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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 Approval of Pole Attachment Agreement between PacifiCorp and TCG Utah	Response of the Division of Public Utilities in support of Motion for Review and Reconsideration  <b>Docket No. 09-035-52</b>
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The following is the response by the Division of Public Utilities (Division or DPU) in support of the Motion for Rehearing and Reconsideration filed by Rocky Mountain Power (Rocky Mountain or Company) and in support thereof the Division states:

1. Rocky Mountain Power is seeking Clarification of the Commission’s Order approving a pole attachment contract between it and TCG Utah. The Order provided that “the company shall ensure that any future negotiated attachment agreements shall be submitted to the Commission in a timely manner and before any pole attachments are installed.” The Company claims that because of existing arrangements with pole users who either have no written contract, have expired contracts, or where no contract can be found with the Company that limiting the installation of new pole attachments prior to obtaining Commission approval of the contract could have the unintended effect of interrupting business relationships that have existed for years.

2. The paragraph, which causes the Company concern, was added because the TCG Utah contract was submitted to the Commission for approval many months after it was executed by the Company and after numerous pole attachments were already in place. The actions of the Company in failing to request approval of the contract was inexcusable, and the Division in its Memorandum to the Commission asked that these contracts be filed in a timely manner and before any pole attachments are installed. The Division further asked that the Company report back to the Commission when they have internal controls in place to ensure that the significant delay in filing contracts like the TCG contract do not occur again. The TCG Utah contract was a new contract and no prior pole attachment business relationship existed.
3. On August 24, 2009, the Division met with representatives of the Company, many independent telephone companies and other joint pole users. These companies outlined the numerous existing relationships the Company has with others, based on contractual relationships outlined by the Company in its Motion. (See Company Petition for Clarification p. 3). The Company is in negotiations with many of these companies for new or revised contracts. The Company is concerned that under the Order new pole attachments cannot occur for these existing companies until the Commission approves the new contracts with these companies.
4. The Division's recommendation was not intended to interrupt existing business relationships but only to get the Company to file these contracts for approval in a timely manner. The Division was not aware of the problems outlined by the Company with its existing pole attachment relationships. Therefore, the Division has no objections to the Motions by the Company to reconsider the offending paragraph.

5. On page 6 of its Motion the Company suggests a proposed modification to the Order that would address its concerns and also would address the untimely filing of the TCG Utah contract. Those modifications would require new contracts with companies like TCG Utah to be filed in a timely manner and before any pole attachments are put in place. The Company's proposal would create three exemptions from the requirement that no new attachments occur by the Company until the Commission approves the new contracts. These exceptions are for companies that have existing relationships with the Company and are currently doing business with the Company.
6. The Division has no objections to the proposed changes to the Commission's Order suggested by the Company. However, the Division would also suggest the addition of a requirement that:
  - a. As new contracts are negotiated with companies that Rocky Mountain Power has an existing relationship with, the Company should be required to submit those contracts under the Commission's rules immediately for Commission approval;
  - b. That the Company file with the Commission and the Division a report detailing the status of the existing arrangements for each company Rocky Mountain Power contemplates as a qualifying exemption and a schedule for placing under contract those existing companies that have unclear contractual relationships with the Company that they have outlined as the exceptions. That report should be filed with the Division and Commission within 60 days.

Respectfully submitted this \_\_\_\_\_ day of September, 2009.

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Michael Ginsberg  
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Attorneys for the Division of Public Utilities

## CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the Response of the Division of Public Utilities to Motion of Rocky Mountain Power to Implementation of ECAM was sent by electronic mail and mailed by U.S. Mail, postage prepaid, to the following on September \_\_\_\_\_, 2009:

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