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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

**In the Matter of the Application for
Amendment to the Certificate of Public
Convenience and Necessity of Ticaboo
Utility Improvement District**

**REPLY COMMENTS OF TICABOO
UTILITY IMPROVEMENT DISTRICT**

Docket No. 18-2508-01

Ticaboo Utility Improvement District (“**TUID**” or “**District**”) respectfully submits these comments in the above-captioned matter in reply to the response filed by the Division of Public Utilities on March 20, 2018 (the “**DPU Response**”).

As an initial matter, TUID points out that JNB Marine and Offshore Marina are within TUID’s current certificated service area and have been since the District was created (*see* DPU Response at 2 and at 8). These facilities are not currently served by TUID and they have thus far not requested service from TUID. Also by way of clarification, although the DPU Response cites to Utah Code Section 10-8-14(4) (part of the Utah Municipal Code), TUID is not a municipality

but rather is a local district created and existing under Utah Code Title 17B (*see* DPU Response at 3).

The Division identifies six factors that allegedly must be met in order for the Commission to expand a utility's service area, as follows:

1. Whether there is a need, demand, or necessity by the general public for the proposed service.
2. Whether the proposed service is economically feasible, financially sound, efficient, stable, and continuing.
3. Whether the applicant is operationally and financially capable of providing the proposed service.
4. Whether the effect of granting a certificate would be detrimental to the existing suppliers.
5. Whether the applicant has established a ratio of debt capital to equity capital which renders it financially stable and whether the proposed financing is in the public interest.
6. Whether the public interest and welfare of the general public in the state of Utah and the public convenience and necessity required the proposed service.

(DPU Response at 3).

While the Commission may have used this comprehensive list of factors in other dockets as recently as 1986, nothing in rule or statute makes these factors determinative. In fact, a CPCN may not even be necessary for TUID's proposed expansion as TUID is not an "electric corporation" as used in Utah Code Section 54-4-25(1). However, TUID does not intend to turn this proceeding into a dispute about the limits of Commission jurisdiction over electric improvement districts.

The factors used by the Division are not determinative or mandatory. The Division, when recently faced with a situation similar to this in which an existing utility desired to serve a previously unserved area, made no analysis beyond calculating a debt-equity ratio prior to recommending that the Commission approve the change (*see* DPU Action Request Response, filed

November 14, 2012 in Docket 12-028-01). The fact that the Division apparently desires to subject the smallest electric utility in Utah—which is also a governmental entity and subject only to limited Commission jurisdiction—to these process requirements significantly more burdensome than those imposed on much-larger electric utilities smacks of bias or is perhaps simply an attack on public power generally. Either way, every dollar spent to comply with the Division’s onerous and seemingly arbitrary requirements is an expense that must be borne, in full, by the District’s customers.

The Division seems to lack a basic understanding of the nature of a public power supplier, such as TUID, as compared to a large investor-owned utility like Rocky Mountain Power or a cooperative like Garkane. TUID, due to its very nature as a governmental entity, is not and cannot be motivated by profit, hence the Commission’s limited jurisdiction over electric districts. TUID has no equity nor any ability to acquire such financing—making the contemplation of a debt-equity ratio impossible and inapplicable. TUID’s only motivation is the public interest. TUID has no shareholders, no investors, no rate of return goals to meet, no rate-base assets, and no motivation beyond providing economical and reliable electrical service in a portion of Utah where no other supplier is willing to do so. TUID will not make decisions that would harm its customers. As has been repeatedly stated, TUID is seeking to expand its customer base as a means of reducing rates for its customers. Based on TUID’s own experience and the experience of dozens of UAMPS member utilities, load growth has always resulted in lower costs on a per kWh basis. Unfortunately, load growth in the Ticaboo area is basically nonexistent—which has led TUID to look at serving the NPS loads. Unless the Commission is inclined to order Rocky Mountain Power to run transmission lines to Ticaboo and the other areas in question, the requested service area expansion should be granted.

TUID has provided the Division with preliminary details about how TUID would likely serve power to the NPS loads around Lake Powell. These plans are necessarily preliminary as NPS has not issued a formal RFP that would provide more detail as to how power would be provided to the various NPS facilities. Nevertheless, the Division has apparently been able to determine—based solely on preliminary information—that TUID cannot economically serve the NPS facilities. Even ignoring the fact that proving economic feasibility is not a prerequisite to expanding TUID’s service area, the Division cannot reasonably make such a determination with the information that currently exists. Further, if demonstration of the economic feasibility of electrical service were truly a precondition for inclusion in a utility’s service area, these proposed areas should not be in any utility’s service area as no other electric utility can economically provide power to these areas (or to Ticaboo proper, for that matter).

TUID continues to work closely with UAMPS to move this project forward. Although, as noted above, the precise details of service to the NPS facilities is currently unknown, TUID intends to use the significant resources and expertise of UAMPS to minimize risk and maximize benefits to TUID customers. Assuming TUID is selected to provide power to the NPS facilities, TUID plans to partner with UAMPS such that UAMPS will finance and own the facilities necessary to provide power to the expanded service area and TUID will purchase that power pursuant to long-term power purchase agreements with UAMPS and resell that power to the new TUID customers. This is the same basic arrangement UAMPS uses with a number of large-scale generation projects from which UAMPS members buy power. This arrangement allows UAMPS to bear much of the financing and operational risk, while providing its members with reliable and economical electricity.

