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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

<p>IN THE MATTER OF THE APPLICATION OF ROCKY MOUNTAIN POWER FOR APPROVAL OF ITS PROPOSED ENERGY COST ADJUSTMENT MECHANISM</p>	<p>Docket No. 09-035-15</p> <p>DIVISION OF PUBLIC UTILITIES' RESPONSE IN SUPPORT OF ROCKY MOUNTAIN POWER'S MOTION TO STRIKE UIEC'S COMMENTS</p>
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Pursuant to R746-100-4, the Division of Public Utilities (Division) files its Response in Support of Rocky Mountain Power's Motion to Strike Comments of UIEC. On November 16, 2016, the Utah Industrial Energy Consumers (UIEC) filed "Comments of UIEC on the Division of Public Utilities' Final Evaluation Report on the EBA Pilot Program" (Comments). On December 13, Rocky Mountain Power filed its "Motion to Strike Comments of Utah Industrial Energy Consumers on the Division of Public Utilities' Final Evaluation Report on the EBA Pilot Program" (Company's Motion). The Division supports the Company's Motion seeking to strike UIEC's Comments. Failure of

the Commission to do so risks denial of due process to the other parties in the docket, and could encourage future disregard of Commission procedures and scheduling orders.

ARGUMENT

A. The Commission's Regulatory Procedures Must Be Respected

Because of its complex nature and short timelines, the regulatory process in general, and the process specifically chosen by the Commission for this docket, is very structured. If a party is allowed to disregard the established procedural process and schedule in this docket, it gives itself undue advantage over other parties and denies those parties due process. UIEC has done so here by submitting facts and opinion through out of time Comments rather than through pre-filed testimony.

UIEC, a longtime participant in Commission proceedings, has disregarded the process and schedule to its advantage. In this docket, the Commission explicitly set a schedule with rounds of testimony, not comments, culminating in a live hearing before the Commission. UIEC has denied the parties the opportunity to challenge the soundness and underpinnings of UIEC's position through rounds of testimony and data requests.

In addition, UIEC's comments are out of time. The June 22, 2016 Scheduling Order clearly stated that parties intending to propose changes to the EBA were to file Direct Testimony on September 21st. By providing Comments on November 16th instead of testimony on September 21st, UIEC obtained three extra weeks for review and analysis, culminating in 20 pages of filed Comments proposing changes to the EBA program. Finally, by filing only Comments, UIEC prevents the parties and the

Commission from exploring and challenging UIEC's position through questioning its witness at the hearing. A party who disregards the Commission's explicit process and scheduling order denies the other parties due process and should not be permitted to benefit from its actions.

2. UIEC's Comments Should Be Stricken

UIEC's Comments should be stricken to prevent UIEC from unjustly benefitting from disregarding the Commission's procedures and its schedule. Allowing the other parties the opportunity at the hearing to respond to UIEC's comments would not remedy the harm because the parties have been denied the ability to challenge UIEC's position through successive rounds of prefiled written testimony and data requests.

Although not titled as such, UIEC's Comments could be treated as "public" comments and given the appropriate weight awarded unsworn public comments. However, treating UIEC's Comments as public comments does not remedy their out of time nature. In addition, because UIEC is a party to this docket, if it intended to provide comments rather than testimony, it seems that UIEC should have filed its comments when testimony was due, and treating the Comments as public comments seems procedurally inconsistent.

For these reasons, the Division submits that striking UIEC's Comments is the appropriate Commission action.

CONCLUSION

For the reasons stated above, the Division supports the Company's Motion and requests that the Commission strike UIEC's comments. Failure to do so could

encourage disregard of the Commission's procedures and schedules, prejudicing other parties, and denying them due process.

RESPECTFULLY SUBMITTED this 23rd day of December 2016.

_____/s/_____
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of Public Utilities