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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 Consolidated  
Applications of Rocky Mountain Power for  
Approval of Standard Reciprocal and Non-  
Reciprocal Pole Attachment Agreements

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DOCKET No. 10-035-97

**AMENDED APPLICATION**

PaciFiCorp, doing business in Utah as Rocky Mountain Power (“Rocky Mountain Power” or “Company”) respectfully requests that the Commission approve, for the Company’s use only, the Company’s proposed changes to the pole attachment agreement adopted by the Commission in Docket No. 04-999-03 (the “Safe Harbor”), and that the Commission approve a schedule of non-recurring fees to be incorporated into Electric Service Schedule No. 4. The Company petitions the Commission pursuant to Utah Administrative Code R746-345-3.A.1

Rocky Mountain submitted for Commission approval a proposed standard non-reciprocal pole attachment agreement April 26, 2010 in Docket No. 10-035-43 which was consolidated into this docket with the Company’s August 31, 2010 application for approval of a proposed standard non-reciprocal pole attachment agreement. The Company requests the Commission consider this Amended Application in place of both of its earlier applications.

The Company submits this Amended Application consistent with the Commission's Order in this Docket and Docket 10-035-124, issued June 1, 2011, as modified June 9, 2011, authorizing the "Company to file in Docket 10-035-97 the direct testimony filed in [Docket 10-035-124] addressing pole attachment rental rates and recovery of non-recurring costs, together with additional relevant material if it so elects." The Company submits herewith a redlined version of the proposed changes to the Safe Harbor as shown in Exhibit A, a redlined version of the Company's proposed changes to Electric Service Schedule No. 4 as shown in Exhibit B, along with supporting testimony and exhibits of Company witness, Jeffrey Kent.

Because the Company no longer seeks a deviation from the formula in R746-345-5, it has or will separately propose in the Company's general rate case, Docket 11-035-200, a reduction to the annual pole attachment rental shown on Electric Service Schedule No. 4, based only on updated costs. The non-recurring fees proposed to be added to Electric Service Schedule No. 4 have a relatively small effect on revenue requirements and will not be submitted for consideration in the general rate case.

In support of its Amended Application, Rocky Mountain Power states as follows:

1. Rocky Mountain Power is a public utility in the state of Utah and is subject to the jurisdiction of the Commission with regard to its rates and service. As a public utility that permits attachments to its poles by an attaching entity, Rocky Mountain Power is obligated to provide that service pursuant to the requirements in Utah Admin. Rules, R.746-345 governing pole attachments, which rule the Commission adopted pursuant to its authority under Utah Code Ann. §54-4-13. Rocky Mountain has previously submitted for Commission approval standard non-reciprocal and reciprocal pole attachment agreements. The Commission consolidated those

applications in Docket No. 10-035-97. Order dated Sept. 20, 2010, Docket Nos. 10-035-43, 10-035-97.

2. A technical conference was held on October 4, 2010 in Docket No. 10-035-97 to consider issues pertaining to the Company's proposed standard non-reciprocal pole attachment agreement. On October 5, 2010, the Commission issued an Order Suspending Procedural Schedule, in accordance with the parties' agreement and the Company's expressed desire to reassess and clarify its objectives in that docket. The Commission also advised the Company at the technical conference that the Safe Harbor is considered as having been adopted by Rule R746-345, Pole Attachments (the "Rule") as the "standard agreement" referenced in the Rule. In this Amended Application, the Company seeks approval, for the Company's use only, of certain changes to the Safe Harbor. The Company does not seek changes to the "standard agreement" applicable to other pole owners.

3. Communications regarding this Amended Application should be addressed to:

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4. The Company seeks changes to the Safe Harbor in two respects: 1) several changes to bring the Safe Harbor into conformity with the Rule and Commission directive; and 2) several substantive changes to Sections 3.01, 3.02, 304 and 5.04 of the Safe Harbor. The Company's proposed changes to the Safe Harbor are highlighted in the red-lined version of the Safe Harbor attached hereto as Exhibit A. The Company will first address the conformity and clarification issues.

Conformity and Clarification Issues.

5. First, two changes are proposed to simply make corrections of an incorrect reference to the section of the Rule that defines a "Pole Attachment" and a reference in the second paragraph of Section 5.01. (The change to Section 5.01 is made in recognition that both pole owners *and* attaching entities, rather than just pole owners, may seek rate changes.)

6. Second, definitions of Attachment Space and Pole are added, with references to the Rule definitions. Consistent with the definition of Pole, by reference to the Rule's definition of Distribution Pole the Company proposes to clarify in the second paragraph of Section 2.01 that the Safe Harbor applies only to attachments on those poles addressed by the Rules.

7. Third, the definition of Make-ready Work is revised by inserting a reference to the definition of Make-Ready Work contained in the Rule.

8. The fourth area of change is in the last paragraph of Section 3.02, which allows applicants who reject make-ready estimates to use approved contractors to self-build the required make-ready work, allowing the Company only 14 days to approve or disapprove that work. The Company proposes to change this section of the Safe Harbor to make it consistent with the specific remedies provided in the Rule -- that is, to "exercise any of the self-build options given

for the required make-ready work subject to the conditions made" (R746-345-3.C.8) or contest the make-ready estimate before the Commission (R746-345-3.C.9).

9. The last changes proposed for conformity or clarification are with regard to Section 3.09. For clarification, the Company proposes an addition to the beginning of Section 3.09 to reflect that in the event of conflict between that section and Rule R746-345-3.C, the Commission rule will govern. Finally, for conformity with Rule 746-345-3.C.7, and Commission directive,<sup>1</sup> the Company proposes a change to the second paragraph of Section 3.09, addressing the time within which a Licensee must reimburse a Pole Owner for Make-ready Work. The proposed change makes that provision of the Safe Harbor consistent with the Rule and Commission directive.

Substantive Issues.

10. The Company proposes to revise Section 3.01 to provide that Rental Fees will commence upon the approval of an attachment application, rather than upon the attachment actually being physically in place.

11. The Company further proposes that the first paragraph of Section 3.01 and the second-to-last paragraph of Section 3.02, regarding service drops, be revised. The revisions to Section 3.02 would specify, among other things, instances when a post-installation application for the service drop would be required.

12. The Company proposes changes to Sections 3.01, 3.04 and 5.04 regarding over lashings. Revisions to Section 3.01 first reflect the Company's position as to when over lashings by a permitted licensee should be allowed without prior approval pursuant to an application. Further changes to Section 3.01, the deletion of a reference in Section 3.04 to third-party over lasher, and

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<sup>1</sup> See March 27, 2006 letter from Commission Secretary to Ms. Constance White, Director of Division of Public Utilities.

the deletion of Section 5.04, reflect the Company's position that, as to any rights and obligations *vis-à-vis* the Company and the third-party, any overlashing by a third-party should be governed by an agreement between the Company and that third-party.

13. The Company proposes the schedule of non-recurring fees shown in Exhibit B as the Fee Schedule defined in Article I and referenced in Sections 3.01 and 5.01.

WHEREFORE, Rocky Mountain Power respectfully requests that the Commission approve, for use by the Company, the proposed changes to the Safe Harbor as specified in Exhibit A and approve the revision of Electric Service Schedule No. 4 with the non-recurring fees as shown in Exhibit B.

DATED this 9th day of February, 2012.

Respectfully submitted,

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Rocky Mountain Power

*Attorneys for Rocky Mountain Power*