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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 Regulations	Docket No. 10-035-124 RESPONSE OF THE DIVISION OF PUBLIC UTILITIES TO UIEC'S MOTION CHALLENGING COMPLETENESS OF FILING AND PROPOSED TEST YEAR
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In accordance with the request of the Public Service Commission (Commission) for an expedited response to UIEC's Motion Challenging Completeness of Filing and Proposed Test Year filed on February 7, 2011 (UIEC Motion), the Division of Public Utilities (Division) files this response opposing the UIEC Motion. The UIEC Motion argues that Rocky Mountain Power's (Company) filing is "materially incomplete"¹ and that the test year should not be as filed by the Company, but instead be the calendar year 2011. The arguments raised are unpersuasive at this stage, and the Commission should deny the UIEC Motion.

UIEC's arguments contesting the completeness of the Company's filing are unconvincing, and raise issues that should be addressed later in the proceeding. UIEC contends that the Company's filing is materially incomplete, citing, inter alia, the Commission's rule addressing complete filings (Complete Filing Rule)² and orders and cases addressing the

¹ See UIEC Motion at p. 2.

² R746-700-1 to R746-700-51.

Company's burden of proof related to rate case filings.³ UIEC states that it is not challenging whether the "technical requirements of R746-700-1 et seq. have not been met," but is instead challenging the substance of the material filed in conformance to those rules.⁴

UIEC's arguments contesting the completeness of the filing are without merit. The deficiencies claimed by UIEC can be remedied through adjustments to the Company's proposed test year or, in the case of updates, can be handled on a case-by-case basis in future testimony. Unlike the situation before the Commission in Docket No. 08-035-38, here the claimed deficiencies do not render the filing incapable of being adequately analyzed. Additionally, arguments regarding the sufficiency of the evidence commonly are addressed by the Commission in its order on the merits of the filed rate case.

In effect, the Complete Filing Rule requires submission of certain categories of information. Reading the Complete Filing Rule discloses that the substance and persuasiveness of the material is not what is at issue, but instead whether the filing provides enumerated types of information. As demonstrated by the Division's memo filed February 7, 2011 recommending that the Company's filing be treated as complete, the Company's filing contains adequate types of information to comply with the Complete Filing Rule. Adjustments and updates can be handled on a case by case basis, as the Commission has done in the past.

It is true that the Complete Filing Rule does not alter the Company's burden of proof in its filed rate case. Both the Commission and the Utah Supreme Court have addressed the Company's burden of proof and related issues. As UIEC states, the Commission noted that the Company has access to the best information regarding its operations.⁵ The Utah Supreme Court has stressed that the Company must persuade the decision maker by sufficient evidence that the

³ See UIEC Motion at pp. 2-3.

⁴ See *id.* at p. 3.

⁵ *Id.* at p. 3.

rates and charges sought are just and reasonable.⁶ Sufficiency and persuasiveness of information from the Company and intervenors is challenged throughout the rate case proceedings by various means, including data requests and cross examination.

Additionally, while the Division is not taking a position on the test year at this time, UIEC's arguments are unpersuasive. Test year issues should be resolved in another portion of this case, not in response to UIEC's motion. UAE has communicated its intention to challenge the test year in this case. Addressing test year issues in that context provides a better opportunity to evaluate information pertaining to the appropriateness of the Company's filed test year and alternative test years.

In conclusion, the Division urges the Commission to find that the arguments raised by the UIEC Motion are without merit, and that the requested relief is not appropriate.

Respectfully submitted this 15th day of February, 2011.

/s/ Patricia E. Schmid

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⁶ Id. at p. 2.

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of February 2011, I caused to be e-mailed, a true and correct copy of the foregoing RESPONSE OF THE DIVISION OF PUBLIC UTILITIES TO UIEC’S MOTION CHALLENGING COMPLETENESS OF FILING AND PROPOSED TEST YEAR to:

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