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Date: April 23, 2008

Subject: Docket No 08-035-35: In the Matter of the Request of Rocky Mountain Power for a Waiver of Solicitation Process and for Approval of Significant Energy Resource Decision

Background

On April 1, 2008, Rocky Mountain Power (Company) filed a Verified Request for Waiver of Solicitation Process and for Approval of Significant Energy Resource Decision. Due to the highly confidential nature of this project, the Company has requested that it be referenced as Project Blue. On April 9, 2008, a technical conference, which also evolved into a scheduling conference, was held in which the Company explained its project and the Public Service Commission (Commission) outlined a schedule for responses to the waiver request as well for the approval portion of the case. On April 11, 2008, under the same docket number, the Company also filed a request for deferred accounting treatment for an exclusivity payment and acquisition premium costs related to Project Blue.

In this memo, the Committee of Consumer Services (Committee) responds specifically to the Company's request for waiver, as well as raising other concerns surrounding the manner in which this process is unfolding.

Overview of Committee Position

The Committee does not oppose the Company's request for waiver of the RFP process for Project Blue. Because of the significant need for the system, the Committee has no objections to the Company's acquisition of this resource. However, this lack of opposition to the waiver is not to be construed as agreement with all of the assertions and requests made by the Company in conjunction with the waiver request. In fact, the process associated with this waiver request has raised many questions and concerns for the Committee. For example, the Company's inclusion of a request for approval with the request for waiver was unexpected and contrary to our understanding of the intent of the process.

Evaluating this waiver request has led the Committee to certain questions about the RFP process. For example, is the fact that this project came in between two significant Company RFPs reflective of the precise purpose of the waiver process, or is it symptomatic of an ineffective RFP process? It would be helpful if the Commission provides additional guidance and input on its views of the appropriate use of the RFP process and waivers from the RFP process.

The Committee also has serious concerns about the proper treatment of the cost recovery issues related to Project Blue. Specifically, the Committee believes that the Company's request for approval of the project and deferred accounting treatment of certain project costs are either improper or premature.

Approval Process

As part of the Company's request for waiver, it also requested approval of the project for pre-determination of prudence and for inclusion in rates. The Company further asked that this determination be made prior to the closing date of the acquisition, which results in removing the rate recovery risk from the Company. This request is contrary to the legislative intent of the waiver provision. It is also contrary to the characterization made by the Company to Committee representatives in asking for support of the legislative changes resulting in the ability to request a waiver. The Committee was led to believe that the Company was willing to accept the risk of rate recovery for any projects that would qualify for a waiver from the RFP process.

The Committee has not yet begun its assessment of the prudence of Project Blue, and these comments should not be understood to be opposition to the costs. Rather, this is an opposition to the Company's proposed method for evaluation of the costs. The Committee has further addressed this issue in a separate Response to Rocky Mountain Power's Request for Approval, also filed today with the Commission.

Deferred Accounting

In addition to the approval of the project for inclusion into rates, the Company separately requested deferred accounting treatment for two types of costs related to the project: the exclusivity payment and acquisition premium costs. This request is either improper or premature. At this point in the case, there has been no demonstration that

these costs should be treated separate from the costs of the asset itself. If circumstances change later in the case, that later time would be the appropriate opportunity to make a deferred accounting request.

Exclusivity Payment

The Company's request for accounting order for the exclusivity payment is premature as there is no indication that the acquisition of the resource will not be completed. The exclusivity payment, when made, would be recorded as an asset on the Company's books, until such time as the acquisition fails. Thus, as the amount is initially recorded as an asset, the establishment of a separate regulatory asset is not necessary at this time. If the acquisition were to fail the Company could, at that time, request an accounting order or incorporate the cost into the appropriate general rate case. Under either of these scenarios, i.e., future request for accounting order or inclusion as an issue in a rate case proceeding, all the facts and circumstance surrounding the failure could be reviewed and evaluated at that time in determining the appropriate treatment of the payment.

Acquisition Premium

The request for an accounting order to record the acquisition premium in Account 114 to be reflected in rate base is even more premature. There has not been a thorough evaluation of the value of the resource to customers of the Company nor of the appropriateness of the purchase price. The Company has not paid for the resource, other than the exclusivity payment, so they are asking for an accounting order before even incurring the costs. Even more troubling is the fact that this acquisition premium has not been adequately explained. It is unclear why any acquisition premium exists outside of the cost of the asset and why such a premium would not be considered in conjunction with the cost of the asset, as opposed to be given separate accounting treatment.

Prudency Determination

Proper consideration of both the prudency of the project as well as any additional costs associated with this project should be in a general rate case. The standards for considering it outside of that context have not been met. Further, the Company has indicated its intent to file frequent rate cases in the near future, which minimizes any concerns regarding regulatory lag.

Committee Recommendations

The Committee does not oppose the Commission granting of a waiver from the RFP process of Project Blue. However, the Committee believes that it could be helpful to future cases for the Commission to provide additional guidance and input on how to best utilize this process.

The Committee believes that the Company's request for an approval process connected to the waiver is improper and inconsistent with the governing statutes. The

Committee respectfully requests that the Commission consider this issue in conjunction with the Committee's response filed under separate cover.

Finally, the Committee also believes that the Company's request for deferred accounting treatment is improper. The Committee will further address this issue in that portion of this docket.