the Commission.<sup>3</sup>

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<sup>3</sup> Evaluation of program cost effectiveness standards should be exempted from review at this time. Pursuant to the Commission's order in Docket No. 07-035-T04, the DSM advisory committee recently completed a full examination of the existing standards established in Docket No. 92-2035-04. In culmination of that effort, on April 27, 2009 the Company filed recommended modifications to those standards as developed by the DSM advisory group. This matter has been assigned Docket No. 09-035-27 by the Commission.



DATED this 9<sup>th</sup> day of July, 2009.

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