

Gary A. Dodge, #0897
HATCH, JAMES & DODGE, P.C.
10 West Broadway, Suite 400
Salt Lake City, UT 84101
Telephone: (801) 363-6363
Facsimile: (801) 363-6666

Joseph T. Dunbeck, Jr., #3645
Joseph A. Skinner, #10832
Marie J. Bramwell, #8506
DUNBECK & MOSS, P.C.
175 N. Main Street, Suite 102
Heber City, UT 84032
Telephone: (435) 654-7122
Facsimile: (435) 654-7163

Attorneys for Heber Light & Power Company

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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	Docket No. 07-035-22 HEBER LIGHT & POWER COMPANY'S (1) MOTION TO STRIKE SCHEDULING ORDER AND (2) RESPONSE TO ROCKY MOUNTAIN POWER'S MOTION TO CONTINUE TESTIMONY FILING DATE
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Heber Light & Power Company (HLP) moves the Commission for an order striking the Scheduling Order in this proceeding; and responds to Rocky Mountain Power Company's Motion to Continue Testimony Filing Date. As shown below, discovery disputes between the parties must be resolved before discovery may be completed and testimony filed. The Commission should therefore strike the current Scheduling Order to permit the parties the opportunity to resolve these discovery disputes and to complete discovery.

ARGUMENT

The Scheduling Order contains a schedule for the filing of direct testimony, rebuttal testimony and surrebuttal testimony by each of the parties. The parties developed this schedule with the intent that each party would have a reasonable time to respond to the other parties' filed testimony. Thus, a change in the deadline for one party necessarily affects the schedule for all of the other parties.

On November 26, 2008, HLP served data requests on RMP. Under the rules, the responses to the data requests were due on December 26, 2008. Because of the holiday season, the parties agreed that RMP could have until January 5, 2009, to respond to HLP's data requests and that RMP's prefiled testimony filing date could be changed to January 22, 2009. When RMP filed its responses to HLP's data requests, it objected or provided incomplete responses.

On January 14, 2009, HLP, by letter, disagreed with RMP's objections and incomplete responses to the data requests, and pointed out the reasons that the information sought in the data requests is discoverable and should be provided as soon as possible. HLP stated that, in the event RMP did not provide the information, HLP would file a motion to compel. RMP has not responded to HLP's letter.¹

Based on a conversation between counsel, it is the intent of HLP and RMP to attempt to resolve the discovery disputes to the extent possible without Commission involvement, so that any motions to compel filed with the Commission are as limited as possible. However, if the parties cannot resolve the discovery disputes, HLP will file a motion to compel seeking responses to its data requests. Given the time necessary for parties to resolve the discovery

¹ RMP also challenges the sufficiency of HLP's responses to RMP's data requests.

disputes and complete discovery, the parties cannot comply with the Scheduling Order and it should be stricken.

Dated this 16th day of January, 2009.

/s/
Joseph T. Dunbeck, Jr.
Gary A. Dodge
Attorneys for Heber Light & Power

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing **HEBER LIGHT & POWER COMPANY'S (1) MOTION TO STRIKE SCHEDULING ORDER AND (2) RESPONSE TO 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 16, 2009:

Gregory B Monson
Stoel Rives, LLP
201 South Main Street, Suite 1100
Salt Lake City, UT 84111
gbmonson@stoel.com

Mark C. Moench
R. Jeff Richards
Rocky Mountain Power
201 South Main Street, Suite 2300
Salt Lake City, Utah 84111
mark.moench@pacificorp.com
jeff.richards@pacificorp.com

Michael Ginsberg
Patricia E. Schmid
Assistant Attorney Generals
500 Heber M. Wells Building
160 East 300 South
Salt Lake City, UT 84111
mginsberg@utah.gov
pschmid@utah.gov

Paul H. Proctor
Assistant Attorney General
500 Heber M. Wells Building
160 East 300 South
Salt Lake City, UT 84111
pproctor@utah.gov

Thomas Low
Wasatch County Attorney
805 West 100 South
Heber City, UT 84032
tlow@co.wasatch.ut.us

Jodi S. Hoffman
Hoffman Law
P.O. Box 681333
Park City, UT 84068
jhoffman@xmission.com

Michael R. Christensen
Project Manager
JT Wasatch Commons, LC
1165 E. Wilmington Ave., Suite 275
Salt Lake City, UT 84106
mikec@jtcompany.com

Dennis Miller
Division of Public Utilities
Heber M. Wells Bldg – 4th Floor
160 E 300 S - Box 146751
Salt Lake City UT 84114-6751
dpudatarequest@utah.gov
dennismiller@utah.gov

/s/

Karly Schindler