

**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. 09-035-23  <b>STIPULATION ON NON-RESIDENTIAL RATE DESIGN- PHASE II</b>
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1. This Stipulation in the Rate Design Phase of Docket 09-035-23 (“Stipulation”) is entered into by and among the parties whose signatures appear on the signature pages hereof (collectively referred to herein as the “Parties”).

**I. INTRODUCTION**

2. The terms and conditions of this Stipulation are set forth herein. The Parties represent that this Stipulation is in the public interest and recommend that the Public Service Commission of Utah (the “Commission”) approve the Stipulation and all of its terms and conditions.

**II. BACKGROUND**

3. On June 23, 2009, Rocky Mountain Power (“Rocky Mountain Power” or “Company”) filed an application, together with revenue requirement, cost of service, rate spread and rate design testimony, requesting approval of an increase in its retail electric utility service rates in Utah in the amount of \$66.9 million, with a return on equity of 11.0 percent.

4. On July 8, 2009, the Utah Industrial Energy Consumers (“UIEC”) filed a Motion to Bifurcate this proceeding into a revenue requirement phase and a cost-of-service, rate spread and rate design phase. On July 23, 2009, Rocky Mountain Power filed a response to UIEC’s Motion

to Bifurcate and, on July 27, 2009, the Utah Association of Energy Users (“UAE”) filed a Joinder in UIEC’s Motion to Bifurcate.

5. On August 4, 2009, the Commission issued a Scheduling Order establishing the procedural schedule for this case, and an Order on UIEC’s Motion to Bifurcate. In its Scheduling Order, the Commission indicated that it would address rate of return, revenue requirement and cost of service in Phase I, and rate design in Phase II. On August 20, 2009, Rocky Mountain Power filed a Request to Establish a Schedule for Rate Design Testimony and Hearing. On September 21, 2009, the Commission issued an Amended Schedule Order Changing Phase II Testimony Filing and Hearing Dates.

6. On February 18, 2010, the Commission issued its order (“Order”) in the case authorizing an increase in rates in the amount of approximately \$32.4 million, a non-uniform percentage increase be applied to certain customers’ bills as a line item for service prior to the Commission’s determination of rate design in Phase II of this docket, and a return on equity of 10.6 percent.

7. On February 22, 2010, intervenors filed direct testimony in the rate design phase of the case.

8. On March 11, 2010, Rocky Mountain Power filed updated direct testimony to update the Company’s previously proposed rate design proposals to reflect the revenue requirement and rate spread ordered by the Commission in this docket.

9. On March 23, 2010, all parties filed rebuttal testimony in the rate design phase of the case.

10. On March 25, 2010, certain parties met for settlement discussions on all non-residential rate design. As a result of the settlement negotiations, the Parties to this Stipulation

have agreed to the rate design of all non-residential schedules. The Parties have not, however, agreed on the residential rate design or decoupling issues in this case.

### **III. TERMS OF STIPULATION.**

Subject to Commission approval and for purposes of this Stipulation only, unless otherwise noted, the Parties agree as follows:

11. Rate Design of All Non Residential Schedules. The Parties agree that the implementation of the rate increase granted to the Company shall be collected from all non-residential schedules as set forth in the stipulated rates attached hereto in Exhibit 1, Column B and Exhibit 2, Column G. These rates collect revenues equal to the rates approved for the non-residential schedules in Schedule 98, Tariff Rider Rate, effective February 18, 2010.

12. Schedule 25. The Parties agree to address the issue of moving customers from Schedule 25 to appropriate general service rate schedules in the next general rate case. The Company agrees to show the impacts of moving affected customers from Schedule 25 to any proposed general service schedules in its filing.

13. Residential Rate Design Not Part of Stipulation. The Parties agree that this Stipulation does not address any issues related to residential rate design or decoupling in this or any other proceeding. The parties further agree that the general terms and conditions in this non-residential rate design stipulation do not apply to any issues or evidence related to residential rate design or decoupling in this or any other proceeding.

14. Schedule in Phase II to Continue. The Parties agree to continue to follow the schedule currently in place in Phase II of this docket, but agree that any filings made pursuant to the schedule will address only residential rate design issues. The Parties further agree to request that the hearing for approval of this Stipulation be held on the same day that is already scheduled

for the rate design phase of the case, or April 12 and 13, 2010. Finally, the Parties agree that, pending Commission approval of the Stipulation, non-residential rate design elements of this case shall be deemed concluded.

#### **IV. GENERAL TERMS AND CONDITIONS**

15. All negotiations related to this Stipulation are privileged and confidential and no Party shall be bound by any position asserted in negotiations. Neither the execution of this Stipulation nor the order adopting this Stipulation shall be deemed to constitute an admission or acknowledgment by any Party of any liability, the validity or invalidity of any claim or defense, the validity or invalidity of any principle or practice, or the basis of an estoppel or waiver by any Party other than with respect to issues resolved by this Stipulation; nor shall they be introduced or used as evidence for any other purpose in a future proceeding by any Party except a proceeding to enforce the approval or terms of this Stipulation.

16. The Parties respectfully request of the Commission that the prefiled testimony on non-residential rate design issues in Phase II of this Docket be admitted into the record without witnesses being called or sworn at the proceeding. The Company, the Division and the OCS each agree to make one or more witnesses available to explain and support this Stipulation to the Commission. Such witnesses will be available for examination. So that the record in this Docket is complete, the Parties may move for admission of evidence, comments, position statements or exhibits that have been filed on the issues resolved by this Stipulation; however, notwithstanding the admission of such documents, the Parties shall support the Commission's approval of the Stipulation and the Commission order approving the Stipulation. As applied to the Division and the OCS, the explanation and support shall be consistent with their statutory authority and responsibility.

17. The Parties agree that if any person challenges the approval of this Stipulation or requests rehearing or reconsideration of any order of the Commission approving this Stipulation, each Party will use its best efforts to support the terms and conditions of the Stipulation. As applied to the Division and OCS, the phrase “use its best efforts” means that they shall do so in a manner consistent with their statutory authority and responsibility. In the event any person seeks judicial review of a Commission order approving this Stipulation, no Party shall take a position in that judicial review opposed to the Stipulation.

18. Except with regard to the obligations of the Parties under the two immediately preceding paragraphs of this Stipulation, this Stipulation shall not be final and binding on the Parties until it has been approved without material change or condition by the Commission. This Stipulation is an integrated whole, and any Party may withdraw from it if it is not approved without material change or condition by the Commission or if the Commission’s approval is rejected or materially conditioned by a reviewing court. If the Commission rejects any part of this Stipulation or imposes any material change or condition on approval of this Stipulation or if the Commission’s approval of this Stipulation is rejected or materially conditioned by a reviewing court, the Parties agree to meet and discuss the applicable Commission or court order within five business days of its issuance and to attempt in good faith to determine if they are willing to modify the Stipulation consistent with the order. No Party shall withdraw from the Stipulation prior to complying with the foregoing sentence. If any Party withdraws from the Stipulation, any Party retains the right to seek additional procedures before the Commission, including cross-examination of witnesses, with respect to issues addressed by the Stipulation and no Party shall be bound or prejudiced by the terms and conditions of the Stipulation.

19. The Parties may execute this Stipulation in counterparts each of which is deemed an original and all of which only constitute one original.

BASED ON THE FOREGOING, the Parties request that the Commission issue an order approving this Stipulation and adopting the terms and conditions of this Stipulation.

Respectfully submitted this 1<sup>st</sup> day of April, 2010.

ROCKY MOUNTAIN POWER

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