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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

<p>In the Matter of the Complaint of Rocky Mountain Power, a Division of PacifiCorp, Against Heber Light & Power Regarding Unauthorized Service by Heber Light & Power in Areas Certificated to Rocky Mountain Power</p>	<p>Docket No. 07-035-22</p> <p>ROCKY MOUNTAIN POWER'S MOTION TO CONTINUE TESTIMONY FILING DATE</p>
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I. MOTION

Rocky Mountain Power (the “Company”), pursuant to Rule R746-100-3 of the Rules of Practice and Procedure of the Public Service Commission of Utah (“Commission”), hereby moves that Commission continue the current filing date for the Company’s direct testimony from January 22, 2009 to an indefinite later date to be established by the Commission once a discovery dispute between the parties is resolved.

II. ARGUMENT

Under the current procedural schedule in this matter, the Company would be required to file direct testimony on Thursday, January 22, 2009.

On November 26, 2008, the Company served relevant data requests on Heber Light & Power (“HLP”). Under the rules, the data requests were due on December 26, 2008. Because of the holiday season, HLP requested and the Company agreed that HLP could have until January 5, 2009 to respond to the Company’s discovery if the Company’s testimony filing date (then January 12, 2009), could be changed to January 22, 2009. When HLP filed its responses, it objected or provided incomplete responses to several of the Company’s most significant data requests.

On January 9, 2009, the Company, by letter, disagreed with HLP’s objections and incomplete responses to several of the data requests, and pointed out that the reasons that the information sought in the data requests is discoverable and should be provided as soon as possible. The Company noted that, in the event HLP did not provide the information, the Company would file a motion to compel and likely seek additional time to file its testimony.

On January 12, 2009, HLP responded to the Company’s letter, wherein it provided limited additional information but, for the most part, reiterated its objections to most of the data requests in dispute.¹

¹ In addition, on January 14, 2009, HLP sent the Company a seven-page letter relating to the Company’s responses to data requests propounded by HLP, wherein HLP argues that the Company should furnish additional information and stating HLP’s disagreement with objections propounded by the Company. The Company is in the process of reviewing that letter and will respond in due course.

Based on a conversation between counsel, it is the intent of the Company and of HLP to attempt to work out the discovery disputes to the extent possible so that any motions to compel filed with the Commission are as limited as possible.

However, in the event all issues cannot be resolved privately, it is clear that the Company will need to file a motion to compel seeking responses to data requests that seek information that is central to the Company's direct testimony. Given the time necessary for the Company to attempt to resolve the discovery disputes with HLP and, if necessary, to prepare its motion and for HLP to respond to it, it is clear that the Company will not have sufficient time to analyze the information requested in order to complete its direct testimony. In light of these facts, it is clear that, in the interests of justice, the Company should not be required to file direct testimony that is incomplete.

For these reasons, the Company hereby requests that the January 22, 2009 filing date for direct testimony be continued indefinitely pending resolution of the discovery dispute between the parties. The Company recognizes that, by granting this motion, it may be necessary for the Commission to make other changes in the schedule in this matter.

III. CONCLUSION

Rocky Mountain Power respectfully requests that the Commission continue the current filing date for the Company's direct testimony from January 22, 2009 to an indefinite later date to be established by the Commission once discovery dispute between the parties are resolved.

RESPECTFULLY SUBMITTED: January 15, 2009.

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CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing **ROCKY MOUNTAIN POWER'S MOTION TO CONTINUE TESTIMONY FILING DATE** to be served upon the following by email to the email addresses shown below on January 15, 2009:

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