



Schedules and Electric Service Regulation, Consisting of a General Rate Increase of Approximately \$161.2 Million Per Year, and for Approval of a New Large Load Surcharge (the “Application”).

2. Rocky Mountain Power complied with all statutory filing and notice requirements required for filing the Application. The Public Service Commission has not ordered that any additional notice requirements be met for the Application. In addition, Rocky Mountain Power provided a press release with details of the Application to all major news outlets in Utah, and the filing received coverage in newspapers and on television.

3. On December 20, 2007, the Commission held a Joint Scheduling Conference to discuss issues relating to the scheduling of the rate cases filed by Rocky Mountain Power and Questar.

4. The Commission distributed a proposed schedule and discussed changes to the schedule with parties, staff, and potential intervenors, including Roger J. Ball (“Mr. Ball”).

5. Mr. Ball and other parties and potential intervenors were given (and took) the opportunity at this meeting to raise a number of scheduling issues with the Commission, including deadlines for intervening in the rate case, deadlines for proposing a different test period, notice requirements, deadlines for filing testimony, and hearing dates. Mr. Ball participated in each of these discussions.

6. On December 24, 2007, Mr. Ball filed with the Public Service Commission of Utah (“Commission”) a motion titled “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” (“Request to Intervene”).

7. In this Request to Intervene, Mr. Ball makes a number of convoluted and confusing requests, including, so far as Rocky Mountain Power can decipher: (1) that the Commission require Rocky Mountain Power to publish Notice of the Application in the Deseret Morning News and the Salt Lake Tribune; (2) that the Commission subdivide intervention to include an expedited process to grant intervention to early requesters by January 21, 2008; (3) that the Commission conduct two “rounds” of discovery before filing allowing direct testimony to be filed on January 25, 2008 (Mr. Ball does not describe what these two rounds of direct testimony will entail exactly); (4) that the Commission postpone the deadline to request a test period hearing until February 4, 2008 and revise the dates for direct and rebuttal accordingly; (5) that the Commission allow anyone who fails to timely intervene to participate in the remainder of the Revenue Requirement and Cost of Service phases of the proceeding; (6) in order to “to save time and money” that the Commission order each party to provide copies of all discovery requests it serves or has served on, and all answers, to each and every party in the proceeding; and (7) that the Commission order RMP to publish notice of the Revenue Requirement and Cost of Service hearings, or of any settlement hearings in both the Deseret Morning News and the Salt Lake Tribune. Finally, Mr. Ball also requests that he be allowed to intervene in the proceedings.

### **Argument**

8. Rocky Mountain Power wishes to make clear that it does not object to Mr. Ball being permitted to intervene. However, Mr. Ball’s motion demonstrates that he is either not aware of the Rules that govern proceedings before this Commission or he is intentionally ignoring the rules that Rocky Mountain Power and all other parties to this

proceeding are required to comply with. Mr. Ball should not be granted a special dispensation simply because he is acting as a pro se party. The Commission should require that Mr. Ball either follow the procedures and requirements in the Rules or be required to retain an attorney to assist him.

9. At the time that Mr. Ball filed his Request, the Commission had not yet issued a Scheduling Order, and therefore Ball's requests are premature.

10. All of the requests in Mr. Ball's motion, which is really an improperly styled and prematurely filed Motion for Reconsideration, were presented to the Commission at the Scheduling Conference and were before the Commission at the time Mr. Ball's Request to Intervene was filed. If Mr. Ball is displeased by the Commission's rulings on scheduling matters now, *after* the Commission has issued its Scheduling Order, he may ask for reconsideration or other relief. However, asking the Commission to reconsider its position before it has made a ruling and issued a Scheduling Order was premature. Mr. Ball's Request was not properly before the Commission when it was filed and should be denied.

11. In addition, each of Mr. Ball's arguments was presented to the Commission's representative at the scheduling conference, at which time they were taken under advisement by the Commission. Mr. Ball is, in his motion, seeking the proverbial "second bite at the apple," which has not been afforded the other parties in this docket. Each of Mr. Ball's arguments and/or requests was already before the Commission at the time his motion was filed. To rule on Mr. Ball's arguments without a hearing at which all parties would be given a chance to respond would prejudice the interests of the other

parties to this proceeding and not be in the public interest. Accordingly, all relief sought in Mr. Ball's improperly styled Motion for Reconsideration should be denied.

12. If the Commission determines that Mr. Ball's Request is properly before it, the Commission should nevertheless dismiss Mr. Ball's arguments as moot. The Commission has addressed each of his arguments and requests in the scheduling order. If Mr. Ball does not agree with the Commission determinations in the scheduling order he may seek other relief, but the Commission has effectively considered and addressed each of the points raised in his request.

13. Mr. Ball concedes that he has not "fully determined the specific positions" he will take and whether those will differ from those determined by the Committee.

Accordingly, the Committee of Consumer Services adequately represents Mr. Ball's interests at this time. If Mr. Ball is later able to make an evidentiary showing that he is uniquely situated and his rights were therefore not adequately represented by the Committee, the Commission could allow Mr. Ball to participate in these proceedings at that time. The Commission should be conscientious of the fact that ratepayers already have a party acting on their behalf, and only allow Mr. Ball to participate in portions of the proceedings for which he has shown an independent, separate interest that is not adequately represented by the Committee.

14. Further, Mr. Ball is not an attorney and he appears to be attempting to represent other parties in this proceeding. He even states in his Request to Intervene that he will represent himself and "perhaps those [interests] of other similarly situated Rocky Mountain Power customers." Request to Intervene at 7.

15. Mr. Ball has asked that the intervention period be extended, and that additional notices be provided to alert others to the proceedings. Clearly Mr. Ball is already aware of the proceedings as he has filed his Request to Intervene, and is fully aware of the details of the rate case filed by Rocky Mountain Power and now, the Scheduling Order issued by the Commission on December 27, 2007.

16. Therefore, either Mr. Ball is attempting to represent the interests of other potential parties in violation of the Rules of the Utah Supreme Court and this Commission by making these requests in his Request to Intervene or he is intentionally wasting the Commission's time and resources by requiring a response to a frivolous motion when he has already received actual notice of all proceedings in the docket, or possibly both.

### **Conclusion**

WHEREFORE, Rocky Mountain Power respectfully requests that the Commission:

- (1) deny each of the requests by Mr. Ball for relief regarding the scheduling order as premature and untimely;
- (2) alternatively, deny each of the requests made by Mr. Ball until Rocky Mountain Power has had an opportunity to respond to Mr. Ball's requests either by responding in writing to the arguments raised in his premature Motion for Reconsideration or in a formal hearing;
- (3) should Mr. Ball be admitted as a party, Rocky Mountain Power requests that the Commission make clear that Mr. Ball represents only himself, and not the interests of any other citizens, corporations, or ratepayers in the State of Utah and further that Mr. Ball be required to comply with all of the Rules governing all other intervenors in proceedings before the Public Service Commission; and
- (4) that Mr. Ball only be allowed to participate in those portions of the proceedings where he has shown that his interests are not adequately represented by the Committee of Consumer Services;

DATED this 7th day of January 2008.

Respectfully submitted,

ROCKY MOUNTAIN POWER

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## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Response to Roger J. Ball's 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 was sent this 7<sup>th</sup> day of January, 2008, to the following parties by email:

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