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**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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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**

**UAE INTERVENTION GROUP'S  
MOTION FOR DETERMINATION  
THAT ROCKY MOUNTAIN  
POWER'S APPLICATION AND  
SCHEDULES ARE INCOMPLETE  
AND INADEQUATE**

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The UAE Intervention Group (UAE) hereby moves the Commission for a determination that the Application and Schedules filed by Rocky Mountain Power (RMP) in this docket are inadequate and incomplete in that they do not identify the specific rate increases requested in this Docket, they do not incorporate the impacts of binding Commission Orders in Docket 07-035-93, and they do not identify the specific agency actions requested by RMP in this docket.

**Introduction**

Rocky Mountain Power's Application and Schedules are inadequate and incomplete as a matter of Utah law for several reasons. First, they are incomplete in that they do not specify,

either in total or by schedule, the specific “rate increases” proposed by the utility as required by Utah Code § 54-7-12. Second, they are inadequate under Utah Code § 54-7-12 in that they do not reflect binding Commission orders from Docket 07-035-93 and rely upon assumptions about those orders that are inaccurate or uncertain. They thus do not include Schedules that can lawfully go into effect 240 days after filing in the absence of a Commission Order as contemplated by Utah Code § 54-7-12(3)(c). Finally, they do not identify the specific agency actions requested in that they do not specify the changes requested by the utility in tariff language, projections, amortizations, allocations or methodologies as compared to the results of Docket 07-035-93.

### Argument

#### **I. RMP’s Application and Schedules are Incomplete Because they do not Identify the Rate Increases Requested.**

The statutory procedures for a public utility to request rate increases from its Utah customers are focused on the amount of the proposed rate increases, not on the ultimate revenue requirement requested by the utility. Thus, Utah Code § 54-7-12 requires a utility proposing to increase rates to “set... forth the proposed rate increase,” the commission is obligated to determine if the “proposed rate increase” is just and reasonable and the “proposed rate increase” can become effective only after hearing and issuance of a Commission Order. Utah Code Ann. §§ 54-7-12(2)(a), (b), (c). Moreover, the Code sets out rules applicable to “the implementation of any proposed rate increase,” *id.* at § 54-7-12(3). Also, a final Commission Order must be entered, after hearing, within 240 days “from the date the rate increase ... proposal is filed,” *id.*, § 54-7-12(3)(v), or the “rate increase proposed by the utility” will become final. *Id.*, § 54-7-12(c).

These sections make it clear that the commencement of a proceeding to raise utility rates in Utah requires, as a fundamental statutory predicate, notice as to the specific rate increases requested of its Utah customers. Indeed, the 240-day window for the Commission to enter an order determining the utility's revenue requirement begins only after the request for a specific "rate increase" has been filed.

RMP's application in this case is facially defective in that it does not identify the amount of the "rate increase" being requested in this docket. Rather, it reflects a cumulative requested rate increase of two dockets. That is not what is required by statute. The Commission should determine that RMP's Application is incomplete as a matter of Utah law until it has filed with the Commission the specific rate increases that it is requesting from its Utah customers.

## **II. RMP'S Application is Inadequate Because it Does Not Include Appropriate Schedules.**

Section 54-7-12 also requires a utility proposing to increase rates to "file appropriate schedules" that reflect the proposed rate increases and other requested tariff changes. Utah Code Ann. § 54-7-12(2)(a). By this means, each utility customer is put on notice of the specific rate increase requested of it, as well as of any other changes requested by the utility. Customers cannot yet know what rate increase or tariff changes are requested of them in this docket -- the Application and Schedules reflect cumulative requested impacts stemming from two distinct rate cases and they do not incorporate the results of the last case.

The schedules filed by RMP are inadequate as a matter of Utah law. They do not incorporate the Commission's resolution of any of the revenue requirement, cost of service, rate spread and rate design issues in Docket 07-035-93. RMP has simply reiterated its positions from the last docket.

That is insufficient as a matter of law for Schedules that must be sufficiently complete that they can lawfully and properly take effect in 240 days absent a Commission Order.

After the disputed issues in Docket 07-035-93 have been resolved, the Company must incorporate all such changes in its current schedules, and reflect such changes in its Application and Schedules in this Docket. The Commission's rulings in Docket 07-035-93 are binding upon RMP and must be reflected in Schedules in this docket that are legally adequate, i.e., sufficient such that they could properly and lawfully go into effect without change in 240 days under Utah Code § 54-7-12(2)(a).

**III. RMP'S Application is Defective in that it Does Not Identify the Specific Agency Actions Requested.**

The Utah Administrative Procedures Act, Utah Code §§ 63G-4-101, et seq., as well as fundamental notions of due process, require that RMP's Application identify the specific agency actions requested in the Application. Utah Code § 63G-4-201(3)(a). The Application in this Docket is defective in that it fails to appraise the Commission or the parties of the specific changes from the status quo requested by RMP. The Application does not incorporate or explain the rates, methodologies, amortizations, projections or allocations approved by the Commission in Docket 07-035-93, nor the specific changes to the same proposed by RMP in this Docket. The Application is thus defective as a matter of Utah law.

**Conclusion**

RMP's Application is incomplete and its Schedules are inappropriate as a matter of law until the impacts of the Commission's Orders in Docket 07-035-93 have been fully and properly incorporated into the Application and Schedules, and all proposed changes to the same have been

identified and explained in this Docket. This Commission should determine as a matter of Utah law that RMP's Schedules are inappropriate and incomplete as filed.

HATCH, JAMES & DODGE

/s/ \_\_\_\_\_  
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by email this 18<sup>th</sup> day of August, 2008, to the following:

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