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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.

Docket No. 08-035-38

**UIEC'S OBJECTIONS TO
ROCKY MOUNTAIN POWER'S
DRAFT SCHEDULING ORDER**

Pursuant to the Utah Public Service Commission ("Commission") request made at the scheduling conference held in the above-captioned matter on July 29, 2008, the UIEC respectfully submit the following objections to the draft scheduling order proposed by Rocky Mountain Power ("RMP").

1. RMP has proposed that all motions be filed within 30 days. Some motions can and could be filed within 30 days but several motions must await RMP's response to the Commission's Order on 07-035-93 and other events and filings by RMP. To establish a cut off date for all motions would lead to error.

2. RMP has proposed that a test year scheduling conference be held on August 20, 2008. To establish a date for a scheduling conference on test year issues before the issuance of the Commission's Order on the dispositive motions to be filed in this case is a futile act. For example, parties in this docket may argue that if the current case can proceed, it can proceed only with a '09 test year case and with current information for the '09 test year. That argument may be made as a part of the dispositive motions and the legal basis for those arguments will come clear in the dispositive motions. Once those arguments, or similar arguments regarding test year, are made, then, unless and until the Commission has issued a final Order on the dispositive motions, holding a scheduling conference for test year issues would be futile. We suggest, therefore, that a scheduling conference to consider the issues regarding an appropriate test year for the 08-035-38 application be established only after the Commission has resolved the dispositive motions, which cannot be sooner than after the hearing scheduled for September 10, 2008.

3. The UIEC objects to RMP's proposed rebuttal testimony dates and RMP's proposal to be allowed to file sur-surrebuttal testimony. RMP stands accused in the 07-035-93 docket of changing theories and introducing new evidence in the middle of the case (*see e.g.*, UIEC brief on net power costs). When RMP changes theories and introduces evidence mid-case, which evidence was available at the time it filed its application, the Commission has to (a) be vigilant and strike the testimony that introduces evidence available at the time the original application was filed, as well as the testimony that introduces any new theories; or (b) allow the parties adequate time to conduct additional discovery regarding the new theories and evidence and give the parties adequate opportunity to provide replying testimony. When RMP first

introduces the theory of its case in its rebuttal testimony, it denies the parties the opportunity for discovery against the Company and meaningful reply. The new theories and new testimony are untested.

This is especially aggravated in this case because RMP has already signaled that it does not plan to re-file its adjusting schedules to comply with the Order to be issued in the 07-035-93 case until it files its rebuttal testimony on January 5. Unless RMP re-files the schedules containing the 07-035-93 adjustments more than 90 days before December 3, the date the intervenor testimony is due, the intervenors in this case will not actually see RMP's case until January 5. Doing discovery on that testimony and preparing and filing surrebuttal testimony on the timetable proposed will be impossible.

Accordingly, the UIEC suggest that unless the Commission dismisses this case based on the dispositive motions, (1) the Commission make an order directing RMP to make a filing of the schedules containing revenue requirement adjustments in this case to conform to the Commission's 07-035-93 Order, and to do so more than 90 days before the first round of testimony is due on December 3; (2) after RMP makes the filing described in subsection (1), the Commission preclude RMP from further changing theories or presenting any evidence that was available at the time the application was filed on July 17, 2008; and (3) RMP rebuttals be due in mid-December so parties can discover and prepare testimony to challenge that rebuttal testimony in surrebuttal, which has been proposed to be scheduled for January 15, 2009. Even if revised schedules are filed in September of this year (2008), parties have less time than allowed by statute to conduct thorough discovery of RMP's adjustments.

4. The integrated nature of this case results in other problems to which the UIEC object. (a) Unfixed problems: Many of the parties in the 07-035-93 cost of service case have testified that the cost of service study prepared by the Company in this case is flawed. Each has suggested certain repairs that need to be made to make the study useful. Some of those significant repairs require the accumulation of data for a period of time. For example, collecting sample data on customers to infer demand for non-demand metered customers will take more than 12 months. New sampling didn't begin until April or May 2008. Therefore, less than one year's reliable data will be available for the cost of service testimony in this case. There is no reason to require testimony to be filed on that issue when the problems in the current case have not yet been fixed.

(b) Timing of the issuance of the costs of service Order in Docket No. 07-035-93: Equally important, the rate spread, rate design order to be issued in the 07-035-93 case will not issue until late October or early November 2008 at the earliest. There is no way that anyone can do appropriate discovery and gain data to file any kind of meaningful cost of service study testimony by December 3. Therefore, the case must at least be bifurcated, and the cost of service issues taken out until RMP sufficiently fixes its cost of service study and parties can digest any Commission Order in the 07-035-93 case.

WHEREFORE, the UIEC request that the Commission enter an Order (1) rejecting RMP's draft scheduling order to the extent specified herein; and (2) modifying RMP's draft scheduling order so that (a) there is no test year scheduling conference at this time; (b) RMP must file its schedules containing revenue requirement adjustments to conform with the Commission's Order in the 07-035-94 case by September 2, 2008; (c) after September 2, 2008,

RMP is precluded from presenting any new evidence that was available as of July 17, 2008; (d) after September 2, 2008, RMP is precluded from changing the theories of its case; (e) RMP's rebuttal is due December 15, 2008; and (f) the cost of service portion of this case is to be bifurcated from the revenue requirement portion of the case.

DATED this 30th day of July, 2008.

/S/ F. Robert Reeder

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CERTIFICATE OF SERVICE

(Docket No. 08-035-38)

I hereby certify that on this 30th day of July 2008, I caused to be e-mailed, a true and correct copy of the foregoing UIEC'S OBJECTIONS TO ROCKY MOUNTAIN POWER'S DRAFT SCHEDULING ORDER to:

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