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Division of Public Utilities

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## ACTION REQUEST RESPONSE

To: Utah Public Service Commission

From: Utah Division of Public Utilities

Chris Parker, Director  
Artie Powell, Energy Section Manager  
Doug Wheelwright, Technical Consultant  
Jeff Einfeldt, Utility Analyst

Date: June 10, 2019

Re: **Docket No. 19-031-01**

Mt. Wheeler Power, Inc.'s Request for Exemption from Commission Jurisdiction.

### RECOMMENDATION (Grant Exemption)

After a review of Mt. Wheeler Power, Inc.'s ("Mt. Wheeler") application for exemption, Utah Code 54-2-202, and Mt. Wheeler's most recent annual report dated 12/31/2018 filed with the Utah Public Service Commission ("Commission"), the Division of Public Utilities ("Division") recommends the Commission grant Mt. Wheeler's request for exemption from Commission Jurisdiction.

### ISSUE

On May 13, 2019, Mt. Wheeler filed a request for exemption from Commission Jurisdiction with the Commission. The Commission issued an Action Request on May 14, 2019 directing the Division to review the request and make recommendations with a due date of June 12, 2019. This memorandum is the Division's response to the Action Request.

### ANALYSIS

Utah Code § 54-2-202 Allows an out-of-state distribution electrical cooperative to seek exemption from commission regulation if the cooperative:

1. Has not previously been headquartered or maintained its principal place of business in Utah;
2. Serves fewer than 25,000 total customers;
3. Provides less than 20% of the cooperative's total power sales in Utah; and
4. Provides and maintains on file with the commission written documentation certifying that the cooperative is subject to applicable laws, rules, and regulations of the state where the cooperative's principal place of business is located.

Mt. Wheeler appears to meet all the requirements listed to qualify for exemption. Its principal place of business is in Ely, NV. The Division has found no evidence that Mt. Wheeler's principal place of business has ever been in Utah.

Mt. Wheeler's most current annual report filed with the Commission lists total customers of 7,524 with only 396 Utah customers (5.3%), with total electric operating revenue of \$35.7 million with Utah revenues of \$897 thousand (2.5%).

Mt. Wheeler certifies in its application that it is subject to the applicable laws, rules and regulations of the State of Nevada.

## **CONCLUSION**

Based on the Division's review Mt. Wheeler meets the qualifications for exemption enumerated in Utah Code § 54-2-202 and should be granted exemption from Commission Jurisdiction.

cc: Michele Beck, Office of Consumer Services  
Randy Ewell, CEO, Mt. Wheeler Power Co.  
Katie Howe McConnell, Esq., Mt. Wheeler Power Co.  
Jeff Peterson, Director, Utah REA