

Mark C. Moench (2284)  
Yvonne R. Hogle (7550)  
Rocky Mountain Power  
One Utah Center  
201 South Main Street, Suite 2300  
Salt Lake City, Utah 84111-4904  
Telephone: (801) 220-4050  
Fax: (801) 220-3299  
mark.moench@pacificorp.com  
yvonne.hogle@pacificorp.com

Gregory B. Monson (2294)  
Stoel Rives LLP  
201 South Main Street, Suite 1100  
Salt Lake City, Utah 84111  
Telephone: (801) 578-6946  
Fax: (801) 578-6999  
gbmonson@stoel.com

*Attorneys for Rocky Mountain Power*

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

---

In the Matter of the Application of Rocky Mountain Power for Approval of its Proposed Energy Cost Adjustment Mechanism

DOCKET NO. 09-035-15

**ROCKY MOUNTAIN POWER'S  
RESPONSE TO UTAH OFFICE OF  
CONSUMER SERVICES' MOTION TO  
AMEND AUGUST 4, 2009  
SCHEDULING ORDER AND TO  
FILINGS OF UTAH INDUSTRIAL  
ENERGY CONSUMERS, SALT LAKE  
COMMUNITY ACTION PROGRAM,  
UAE INTERVENTION GROUP AND  
WESTERN RESOURCE ADVOCATES**

---

Rocky Mountain Power (“Rocky Mountain Power” or the “Company”) hereby responds to the Utah Office of Consumer Services’ (“OCS”) Motion to Amend August 4, 2009 Scheduling Order filed with the Public Service Commission of Utah (“Commission”) August 11, 2009 (“Motion”). The Company also responds to the

joinders in the Motion and responses of the Utah Industrial Energy Consumers (“UIEC”), Salt Lake Community Action Program (“SLCAP”) dated August 18, 2009 and UAE Intervention Group (“UAE”) and Western Resource Advocates (“WRA”) dated August 19, 2009.

### **RESPONSE TO OCS MOTION**

Rocky Mountain Power objects to amending the August 4, 2009 schedule as proposed by the OCS because it would unnecessarily extend surrebuttal testimony deadlines past the end of the year and unduly shorten the preparation time between the date that surrebuttal testimony is due and the hearing scheduled for January 11-14, 2009. In addition, as illustrated by the UIEC, SLCAP, UAE and WRA filings, delaying the deadlines for testimony as requested in the Motion will lead to further requests for delays in the schedule, including requests to delay the hearing. The hearing was already delayed over three weeks from the dates originally arrived at in the scheduling conference, December 16-17, 2009, to accommodate the parties’ workload. It would be inappropriate to postpone the hearing further.

In support of the Motion, the OCS reasons that its new proposed schedule is more typical and accommodates the parties’ workload from other dockets. The OCS does not elaborate on what it means in stating that its proposed schedule is more typical. Intervals between testimony filings vary significantly from one docket to the next depending on the complexity and number of issues and other factors. The intervals in the current schedule in this phase of the case are equal to or longer than the intervals in many other cases. While the ECAM may be an important issue, it is not a particularly complex or novel one, particularly the issue being addressed in Phase I—whether an ECAM is necessary and in the public interest. ECAMs are in effect in almost every other state in

the country and have been for many years, and an ECAM was previously in effect for the Company in Utah.

With regard to the parties' workloads, the OCS's argument is inconsistent with its position in the 2009 general rate case, Docket No. 09-035-23. In that case, the OCS has filed a request that the schedule for the rate design phase of the case be vacated, proposing, instead, that rate design be added to the schedule in Phase I which would *increase* the parties' workload in the general rate case. On the one hand, the OCS requests that the schedule in this docket be extended to accommodate the parties' workload, and, on the other hand, the OCS requests that the schedule for the rate design phase of the 2009 general rate case be shortened, adding to their workload. The OCS's reasoning in this case appears to be inconsistent with its request to shorten the schedule in the 2009 general rate case. In any event, the Commission's scheduling orders in this docket and in the general rate case already noted that the schedules were set to accommodate the parties' workload. No further accommodation is necessary.

#### **RESPONSE TO UIEC, SLCAP, UAE AND WRA FILINGS**

UIEC, SLCAP, UAE and WRA have joined in or responded to the OCS's Motion generally supporting it, but recommending that the schedule be extended even further, including extending the hearing date. Rocky Mountain Power objects to these recommendations.

UIEC recommends that the hearing in this case be postponed for at least two weeks, claiming that "extending the schedule will not disadvantage any party, but would instead allow the parties to more fully address the issues in the ECAM docket, and would allow the Commission additional time to issue the order." UIEC claims that Phase II of this docket "has been indefinitely postponed." At the same time, UIEC notes its concern

“that the Company’s net power cost data will be stale by the time an ECAM could be implemented.”

This argument by UIEC demonstrates why the hearing scheduled in this docket should not be delayed. In the first place, it is misleading to say that Phase II of this docket has been indefinitely postponed. In fact, the Commission simply stated in its August 4, 2009 Scheduling Order that Phase II would be scheduled after the completion of Phase I. This is not an indefinite postponement of Phase II. More importantly, as the Commission is well aware, there is an interplay between the schedule in this docket and that in the general rate case as a result of Utah Code Ann. § 54-7-13.5(2)(b)(iii).

Although no party has yet stated that it will oppose implementation of the ECAM if not approved concurrently with the conclusion of the general rate case, parties have been unwilling to waive their right to make such a claim if they choose to do so after the ECAM is approved.<sup>1</sup> This unwillingness of parties to commit to a position on this issue caused problems in scheduling both the general rate case and this docket. Ultimately, Rocky Mountain Power filed a motion (“Rocky Mountain Power Motion”) requesting that the Commission resolve this issue so that the two cases could be scheduled in a manner that would allow any approved ECAM to be promptly implemented.<sup>2</sup> The intent of implementing an ECAM at the conclusion of a rate case was to identify the amount of power costs in base rates and does not need to occur on the exact date of a rate change from a rate case since all that would occur is the establishment of a deferral account on the Company’s accounting records.

---

<sup>1</sup> See, e.g., Response of the Division of Public Utilities to Motion of Rocky Mountain Power to Implementation of ECAM, Docket No. 09-035-15 (Aug. 13, 2009).

<sup>2</sup> Motion of Rocky Mountain Power for Ruling on Implementation of ECAM, Docket No. 09-035-15 (Jul. 30, 2009).

In issuing its decisions on scheduling in this case and the general rate case and UIEC's motion to bifurcate the general rate case on August 4, 2009, the Commission noted the interplay between the cases and stated that its rulings were designed to accommodate the interests of all parties. Although the Commission has not yet acted on the Rocky Mountain Power Motion, Rocky Mountain Power regarded these rulings and their express recognition of the interplay and their statements that they were balancing and accommodating the interests of the parties as an indication that the Commission believed these orders had made it possible for the ECAM to be approved relative to conclusion of the general rate case in a manner that would satisfy the requirements of section 54-7-13.5(2)(b)(iii).

Now the OCS is attempting to undo that portion of the solution crafted by the Commission in bifurcating the general rate case and the OCS, UIEC, SLCAP, UAE and WRA are attempting to undo that portion of the solution crafted by the Commission in scheduling this docket.<sup>3</sup> The OCS's motion and the positions of UIEC, UAE, SLCAP and WRA in support of it emphasize the importance of the Commission considering the Rocky Mountain Power Motion. If the Commission acts on the Rocky Mountain Power Motion and concludes that any ECAM approved in this proceeding may be implemented within a reasonable period following the final order in the Company's pending general rate case, Docket No. 09-035-23, then the Company would be open to relaxing the schedule in this docket. However, absent such a ruling, it is inappropriate to undo any

---

<sup>3</sup> It is ironic that the OCS and UIEC would join in this effort with respect to this docket when their positions are diametrically opposed with regard to scheduling the general rate case.

aspect of the balanced solution to this issue crafted by the Commission in its August 4, 2009 orders.

### **ROCKY MOUNTAIN POWER RECOMMENDATION**

Rocky Mountain Power would not object to an extension of the testimony filing dates in this case by approximately one week in light of the Commission's decision to move the hearing dates in this case from December 16-17, 2009 to January 11-14, 2010. However, it objects to moving the dates in such a way that (1) the dates interfere with dates scheduled in the general rate case<sup>4</sup> and (2) surrebuttal testimony is due any later than December 21, 2009. Rocky Mountain Power also strenuously objects to any postponement of the hearing dates. With respect to their workloads, as noted above, parties have already received relief as a result of the fact that the Commission granted bifurcation in the general rate case and delayed the hearings in this case by over three weeks. There is no need for further relief.

### **CONCLUSION**

Based on the foregoing, Rocky Mountain Power respectfully requests that the Commission deny the Motion for the reasons set forth above or, alternatively, modify the schedule if at all by extending the deadlines for other parties' testimony, rebuttal and surrebuttal testimony by approximately one week each if the same can be accomplished without interfering with the schedule in Docket No. 09-035-23 and without extending the deadline for filing surrebuttal testimony in this docket past December 21, 2009.

---

<sup>4</sup> SLCAP, UAE and WRA also note that the dates suggested in the OCS's Motion are in conflict with dates set in the general rate case.

RESPECTFULLY SUBMITTED this 19th day of August, 2009.

ROCKY MOUNTAIN POWER

---

Mark C. Moench  
Yvonne R. Hogle  
One Utah Center  
201 South Main Street, Suite 2300  
Salt Lake City, Utah 84111-4904  
Telephone: (801) 220-4050  
Fax: (801) 220-3299  
[Mark.moench@pacificorp.com](mailto:Mark.moench@pacificorp.com)  
[Yvonne.hogle@pacificorp.com](mailto:Yvonne.hogle@pacificorp.com)

Gregory B. Monson  
Stoel Rives LLP

*Attorneys for Rocky Mountain Power*

## CERTIFICATE OF SERVICE

I hereby certify that on this 19<sup>th</sup> day of August, 2009, I caused to be emailed a true and correct copy of the foregoing Rocky Mountain Power's Response to Utah Office of Consumer Services' Motion to Amend August 4, 2009 Scheduling Order and to Filings of Utah Industrial Energy Consumers, Salt Lake Community Action Program, UAE Intervention Group and Western Resource Advocates to the following:

Michael Ginsberg  
Patricia Schmid  
Assistant Attorney Generals  
Heber M. Wells Bldg., Fifth Floor  
160 East 300 South  
Salt Lake City, UT 84111  
[mgingberg@utah.gov](mailto:mgingberg@utah.gov)  
[pschmid@utah.gov](mailto:pschmid@utah.gov)

Paul Proctor  
Assistant Attorney General  
Utah Office of Consumer Services  
Heber M. Wells Bldg., Fifth Floor  
160 East 300 South  
Salt Lake City, UT 84111  
[pproctor@utah.gov](mailto:pproctor@utah.gov)

Dennis Miller  
William Powell  
Philip Powlick  
Division of Public Utilities  
Heber M. Wells Building, 4th Floor  
160 East 300 South  
Salt Lake City, UT 84111  
[dennismiller@utah.gov](mailto:dennismiller@utah.gov)  
[wpowell@utah.gov](mailto:wpowell@utah.gov)  
[philippowlick@utah.gov](mailto:philippowlick@utah.gov)

Cheryl Murray  
Dan Gimble  
Michele Beck  
Office of Consumer Services  
Heber M. Wells Building, 2nd Floor  
160 East 300 South  
Salt Lake City, UT 84111  
[cmurray@utah.gov](mailto:cmurray@utah.gov)  
[dgimble@utah.gov](mailto:dgimble@utah.gov)  
[mbeck@utah.gov](mailto:mbeck@utah.gov)

F. Robert Reeder  
William J. Evans  
Vicki M. Baldwin  
Parsons Behle &, Latimer  
201 South Main Street, Suite 1800  
Salt Lake City, UT 84111  
[bobreeder@parsonsbehle.com](mailto:bobreeder@parsonsbehle.com)  
[bevans@parsonsbehle.com](mailto:bevans@parsonsbehle.com)  
[vbaldwin@parsonsbehle.com](mailto:vbaldwin@parsonsbehle.com)

Kevin Higgins  
Neal Townsend  
Energy Strategies, Inc.  
39 Market Street, Suite 200  
Salt Lake City, UT 84101  
[khiggins@energystrat.com](mailto:khiggins@energystrat.com)  
[ntownsend@energystrat.com](mailto:ntownsend@energystrat.com)

Gary A. Dodge  
Hatch James & Dodge  
10 West Broadway, Suite 400  
Salt Lake City, UT 84101  
[gdodge@hjdlaw.com](mailto:gdodge@hjdlaw.com)

Betsy Wolf  
Utah Ratepayers Alliance  
Salt Lake Community Action Program  
764 South 200 West  
Salt Lake City, UT 84101  
[bwolf@slcap.org](mailto:bwolf@slcap.org)



Peter J. Mattheis  
Eric J. Lacey  
Brickfield, Burchette, Ritts & Stone, P.C.  
1025 Thomas Jefferson Street, N.W.  
800 West Tower  
Washington, D.C. 20007  
[pjm@bbrslaw.com](mailto:pjm@bbrslaw.com)  
[elacey@bbrslaw.com](mailto:elacey@bbrslaw.com)

Holly Rachel Smith  
Russell W. Ray, PLLC  
6212-A Old Franconia Road  
Alexandria, VA 22310  
[holly@raysmithlaw.com](mailto:holly@raysmithlaw.com)

Steve W. Chriss  
Wal-Mart Stores, Inc.  
2001 SE 10th Street  
Bentonville, AR 72716-0550  
[stephen.chriss@wal-mart.com](mailto:stephen.chriss@wal-mart.com)

Steven S. Michel  
Western Resource Advocates  
227 East Palace Avenue, Suite M  
Santa Fe, NM 87501  
[smichel@westernresources.org](mailto:smichel@westernresources.org)

Sarah Wright  
Executive Director  
Utah Clean Energy  
1014 2nd Avenue  
Salt Lake City, UT 84103  
[sarah@utahcleanenergy.org](mailto:sarah@utahcleanenergy.org)  
[kevin@utahcleanenergy.org](mailto:kevin@utahcleanenergy.org)  
[brandy@utahcleanenergy.org](mailto:brandy@utahcleanenergy.org)

Gerald H. Kinghorn  
Jeremy R. Cook  
Parsons Kinghorn Harris, P.C.  
111 East Broadway, 11th Floor  
Salt Lake City, UT 84111  
[ghk@pkhlawyers.com](mailto:ghk@pkhlawyers.com)  
[jrc@pkhlawyers.com](mailto:jrc@pkhlawyers.com)

Mr. Ryan L. Kelly  
Kelly & Bramwell, PC  
Attorneys at Law  
11576 South State Street Bldg. 203  
Draper, UT 84020  
[ryan@kellybramwell.com](mailto:ryan@kellybramwell.com)

Arthur F. Sandack  
Attorney for Petitioner IBEW Local 57  
8 East Broadway, Ste 510  
Salt Lake City, UT 84111  
[asandack@msn.com](mailto:asandack@msn.com)

Nancy Kelly  
Western Resource Advocates  
9463 N. Swallow Rd.  
Pocatello, ID 83201  
[nkelly@westernresources.org](mailto:nkelly@westernresources.org)  
[penny@westernresources.org](mailto:penny@westernresources.org)