



UTAH PUBLIC
SERVICE COMMISSION

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April 15, 2011

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D. MATTHEW MOSCON
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VIA U.S. MAIL AND E-MAIL (DREXCLARK@UTAH.GOV)

David Clark
Utah Public Service Commission
Heber M. Wells Building
160 East 300 South
Salt Lake City, UT 84114

Re: **Docket No. 10-035-124**
UAE Motion to Compel/Status Report

Dear Mr. Clark:

Pursuant to the interim Order of the Commission in the above captioned matter, and at your request, I submit the following report:

Rocky Mountain Power will produce the following to the UAE before close of business today:

1. A CD with approximately 40,000-50,000 pages of documents (only a subset of which are designated as Confidential) constituting the bulk of all arbitration documents and data regarding the Hunter 2 Plant; and
2. A CD with a smaller portion of documents that Rocky Mountain Power deems Highly Confidential, or "Confidential-Privileged" as defined in the federal court proceeding.

After these two CD's are produced, the only documents covered by UAE Data Request 2.1 that will not have been produced today are:

- a. A collection of fewer than 10 documents that Rocky Mountain Power deems attorney client privileged;
- b. The actual arbitration exhibits. In contrast to what may have been said at the hearing, the exhibits themselves have never been reduced to CD. However, Rocky Mountain Power has delivered these binders to a copy service for transfer onto CD. Therefore, a third CD of exhibits will be delivered to UAE by close of business Monday;



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- c. A subset of the pleading documents and other papers filed and served in the arbitration. A number of the reports and the pre-hearing briefs contained exhibits that were not reduced to an electronic file. The copy service will be scanning those exhibits in conjunction with scanning the arbitration exhibits to be delivered to UAE by close of business Monday; and
- d. The actual arbitration award.

As pertains to the documents deemed attorney client privileged, Rocky Mountain Power is willing to meet with Mr. Dodge at a time mutually agreeable to the parties between today and Tuesday to discuss the basis for the claim of attorney client privilege. Alternatively, by copy to Mr. Dodge, I will propose to send a privilege log to Mr. Dodge on Monday and will phone him to see if a meeting is necessary.

Finally, as indicated in your ruling, all documents designated as Confidential are deemed produced under the protection of the Commission's Protective Order, and under the protection of Administrative Rule R 746-100-16, and the Highly Confidential documents are further protected by the provisions of subsection (1)(e) of that Rule. Moreover, Rocky Mountain Power, as stated at the hearing, retains the right to claim privilege on any document inadvertently disclosed in this production that may be privileged and does not waive any privilege through inadvertent production. Also, Rocky Mountain Power retains its right to "claw back" any document not properly designated Confidential or Highly Confidential, and to so designate any document that has not been so designated in this extremely rushed production.

Thank you for your assistance to the parties in resolving this matter.

Sincerely,



D. Matthew Moscon

DMM:rdw

Enclosures

cc: Yvonne Hogle, Esq. (via e-mail)
Philip D. Dracht, Esq. (via e-mail)
Gary A. Dodge, Esq. (via e-mail)
Paul H. Proctor, Esq. (via e-mail)