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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	Docket No. 10-035-124 Response of the Division of Public Utilities to Utah Rural Telecom Association's Motions
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On May 3, 2011, the Utah Rural Telecom Association (URTA) filed its Motion to Dismiss, Motion to Strike, or Alternatively, Motion to Open a Separate Rulemaking Docket (Motions). On May 4, 2011, the Utah Public Service Commission (Commission) issued an order shortening the time for response and providing notice of oral argument with regard to the Motions (Order). Pursuant to the Order, the Utah Division of Public Utilities (Division) files its requests that the Motions be denied as discussed below. Note that the Division has not taken a position concerning the merits of the Company's pole attachment position, and is still analyzing the same. The Division also requests the Commission retain the direct testimony due date if the Commission cannot accommodate URTA's request for an expedited decision.

Rocky Mountain Power's (Company) decision in its rate case filing to include pole attachment testimony including changes to charges presents a rather unique situation. It is believed that pole attachment testimony, with associated revenue increases, has not been filed in

at least recent Company rate cases. Because the pole attachment testimony and revenues were specifically and extensively addressed by the Company in this docket, certain telecom companies have expressed heightened interest in the rate case, and some have sought and been granted intervention, along with the usual parties who participate in the Company's rate cases. In its Order, the Commission noted:

The schedule for this proceeding was issued February 23, 2011. It is relatively complex and is the product of extensive discussion among the parties. It involves five overlapping phases. Its pace is dictated by the statutory mandate for a decision by September 21, 2011. Its structure was substantially influenced by the availabilities of expert witnesses and counsel, and parties' desires to stagger testimony filing deadlines.¹

It is against this backdrop that URTA's Motions must be considered.

The Division's responsibilities and objectives are set forth in Utah Code Ann. § 54-4a-1 et seq., and it is in accordance with these responsibilities and objectives that the Division files its Response. The Division recommends that revenues and expenses included by a company in its rate case filings be adjudicated uniformly through accounting adjustments to allow or disallow the revenue or expense, or a portion thereof. If individual items may be removed upon motion, future rate case filings likely will be met with a bevy of motions to dismiss certain items, for reasons legal and factual, before direct testimony has even been filed. Thus, the Division urges the Commission to deny the Motions.

The Division recognizes that including pole attachment fee changes in a rate case filing very well may affect other pole owners and users, and, thus, a rate case may not be the most appropriate forum through which to change pole attachment rates. The Commission may wish to open a rulemaking docket in which to address pole attachment issues.

¹ May 4, 2011 order at p. 1.

Importantly, if the Commission is unable to accommodate URTA's request for a decision on the Motions prior to the due date for direct testimony, the Division urges the Commission to deny URTA's request to extend the direct testimony filing deadline. As the Commission noted in its May 4, 2011 order, and as those present at the scheduling conference can attest, establishing the path for this rate case was very difficult, and, after lengthy discussion, the dates were chosen because of the needs of the parties and of the Commission, as constrained by the statutory 240-day decision requirement.

Although the scheduling order in this case was issued February 23, 2011, URTA only now chose to file its Motions and request for delay. URTA's belated decision to file its Motions and request for delay should not be allowed to disrupt the carefully established and balanced schedule in this docket. URTA chose to file at this time, and, if the Commission is unable to accommodate URTA's request for an expedited decision prior to the May 16, 2011 deadline, URTA should be prepared to file its testimony, if any, addressing pole attachment issues by May 16th, as will the rest of the parties to this proceeding.

The Division believes that its requests for the Commission to deny the Motions and to consider opening a separate rulemaking docket for pole attachment issues are not inconsistent. The Division's requests allow the rate case to proceed as scheduled, allowing all parties to decide if they want to address the appropriateness and accuracy of the pole attachment revenue requests and associated items in the rate case and/or participate in a separate rulemaking docket applicable to the broader universe of those who provide poles, and those who attach to them, if the Commission chooses to open such a rulemaking docket.

Thus, the Division requests that the Commission deny the Motions, and also deny the request for extension of the direct testimony filing deadline if no decision is issued prior to May 16, 2011 as sought by URTA. URTA, like all other parties to the case, should be prepared to file its direct testimony regarding pole attachment issues on May 16, 2011, as established by the scheduling order set February 23, 2011, if the Commission does not render a decision by URTA's requested date.

Respectfully submitted this 10th day of May, 2011.

/s/ _____
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CERTIFICATE OF SERVICE

I hereby certify that on May 10, 2011, I caused a true and correct copy of the Response of the Division of Public Utilities to Utah Rural Telecom Association's Motions filed in Docket No. 10-035-124 to be emailed to the following:

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