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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	Response by the Division of Public Utilities to Rocky Mountain Power's Request to Set a Schedule and to Heber Light and Power's Request to Stay Proceedings Docket No. 07-035-22
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The following is a response by the Division of Public Utilities (DPU or Division) both to Rocky Mountain Power's request to set a schedule and to Heber Light and Power's (Heber) request to stay the Public Service Commission (Commission) proceedings while its appeal before the Utah Supreme Court is pending.

1. Rocky Mountain Power has filed a request for the Commission to set a schedule in this docket. The proposed schedule has discovery dates, testimony dates, and hearing dates included. Heber, pursuant to the scheduling order, has asked the Commission to stay the proceedings until the Utah Supreme Court reaches a decision. Heber opposes setting a schedule because of its request for a stay and the Supreme Court appeal. Heber points out the expense of going forward with a proceeding before the Commission that may never take place. If a schedule is going to be set, Heber requests that a scheduling conference take place to set the schedule. Heber also describes problems it has with the proposed schedule submitted by Rocky Mountain Power. In particular, Heber believes that

discovery will take significantly longer than allowed by the Rocky Mountain Power proposed schedule and Heber does not support filing its testimony at the same time as Rocky Mountain Power.

2. The Division has determined not to take a position on the stay filed by Heber. However, the Division does not support setting a schedule, as proposed by Rocky Mountain Power, without a scheduling conference. The Division also has problems with the schedule filed by Rocky Mountain Power that could be resolved at a scheduling conference. If Heber and Rocky Mountain Power file their testimony at separate times, then a schedule needs to be set that includes sufficient time for the Division to file its initial testimony. The Amended scheduling order issued December 22, 2008 had the Division and the Committee file their initial testimony after both Rocky Mountain Power and Heber had filed testimony. Also, it does not appear as if sufficient time is included in the Rocky Mountain Power proposed schedule for discovery after Heber and Rocky Mountain Power file testimony.

Respectfully submitted this _____ day of April, 2009.

Michael Ginsberg
Patricia Schmid
Attorneys for the Division of Public Utilities

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the Divison's Response to Rocky Mountain Power's Request to Set a Schedule and to Heber Light and Power's Request to Stay Proceedings was sent by electronic mail and mailed by U.S. Mail, postage prepaid, to the following on April _____, 2009:

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