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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
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))	PETITION
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**PETITION FOR CLARIFICATION AND RECONSIDERATION
OF THE PUBLIC SERVICE COMMISSION OF UTAH'S
SCHEDULING ORDER, AS AMENDED JANUARY 9, 2008**

Rocky Mountain Power (or the "Company"), pursuant to R746-100-11(F), hereby submits its petition for clarification and reconsideration of the scheduling order issued by the Public Service Commission of Utah ("Commission") December 27, 2007, as amended January 9, 2008. In support of its petition, Rocky Mountain Power states as follows:

1. Rocky Mountain Power filed an application December 12, 2007 to open a docket and to request a protective order for purposes of Rocky Mountain Power's general rate case application that the Company anticipated filing upon receipt of a protective order.

2. Shortly after opening the docket, the Commission issued a notice of scheduling conference December 13, 2007 notifying all interested parties of a scheduling conference to be held December 20, 2007.

3. Rocky Mountain Power filed its general rate case application December 17, 2007 requesting approval of an increase in its retail electric utility service rates in Utah, consisting of an annual general rate increase of approximately \$161 million or 11.3 percent, and approval of its proposed electric service schedules and electric service regulations.

4. The Commission held a scheduling conference December 20, 2007 at which Rocky Mountain Power and several Utah interested parties discussed potential procedural schedules and hearing dates. The Commission issued its scheduling order December 27, 2007 setting forth a procedural schedule and hearing dates for the Company's general rate case application.

5. The Commission issued an order January 9, 2008 amending and modifying its December 27, 2007 Scheduling Order.

6. The Company has reviewed the scheduling order, as amended, and has identified three areas that it believes needs either clarification or that the Company requests the Commission reconsider. These areas include the following: (1) bifurcation of the rate of return¹ portion of the Company's application; (2) Phase II and the implementation of new rates; and (3) the unduly burdensome time to respond to discovery, absent other discovery parameters.

¹ The scheduling order makes reference to rate of return so the Company will also refer to this section as rate of return. However, as explained further in this petition, the Company submits that it believes it would be more accurate to refer to this portion of the schedule as "Capital Structure" or "Cost of Capital".

7. The Company has addressed each of these three items below in more detail and requests that the Commission clarify and reconsider its scheduling order, and as needed, in light of the issues raised herein.

Bifurcation of Rate of Return

8. Rocky Mountain Power hereby requests clarification from the Commission regarding the scope of the “Rate of Return” portion of the scheduling order. In this regard, Rocky Mountain Power has identified two specific areas that require clarification: (1) the substantive scope of the “Rate of Return” portion of the scheduling order; and (2) whether the record from the “Rate of Return” proceeding will remain open until the conclusion of Phase I and after the presentation of all of the evidence on the Company’s proposed revenue requirement.

9. The first area needing clarification pertains to the scheduling order is the intent of the Commission regarding the substantive scope of the “Rate of Return” portion of the scheduling order. Rocky Mountain Power requests clarification from the Commission that the “Rate of Return” portion of the scheduling order pertains only to the quantitative calculation of the Company’s proposed capital structure including cost of capital.

10. Rocky Mountain Power has two witnesses who sponsor testimony supporting the Company’s quantitative calculation of its proposed capital structure, including cost of debt capital and cost of equity capital (also referred to as return on equity). As such, the Company hereby requests that the Commission clarify that the “Rate of Return” portion of the scheduling order pertains to the quantitative calculation of Company’s proposed capital structure only, and only those witnesses who specifically address these issues, specifically the testimony sponsored

by Company witnesses Bruce Williams and Sam Hadaway, need to be present at the hearing on May 20, 2008.

11. The Company further submits that it appears any reference to “Rate of Return” in the scheduling order may have been intended to refer to the Company’s proposed capital structure, including cost of capital. As rate of return is simply a calculation measuring the amount of income earned on an investment and is determined after consideration of several items included in the Company’s application, and does not represent a stand alone request of the Company in its application. Whereas, capital structure, including cost of capital, is an item that represents a separate request within Rocky Mountain Power’s application.

12. The second area needing clarification pertains to whether the Commission intends to keep the record open following the hearing on cost of capital until the conclusion of Phase I and after all of the evidence pertaining to revenue requirement has been presented to the Commission for consideration. The reason the Company requests this clarification is because certain Company witnesses sponsor testimony that identifies certain risk factors and other facts and circumstances that are relied upon by the Company’s cost of capital witnesses in support of their proposed capital structure and cost of equity capital recommendations. As long as the record will remain open until the completion of Phase 1 of the Commission’s schedule, it will not be necessary for the Company to present witnesses who testify regarding certain risk factors related to capital structure in a limited capacity at the May 20, 2008 hearing on cost of capital and then present these witnesses again at the revenue requirement hearing June 2-10, 2008 so that they can sponsor the remaining portion of their testimony as it relates to the Company’s revenue requirement.

13. As such, based upon the foregoing, the Company respectfully requests clarification of the Commission's intent with respect to the scope of the "Rate of Return" portion of the scheduling order and whether the record will remain open so as to avoid the potential for the unnecessary duplication in the presentation of witnesses.

Phase II and the Implementation of New Rates

14. The Company respectfully requests that the Commission reconsider its amendment and modification of the December 27, 2007 scheduling order with respect to the Commission's decision to move rate spread items to Phase II of the order and not specifying how the parties will implement any final revenue requirement ordered in Phase I.

15. The Commission issued an order January 9, 2008 amending and modifying its December 27, 2007 Scheduling Order, whereby the Commission, among other things, moved the rate spread determination (or how the overall revenue requirement is to be allocated to the various customer classes to generate a class' allocated revenue requirement) from the revenue requirement phase (or Phase I) to the cost of service phase (or Phase II) and directed the parties to explore settlement and stipulation on how to implement any revenue requirement change determined appropriate in Phase I. *See* January 9, 2008 Order.

16. The Company submits that it would be more effective if the Commission notified the parties how it intends to implement any final revenue requirement change determined in Phase I, rather than simply encourage the parties to explore possible settlement and stipulation on how to effectuate the change since the bifurcated schedule was ordered by the Commission on its own accord, without a proposal from the Company or as a result of a stipulation by the parties to this docket. Furthermore, the intervention deadline has not passed and the parties who will be

participating in this proceeding are not yet known. As such, the Company is concerned that settlement discussions on this issue would be premature.

17. Accordingly, the Company requests that the Commission reconsider its scheduling order, as amended, and instead, issue an amended order that directs the parties on how any final revenue requirement from Phase I will be implemented before the Commission's determination of cost of service and rate spread in Phase II.

18. The Company believes the Commission has the authority to implement the final revenue requirement ordered in Phase I, which can be implemented through a separate and distinct charge to all standard tariff customer classes based upon their applicable rate schedule. Since class cost of service will not yet be determined, the charge would be applied equally to all standard tariff customer classes prior to the application of any taxes, and it would appear on each customer's bill as a separate line item charge. This charge would also remain in place until the Commission issues its final cost of service and rate spread order in Phase II.

19. Based upon the foregoing, the Company respectfully requests the Commission reconsider the scheduling order with respect to how the final revenue requirement will be implemented following its Phase I order.

Discovery Parameters

20. Commission Rule R746-100-8 pertains to discovery and generally provides that the Commission encourages the exchange of information between parties and that information queries may include written interrogatories and requests for production as those terms are used in the Utah Rules of Civil Procedure.

21. Commission Rule R746-100-8 also provides that discovery shall be made in accordance with Rules 26 through 37 of the Utah Rules of Civil Procedure, with the following

exceptions and modifications: (1) the timing for when discovery may begin; (2) the restrictions pertaining to the discoverability of opinions, conclusions, and data developed by experts engaged by parties shall not apply; (3) the Commission's authority to convene conferences to establish times for completion of discovery, the scope of discovery, necessity for discovery, and terms of protective orders, and other matters related to discovery; (4) the initiation of discovery and that requests shall not be filed with the Commission, unless otherwise ordered by the Commission; and (5) in the Rules of Civil Procedure, the reference to "Court" shall be considered reference to the Commission.

22. The Commission's scheduling order provides for a very quick turn-around time on responses to discovery without setting any additional restrictions on discovery requests. Specifically, on non-test year issues, responses are due within 14 calendar days up to the filing date of intervenor direct testimony, within 10 calendar days from the filing date of intervenor testimony up to the filing of rebuttal testimony, and within 3 business days from the filing date of rebuttal testimony up to the filing date of surrebuttal testimony.²

23. Absent additional restrictions on discovery requests, the Commission's quick turn-around for responses is unduly burdensome to the Company and potentially other parties.³ The Company acknowledges and accepts that as the moving party requesting a general rate increase it should provide the intervening parties with access to all relevant non-privileged information or non-privileged information that is reasonably calculated to lead to the discovery of admissible evidence in a timely manner, and Rocky Mountain Power intends to make every

² Due to the timing of this motion and the likelihood that by the time the Commission has an opportunity to consider this request, the discovery issues pertaining to test period will be moot. However, to the extent the specific parameters regarding discovery on test-period issues are not moot, the same points and arguments would apply.

³ Generally, the Company does not serve much, if any, discovery on intervening parties, but to the extent the Company serves discovery on the intervening parties, the current scheduling order may also be unduly burdensome on other parties to this proceeding.

effort to provide responses to discovery requests in a timely manner. However, Rocky Mountain Power urges the Commission to recognize that not unlike any other organization it has its own limitations and constraints, and to be forced to respond to potentially large sets of discovery requests within 14 calendar days is unduly burdensome, absent other restrictions on discovery.

24. The Utah Rules of Civil Procedure generally provide that a responding party has thirty (30) days to respond to a discovery request and Rule 33 limits a party to a total of twenty-five (25) interrogatories, including discrete subparts. The Company is unaware of any other judicial or quasi-judicial administrative proceeding that has rules that require responses to discovery to be served within the time frame set forth in the scheduling order, absent some other parameters.

25. The Company respectfully requests that the Commission reconsider its order regarding the unduly burdensome time for responding to discovery requests and set forth additional parameters regarding discovery requests. For instance, while the Company does not suggest the Commission limit the total number of requests that a party can submit (as the Utah Rules of Civil Procedure limit the total number of interrogatories), it does believe that limiting the number of outstanding requests a party has will reduce the burden on the responding party. Limiting the number of outstanding discovery requests provides a reasonable parameter on discovery so as to enable the responding party a reasonable opportunity to provide meaningful responses within the time period set forth in the scheduling order.

26. In this regard, Rocky Mountain Power suggests that the Commission consider a tiered approach, similar to what was ordered for responding to discovery. For instance on the non-test year phases of the schedule, no party should be allowed to have more than 45 discovery requests outstanding, per counterparty, at any time from the date of this order up to the filing

date of intervenor direct testimony, 20 discovery requests outstanding, per counterparty, at any time from the filing date of intervenor testimony up to the filing date of rebuttal testimony, and 10 discovery requests outstanding, per counterparty, at any time from the filing date of rebuttal testimony up to the filing date of surrebuttal testimony. Similar to Utah Rule of Civil Procedure 33(a), discrete subparts should be included when determining the number of requests.

WHEREFORE, by this petition, Rocky Mountain Power respectfully requests that the Commission:

1. Clarify the scheduling order by:
 - a. replacing references to “Rate of Return” with “Cost of Capital”;
 - b. confirming that the May 20, 2008 hearing will be limited to the quantitative calculation of the Company’s proposed capital structure, including cost of debt capital and cost of equity capital (or return on equity); and
 - c. confirming that the record from the May 20, 2008 hearing will remain open until the conclusion of Phase 1 of the Commission’s schedule and the presentation of all of the evidence regarding the Company’s proposed revenue requirement.
2. Reconsider the scheduling order, as amended, with respect to Phase II and the implementation of new rates by either:
 - a. ordering how the Commission anticipates authorizing the Company to implement any final revenue requirement change following Phase I without a determination of cost of service and rate spread; or
 - b. ordering that implementation of any final revenue requirement change will be implemented through a separate and distinct equal charge to all standard tariff customer classes based upon their applicable rate schedule before the application of taxes, and that the charge will

appear on the customers' bills as a separate line item charge that will remain in place until the Commission issues its final order from Phase II.

3. Reconsider the scheduling order, as amended, to reflect a limitation on the number of discovery requests such that no party shall be allowed to have more than 45 discovery requests outstanding, per counterparty, at any time from the date of this order up to the filing date of intervenor direct testimony, 20 discovery requests outstanding, per counterparty, at any time from the filing date of intervenor testimony up to the filing date of rebuttal testimony, and 10 discovery requests outstanding, per counterparty, at any time from the filing date of rebuttal testimony up to the filing date of surrebuttal testimony.

DATED this ____ day of January 2008.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this ___ day of January 2008, I caused to be transmitted by electronic mail, a true and correct electronic copy of the foregoing **Petition for Clarification and Reconsideration of the Public Service Commission of Utah's Scheduling Order, as Amended January 9, 2008** to the following:

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