

Roger J Ball
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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of Rocky Mountain Power for Authority to Increase its Retail Electric Utility Service Rates in Utah and for Approval of its Proposed Electric Service Schedules and Electric Service Regulations, Consisting of a General Rate Increase of Approximately \$161.2 Million per Year, and for Approval of a New Large Load Surcharge

Docket No 07-035-93
REQUEST FOR PUBLICATION OF NOTICE OF APPLICATION TO INCREASE RATES AND OF HEARINGS;
TO SUBDIVIDE INTERVENTION;
TO EXPEDITE TEST PERIOD INTERVENTION AND THE EXCHANGE OF DATA;
AND TO INTERVENE

I respectfully request that the Public Service Commission of Utah enforces its rule requiring publication of notice of the Application to Increase Rates and also requires publication of notice of hearings in this proceeding; subdivides intervention; expedites consideration of intervention requests filed no later than 11 January 2008 and the exchange of information between parties and intervention requesters in this Docket; and, pursuant to its customs and practices, including Utah Code Annotated (UCA) Section 63-46b-9 and Utah Administrative Code (UAC) R746-100-7, permits me to intervene in this matter, because:

1 on 12 October 2007, Rocky Mountain Power gave the Commission and parties to Docket 06-035-21 Notice of its Intent to File a General Rate Case “on or soon after December 11, 2007”, and the Commission added the letter to its website Docket Index in 06-035-21;

2 on 12 December, the utility filed an Application to open a docket for the rate case and to issue a protective order on an expedited basis, and the Commission opened a Docket

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Index on its website for 07-035-93 somewhere between 12 and 19 December and made that Application the first entry therein;

3 on 13 December 2007, anticipating the filing of two general rate cases within a few days' time, the Commission issued a Notice of Scheduling Conference;

4 on 17 December 2007, Rocky Mountain Power filed its Application to Increase Rates by \$161M, amounting to some 11.3% for residential customers like me;

5 on 19 December 2007, having recognised the magnitude of the task it faced in managing two virtually simultaneous general rate cases, the Commission unprecedentedly distributed a Proposed Schedule which, inter alia, contemplated an intervention deadline of 11 January 2008 and bifurcating the proceeding into two phases;

6 during the 20 December Scheduling Conference the notion was advanced that any motion requesting a test period hearing should be filed by 4 January 2008, but potential intervenors requested that the cut-off date for such a motion should be 11 January with a 7 calendar day turnaround for test period discovery prior to the filing of direct testimony on the date proposed by the Commission, 25 January;

7 it appeared that the 11 January intervention deadline, and requirement to file any objections by 17 January (just three business days later), in the Proposed Schedule was intended to facilitate participation in any test period segment of this proceeding;

8 Rocky Mountain Power has not yet published in any form the notice of its Application to Increase Rates required by UAC §746-100-4(C), so among those who stand to be affected by the outcome of this proceeding there may well be some who are as yet unaware of it, but who might wish to intervene, and who would be unjustly disadvantaged by a

deadline of 11 January, just 25 calendar days (17 business days) after the Application was filed;

9 Rocky Mountain Power itself asserts that a 30-day period after filing is usually allowed in the other jurisdictions in which it is regulated, however there is no rule or consistent precedent in Utah, and in PacifiCorp's last general rate case, Docket 06-035-21, the deadline, set in a scheduling order 29 calendar days (21 business days) after the application was filed, was a further 17 calendar days (13 business days) later;¹

10 using the timescales provided in UAC §746-100-4(D) the Commission might not be able to approve a request to intervene filed concurrently with this one before 21 January at the earliest,² prior to which parties could decline to answer any discovery, and object to any motion, regarding test period on the grounds that the requester had not yet been granted intervention, thus depriving the requester of the legitimate opportunity to request a test period hearing, and of reasonable time to prepare and file testimony by 25 January if such a hearing is convened for any reason;

11 there appears to be no insurmountable reason why the Commission could not subdivide intervention as it has the proceeding, providing an expedited process with an early deadline for early requesters who might want to move for or participate in a test period hearing, and a more usual timescale allowing time for Rocky Mountain Power to publish notice so that a larger number of those who stand to be affected by the proposed rate increase may become aware of it and to give due opportunity for a better-informed public to decide whether to seek intervention in the later stages;

¹ According to the Commission's Docket Index in 06-035-21, PacifiCorp filed its application on 6 March, and the Scheduling Order was issued on 4 April setting the Intervention Deadline as 21 April 2006.

² "15 calendar days" to file objections (8 January 2008) and "10 calendar days" to reply (18 January), plus time for the Commission to issue its Order (21 January at the earliest).

12 a local service district contemplating an increase in an existing fee is required under the terms of UCA §17B-1-643(2)(b) to publish in a newspaper of general circulation once a week for two weeks a notice at least ¼ page in size, surrounded by a ¼-inch border, in type of at least 18 point, and this format would be suitable for the Commission to order a utility to use in publishing notice under UAC §746-100-4(C);

13 the requirement in UCA §17B-1-643(2)(b) applies specifically to giving notice of a public hearing to be held by a local service district, and would also be suitable later on for the Commission to require that notice be given about three weeks in advance of its revenue requirement and cost of service hearings, or any settlement hearings, including its public witness hearings, in this proceeding;

14 I use electricity for lighting and other applications in my home, for which I have no choice of alternative suppliers, and am therefore a captive customer who must necessarily pay whatever rates are approved by the Commission in Rocky Mountain Power's Tariff, so my legal rights and interests may be substantially affected by the Commission's adjudication of this matter, and the impact that any increase will have on me will be proportionately similar to that upon any other Rocky Mountain Power customer, as will the impact of future availability of a reliable supply of electricity;

15 while the Utah Division of Public Utilities is statutorily mandated to "act in the public interest in order to provide the Public Service Commission with objective and comprehensive information, evidence, and recommendations", etc,³ my legal rights and interests may or may not coincide with "the public interest", etc;

³ Utah Code Annotated §54-4a-6.

16 while the Utah Committee of Consumer Services is statutorily mandated to “assess the impact of utility rate changes ... on residential consumers”⁴ and “advocate ... positions most advantageous to a majority of residential consumers”, it does so “on its own behalf and in its own name ... as determined by the committee”⁵ and, as an individual customer, my legal rights and interests may not coincide with those of “a majority of residential consumers as determined by the committee”;

17 while the Committee is also statutorily mandated to “assist residential consumers ... in appearing before” the Commission,⁶ in the past it has consistently declined to represent individual customers, as opposed to advising them on procedures and presenting them in hearings, on the grounds that their interests might conflict with those of the majority;

18 because this proceeding is at such an early stage, I have not fully determined the specific positions I will take, or the relief I will seek; I wish to intervene to protect my interests, particularly on issues of relevance to residential customers, as they may appear; and

19 the interests of justice and the orderly and prompt conduct of this proceeding will not be materially impaired by allowing me to intervene; indeed, the interests of justice might be materially impaired by denying me intervention.

Therefore, I respectfully request that the Commission forthwith enforce its rule in UAC §746-100-4(C) by ordering Rocky Mountain Power to publish notice of the filing of its Application to Increase Rates, including a brief explanation of the right and procedure to request intervention, in both the Deseret Morning News and the Salt Lake Tribune, once each week for two weeks, commencing

⁴ Utah Code Annotated §54-10-4(1).

⁵ Utah Code Annotated §54-10-4(3).

⁶ Utah Code Annotated §54-10-4(2).

after 1 January 2008 when people's attention is no longer distracted by the holidays, no less than ¼ page in size, in type no smaller than 18 point, surrounded by a ¼-inch border, and in portions of the newspapers other than where legal notices and classified advertisements appear.

Further, I request that the Commission subdivide intervention in this proceeding, providing first an expedited process that will allow a requester who files on 11 January to be granted intervention no later than 21 January and to conduct two rounds of discovery before filing direct testimony on 25 January. This could be achieved by requiring that objections to requests filed no later than 11 January 2008 must be entered within three business days and responses to objections not more than two business days later, that the Commission will issue its decision on such requests within a further two business days, and that discovery requests served after request and prior to order be responded to as if the requester were a party.

In the alternative, should it hew to the timescales provided in UAC §746-100-4(D), I ask that the Commission postpone the deadline to request a test period hearing until 4 February 2008 and revise the dates for direct and rebuttal testimony and a hearing on Test Year accordingly.

And providing second a more typical schedule that will allow anyone who sees a notice of the filing of its Application to Increase Rates, together with the right and procedure to request intervention, published by Rocky Mountain Power as requested above time to make such a request and to participate in the remainder of the Revenue Requirement and in the Cost of Service phases of the proceeding. This could be achieved by setting this second intervention deadline not less than thirty days after publication of the final notice, with the usual objection and response times provided in UAC §746-100-4(D).

Additionally, to save a little time and paperwork, and to make this early and crowded part of the schedule a bit more efficient and expeditious, I request that the Commission order that each party promptly provide copies of all the discovery requests it serves or has served on, and all the answers

it provides or has provided to, any other parties to each other party and to all those who no later than 11 January request intervention.

Since the legislative function of rate-setting for a public utility granted a monopoly in its service territory by the State of Utah is a taxing function statutorily delegated to the Commission by the Legislature and akin to that exercised by a local service district, I also request that the Commission order the utility to publish notice of the Revenue Requirement and Cost of Service hearings, or of any settlement hearings, including public witness hearings, in both the Deseret Morning News and the Salt Lake Tribune, once each week for two weeks commencing not more than 28 and not less than 21 calendar days before each set of hearings, no less than ¼ page in size, in type no smaller than 18 point, surrounded by a ¼-inch border, and in portions of the newspapers other than where legal notices and classified advertisements appear.

Finally, I request leave to intervene and participate in this proceeding with full rights as a party to protect my interests, and perhaps those of other similarly situated Rocky Mountain Power customers, as they may appear, and that copies of all notices and pleadings in this proceeding be sent to me:

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Respectfully submitted on 24 December 2007,

Roger J Ball

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Request for Publication of Notice, etc, and to Intervene in Docket 07-035-93 of Roger J Ball was hand delivered, sent by United States mail, postage prepaid, or mailed electronically on 24 December 2007, to the following:

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