



**I. APPLICABLE PROVISIONS OF COMMISSION RULES AND TARIFF**

**1. Electric Service Schedule No. 6:**

Application: This Schedule is for alternating current, single or three phase electric Service supplied at Company's available voltage, but less than 46,000 volts through a single point of delivery, for all service required on the Customer's premises.

**2. Electric Service Schedule No. 15:**

Application: To lighting service provided to municipalities or agencies of municipal, county, state or federal governments for Traffic and Other Signal System Service, and for Metered Outdoor Nighttime Lighting Service, owned by the Customer.

**3. Electric Service Regulation No. 3, Section 4:**

Where optional Electric Service Schedules are available, the Company will assist the Customer, upon request, in the selection of the Electric Service Schedule most favorable for his/her service requirements. The recommendation to the Customer will be based on his/her statement of the class of service required, the amount and manner of use, and other pertinent information. The Company shall not be liable for any errors with respect to the information received from the customer. A Customer being billed under one or two or more optional Electric Service Schedules applicable to his/her class of service may elect to be billed on any other applicable Electric Service Schedule by notifying the Company in writing and the Company will bill the Customer under such elected Schedule from and after the date of the next meter reading.

**4. Commission Rule R746-310-9:**

Billing under any of the following conditions constitutes overbilling. . . . incorrect service classification, provided that the information supplied by the customer was not erroneous or deficient;

5. **Electric Service Regulation No. 8, Section 9(a), Standards and Criteria for**

**Overbilling:**

Billing under any of the following conditions constitutes overbilling. . . .

(3) incorrect service classification, provided that the information supplied by the customer was not erroneous or deficient;

**II. BACKGROUND**

1. On or about October 23, 2007, a request was made by Mr. Michael Busch P.E., an engineer with Cache Valley Electric on behalf of Menlove Toyota, aka Menlove Dodge Toyota<sup>1</sup>, (“Menlove”) to the Company for an overhead to underground conversion of line and to install a 750 KVA pad mounted transformer to provide services at or near a commercial operation at 2380 S. Highway 89, Bountiful Utah.

2. Commercial and Industrial customers provide the Company with information detailing the specifications of the equipment being installed, the expected uses of the property and equipment, and any special requests, commonly known as a load sheet. The load sheet is the basis of designing an electrical distribution system sufficient to meet the electrical requirements of the customer’s requested load. The Company’s practice is to obtain a separate load sheet for each service classification requested.

3. The load sheet included as Exhibit 1 to the Complaint was provided to the Company by Mr. Busch (the “Load Sheet”) requesting three meters for electrical service to a 67,000 square foot office, a 32,500 square foot shop, and 32,500 square feet of retail space. The Load Sheet neither separates the lighting load, identified as 200 kW, between indoor and outdoor lighting nor identifies that one of the three meters is exclusively for outdoor nighttime lighting.

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<sup>1</sup> Complainant, Menlove-Johnson, Inc. and the signer of the contract attached to the Complaint as Exhibit 3, Menlove Toyota, are not disputed to be the same entity.

4. Rocky Mountain Power has no record of receiving a one-line diagram. In addition, at the time of the request, Rocky Mountain Power did not require customers to provide a one-line diagram pursuant to the Electric Service Requirements (“ESR”) attached as **Exhibit A1**.<sup>2</sup>

5. Rocky Mountain Power did receive a site plan and profile, attached as **Exhibit B**, indicating that three buildings would be constructed on the premises. The location or purpose of meters is not identified. Rocky Mountain Power’s estimator received no information to determine that rather than using three meters for three buildings, Menlove intended one meter to be used for outdoor lighting. In the Company’s experience, almost all commercial customers have outdoor lighting and in 2007, very few customers went to the expense to install separate meters for such lighting.

6. Based on the information provided by Menlove, Electric Service Schedule No.6 was identified as an applicable Electric Service Schedule for all service required on the premises. Rocky Mountain Power had no indication that Menlove desired to use an optional rate schedule, such as Electric Service Schedule No. 6a, for its outdoor nighttime lighting rather than the generally applicable Electric Service Schedule No. 6.

7. The information contained in the Load Sheet was incorporated into one contract for retail electric service for all three meters. The General Service Contract between Menlove and the Company was executed by Menlove on or about January 9, 2008 (the “Contract”). The Contract is attached to the Complaint as Exhibit 3. Section 4 of the Contract states: “Billings will be based on Rate Schedule No. 6, and superseding schedules.” Electric Service Schedule No. 6 is still effective.

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<sup>2</sup> The ESR has since been revised to require customers to provide a one-line diagram. **Exhibit A2**.

8. The electric meters were installed on October 10, 2008 and the Company began billing Menlove, as contractually agreed, on Electric Service Schedule No.6.

9. More than two years later, on or about November 17, 2010, Mr. Busch contacted the Company on behalf of Menlove. Mr. Busch informed the company that one meter was serving only outdoor nighttime lighting and requested the rate schedule for that meter to be changed to Electric Service Schedule No. 15. He did not request any change for the other two meters covered by the Contract.

10. The Company considered Menlove's request as a request to be placed on an optional Electric Service Schedules pursuant to Electric Service Regulation No. 3, Section 4. The Company reviewed the applicability of Electric Service Schedule No. 15 to Menlove's outdoor nighttime lighting. The Company determined that although Electric Service Schedule No. 15 was not intended for non-municipal outdoor nighttime lighting<sup>3</sup>, commercial customers with separately metered outdoor nighttime lighting had been placed in this service classification. The Company found an estimated 21 percent of the approximately 2,774 customers then-listed on Electric Service Schedule No. 15 were non- governmental customers. The Company determined it would grant Menlove's request to avoid disparate treatment compared to similarly situated customers.

11. The Company changed the service classification of Menlove's metered outdoor nighttime lighting from Electric Service Schedule No. 6 to Electric Service

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<sup>3</sup> Prior to the creation of Electric Service Schedule No. 15, Metered Outdoor Nighttime Lighting was addressed in Electric Service Schedule No. 12. Electric Service Schedule No. 12 was changed to standardize the treatment of streetlighting across PacifiCorp states. Electric Service Schedule No. 15 was created for all of the governmental, non-streetlighting uses formerly classified under Electric Service Schedule No. 12. The Company structured the optional rate for outdoor nighttime lighting charges in order to benefit seasonally operated municipal ballparks according to the letter attached as **Exhibit C**.

Schedule No. 15 on January 20, 2011. The remaining two meters covered by the Contract remain on Electric Service Schedule No. 6.

12. In February 2011, the Company, through its analyst Ms. Braithwaite, advised Menlove the Company would be willing to make the service classification for that meter effective back to the date of Menlove's request, November 17, 2010, rather than from the date of the next meter reading as specified under Electric Service Regulation No. 3, Section 4, and would be willing to refund the difference between the two rates for the time that had elapsed between the date of Menlove's request and the date the rate was actually changed. The email from Braithwaite to Johnson dated March 31, 2011 is attached as **Exhibit D**. Menlove declined the offer.

13. During this time, Menlove assigned the Contract together with "all advance payments, rights and privileges included thereto" to Performance Automotive Utah LLC dba Toyota Bountiful on or about March 21, 2011. A copy of the assignment is included as **Exhibit E**.

14. Menlove requested a refund based on Electric Service Schedule 15 backdated to October 10, 2008 through an informal complaint filed with the Division of Public Utilities on May 9, 2011.

15. The Company responded to the informal complaint by again offering a billing adjustment to reflect Electric Service Schedule 15 between November 17, 2010 and January 20, 2011 but declined to make it effective back to October 10, 2008. A copy of the correspondence is attached as **Exhibit F**. Menlove declined the Company's offer.

16. On July 27, 2011, the Division of Public Utilities conducted mediation between the Company, and Menlove. Again, no resolution was found.

17. The formal Complaint was filed on October 13, 2011.

## II. ANSWER

Rocky Mountain Power responds to the specific allegations in the Complaint as follows:

1. Rocky Mountain Power has insufficient information to admit or deny the allegations contained in the first two sentences of paragraph 1 of the Complaint; therefore the same are denied. Rocky Mountain Power admits that Rocky Mountain Power received a copy of the Commercial/Industrial Information Sheet (“Load Sheet”) attached to the Complaint as Exhibit “1”. Rocky Mountain Power denies requesting or receiving a copy of the one-line diagram attached to the Complaint as Exhibit “2”. All other allegations in paragraph 1 are denied.

2. Rocky Mountain Power admits the Load Sheet identified a request for three separate meters but affirmatively states the Load Sheet contains insufficient information to determine that one of the three meters was specifically limited to outdoor nighttime lighting. All other allegations in paragraph 2 are denied.

3. Rocky Mountain Power admits the allegations in the first two sentences of paragraph 3. Rocky Mountain Power admits the only service classification specifically listed on the Contract was Electric Service Schedule No. 6. Rocky Mountain Power denies the “Contract Minimum Billing” section is the only section of the Contract addressing the rates or charges to be assessed. Rocky Mountain Power affirmatively states that other sections refer to the rates or charges to be assessed. For example, section 6 allows the Company to impose late charges, or require a deposit.

4. Rocky Mountain Power denies the allegations in paragraph 4. Rocky Mountain Power affirmatively states that service under the Contract was appropriately

placed on Electric Service Schedule No. 6 and that no billing for firm power and energy occurred prior to the October 10, 2008 meter installation.

5. The first sentence of paragraph 5 restates provisions of Commission Rule R746-310-9 and Electric Service Regulation No. 8 that speak for themselves. Rocky Mountain Power denies all other allegations. Rocky Mountain Power affirmatively states that Electric Service Schedule No. 6 is an applicable service classification. Menlove failed to provide sufficient information for Rocky Mountain Power to determine that one meter was intended to serve a circuit dedicated to outdoor nighttime lighting, failed to provide a separate Load Sheet for the lighting load it desired to be separated from the general building lighting load, and failed to request an optional service classification for that meter.

6. The first sentence of paragraph 6 restates provisions of Electric Service Regulation No.3 that speaks for itself. Rocky Mountain Power denies that Menlove relied upon and requested assistance from Rocky Mountain Power in determining the appropriate rate schedules and service classifications for its loads. Rocky Mountain Power denies all other allegations.

7. Paragraph 7 restates provisions of Utah Code Section 54-7-20 that speaks for itself.

8. Rocky Mountain Power denies the allegations in paragraph 8 and denies that Menlove is entitled to the relief requested. Rocky Mountain Power specifically denies that Menlove was charged discriminatory rates. Rocky Mountain Power denies that it has any obligation to backdate the effectiveness of Electric Service Schedule No.

15, since Electric Service Schedule No. 15 did not exist at the time.<sup>4</sup> Without admitting liability, Rocky Mountain Power affirmatively states any refund would be payable to Performance Automotive Utah, LLC dba Toyota Bountiful.

9. Rocky Mountain Power denies the allegations in paragraph 9.

10. Rocky Mountain Power admits that Menlove filed an informal complaint with the Division of Public Utilities (“DPU”) but denies that the DPU made any finding of improper, unlawful, or discriminatory conduct by Rocky Mountain Power. Rocky Mountain Power denies all other allegations. Rocky Mountain Power affirmatively states that, as settlement of disputed claims, it offered a refund backdated to the date that Menlove requested its outdoor nighttime lighting to be placed on an alternate rate schedule, rather than “from and after the date of the next meter reading” as specified under Electric Service Schedule No. 3, Section 4.

11. To the extent not expressly admitted herein, Rocky Mountain Power denies each and every allegation of the Complaint.

## **DEFENSES**

### **First Defense**

The Complaint fails to state a claim against Rocky Mountain Power upon which relief can be granted.

### **Second Defense**

The Complaint fails to state facts sufficient to support a claim upon which relief can be granted against Rocky Mountain Power.

### **Third Defense**

The Complaint fails to join an indispensable party.

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<sup>4</sup> Electric Service Schedule No. 15 became effective on October 10, 2008.

**Fourth Defense**

Menlove's claims are barred in whole or in part by its failure to mitigate.

**Fifth Defense**

Menlove's claims are barred in whole or in part by the doctrines of estoppel and waiver.

**Sixth Defense**

Menlove's claims are barred by the doctrine of laches.

**Seventh Defense**

Rocky Mountain Power asserts that it may have additional defenses not now known to it, but which may be discovered during the course of these proceedings. Rocky Mountain Power does not waive such defenses, and specifically asserts them hereby, reserving the right to amend and to plead other defenses as they become known.

**CONCLUSION**

WHEREFORE having fully answered Complainant's complaint and finding no violation of law, Commission rules, or Company tariffs to base an award of the relief requested, the Company prays that Menlove take nothing by way of the Complaint, that the Complaint be dismissed with prejudice, and for such other relief as the Commission may determine.

Dated this 9<sup>th</sup> day of November 2011,

Respectfully submitted,

By Barbara Ishimatsu  
Barbara Ishimatsu

*Attorney for Rocky Mountain Power*

## CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing **ANSWER OF PACIFICORP** to be served upon the following by electronic mail or U.S. postage to the addresses shown below on November 10, 2011:

Gary A. Dodge  
Attorney for Menlove-Johnson, Inc.  
HATCH JAMES & DODGE  
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Salt Lake City, UT 84101  
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Paul Proctor  
Office of Consumer Services  
Heber M. Wells Bldg., Fifth Floor  
160 East 300 South  
Salt Lake City, UT 84111  
[pproctor@utah.gov](mailto:pproctor@utah.gov)

Cheryl Murray  
Dan Gimble  
Michele Beck  
Office of Consumer Services  
160 East 300 South, 2<sup>nd</sup> Floor  
Salt Lake City, UT 84111  
[cmurray@utah.gov](mailto:cmurray@utah.gov)  
[dgimble@utah.gov](mailto:dgimble@utah.gov)  
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[wpowell@utah.gov](mailto:wpowell@utah.gov)  
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[pschmid@utah.gov](mailto:pschmid@utah.gov)

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Ariel Son  
Coordinator, Regulatory Operations

# Exhibit A1

## 2.4 Electric Service Requirement Agreement

Following the application for service, a Power Company representative will contact the customer to coordinate a site meeting and complete an Electric Service Requirement Agreement.

The customer should be prepared to supply a plot plan which shows the preferred service and meter location with requests for service. Commercial or industrial applicants shall provide all load information including lighting, water heating, cooking, space heating, air conditioning, and motor load. Sufficient information on equipment operations that estimate the kilowatt demand should also be included.

Upon request, the Power Company will provide assistance with service requirements and problems relative to electric energy utilization for new, existing, and reconstructed installations.

If changes in the Electric Service Requirement Agreement are required, applicants should contact the Power Company immediately to discuss alternative arrangements.

## 2.5 Permits

Local ordinances or state laws require applicants to obtain appropriate permits before the Power Company establishes service. This may include approval of an electrical installation by the electrical inspection authority. Approval for service will be granted only after all necessary permits have been obtained.

## Exhibit A2

## 2.4 Electric Service Requirement Agreement

Following the application for service, the Power Company representative will contact the customer to coordinate a site meeting. Customers should be prepared to supply documentation on ownership of the property, and a legal description of the property. Customers shall provide a plot plan which shows the preferred service and meter locations. For new subdivisions, a municipally approved plat map and CAD drawing(s) shall be submitted to the Power Company representative.

Non-residential applicants shall also indicate the secondary voltage requested and shall provide all load information (on Power Company load sheets) including lighting, water heating, cooking, space heating, air conditioning (HVAC in tons), and motor loads; plot and site plans; and electrical one-line drawings.

The customer will be given a proposed Electric Service Requirements Agreement (ESRA) from a Power Company representative during the design process, to be signed by the customer or their designee.

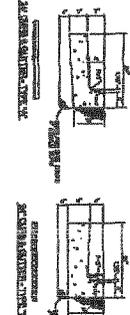
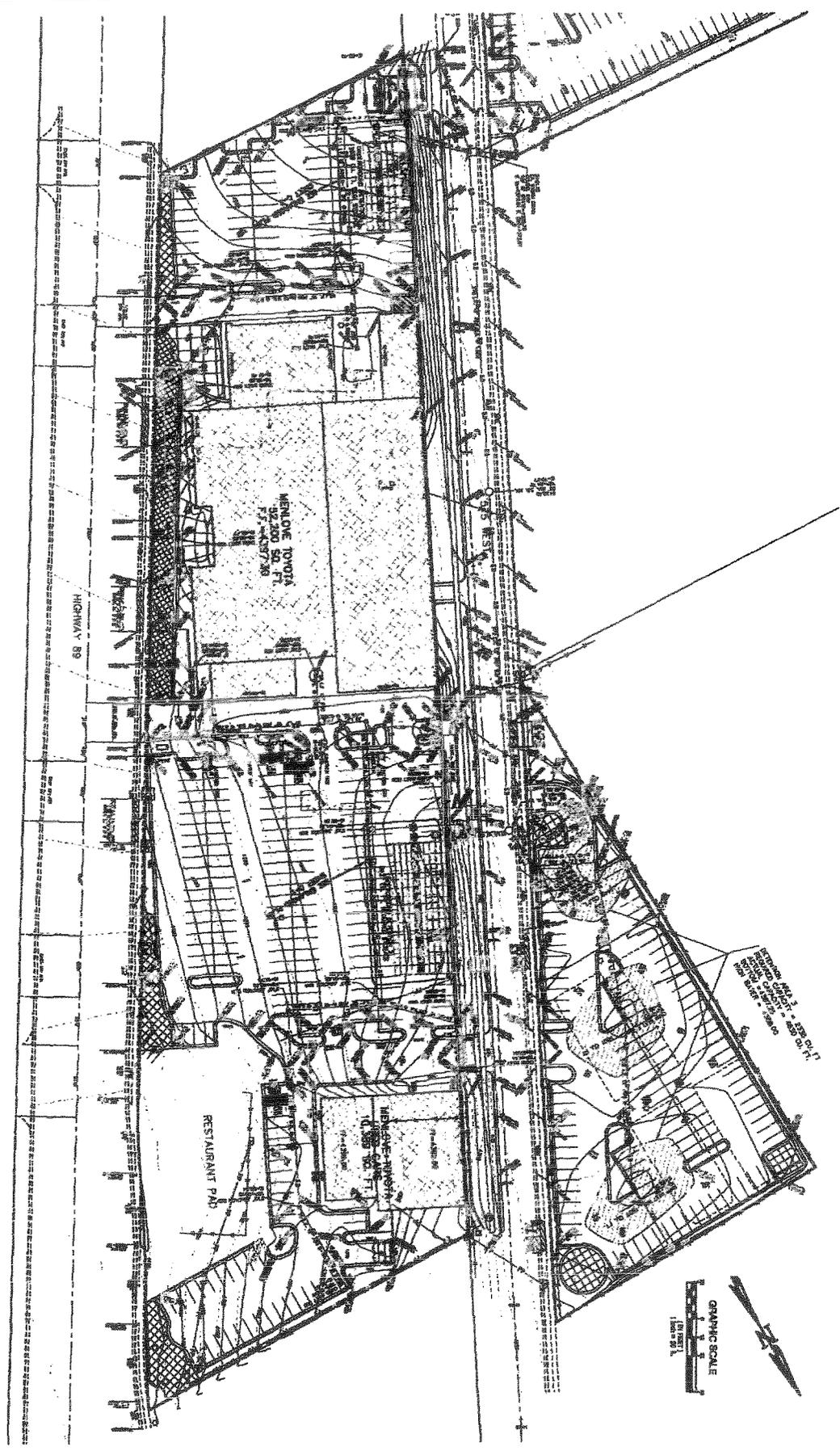
If changes in the ESRA are required, those changes must be communicated and approved by a Power Company Estimator or Manager.

Upon request, the Power Company will provide assistance with the service requirements and problems relative to electric energy utilization for new, existing, and reconstructed installations.

## 2.5 Permits

Local ordinances or state laws require applicants to obtain appropriate permits before the Power Company establishes service. This may include approval of an electrical installation by the electrical inspection authority. Approval for service will be granted only after all necessary permits have been obtained.

## Exhibit B



**NOTES:**

1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
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**LEGEND:**

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# Exhibit C



GREGORY, Michael - 1\*\*  
Room 1108

TO Utah Rate FROM C. B. Rickett DATE July 9, 1987  
Book Holders S. A. Young *SAY*

SUBJECT **Metered Outdoor Nighttime Lighting - Schedule No. 12**

Attached is a copy of First Revised Sheet No. 12, which now provides for **Metered Outdoor Nighttime Lighting (Ballpark Lighting)**. On July 8, 1987, the Utah Commission accepted UP&L's proposal for a special rate for outside lighting which requires usage from dusk to dawn (nighttime hours). It is intended that incidental lighting such as rest room or concession stands should be included on this rate; however, all other requirements should be served under the appropriate rate schedule. This service should be supplied and metered through a separate circuit.

Note that the new rate was made effective retroactive to May 1, 1987. **The Commission has determined that it is an interim rate subject to change.** They have also ordered UP&L to provide a monthly report of those customers choosing to take service under this new rate. In order to comply, it is necessary for Districts to forward a monthly list of all customers, addresses, and account numbers of those connected or converted to this rate to: Pricing Administration Section, General Office, Room 1108.

The new rate is optional, and customers choosing this alternative may return to Schedule No. 6 after one season. The rate may not be beneficial to all customers; consequently, providing rate comparisons to the customer before he elects to switch to this rate may be helpful. The new rate includes an **annual** customer charge of \$73.00, a monthly customer charge of \$6.25, an energy charge of 6.5349 cents per kWh, and an **annual facility charge** of \$11.00 per kW based on the maximum kW used during the year.

Please update your currently effective PSCU Tariff No. 33 by replacing First Revised Electric Service Schedule No. 12.

SAY/lw

Attachment

UTAH POWER & LIGHT COMPANY

P.S.C.U. No. 33

ELECTRIC SERVICE

SCHEDULE NO. 12

STATE OF UTAH

Street Lighting, Traffic and Other  
Signal System Service, and Metered  
Outdoor Nighttime Lighting Service  
Customer-Owned System

**AVAILABILITY:** (1) Street Lighting including Incandescent lamps, fluorescent lamps and mercury vapor lamps -- at any point on Company's interconnected system for Customers taking service under the Schedule as of its effective date.

Street Lighting with Sodium vapor high intensity discharge lamps of nominal initial lumen rating of 5,600, 9,500, 16,000, 27,500, and 50,000 lumens - at any point on Company's interconnected system.

(2) Traffic and Other Signal System Service at any point on the Company's interconnected system.

(3) Metered Outdoor Nighttime Lighting Service at any point on the Company's interconnected system.

**APPLICATION:** This Schedule is for Street Lighting Service required for the lighting of public streets, alleys, thoroughfares and public grounds by standard incandescent metallic filament, sodium vapor, mercury vapor or fluorescent lamps, and for Traffic and Other Signal System Service, and for Metered Outdoor Nighttime Lighting Service, where the systems are owned by the Customers.

The electric service provided for Traffic and Other Signal System Service and for Metered Outdoor Nighttime Lighting Service shall be single or three phase alternating current at secondary voltage levels through metered installations.

**MONTHLY BILL:**

**Rate:**

(1) **Street Lighting** (Computer Code 12)

Nominal Lamp Rating:

<u>Initial Lumens</u>	<u>Watts</u>	<u>Per Lamp</u>
Incandescent Lamps:		
2,500 or less	189	\$ 6.62
4,000	295	\$ 8.97
6,000	405	\$11.35
Mercury Vapor Lamps:		
4,000	100	\$ 3.40
7,000	175	\$ 5.12
10,000	250	\$ 6.65
20,000	400	\$ 9.74
37,000	700	\$16.82
54,000	1,000	\$23.81
Sodium Vapor Lamps:		
5,600 high intensity discharge	70	\$ 3.00
9,500 high intensity discharge	100	\$ 3.95
16,000 high intensity discharge	150	\$ 4.79
27,500 high intensity discharge	250	\$ 7.03
50,000 high intensity discharge	400	\$10.22

UTAH POWER & LIGHT COMPANY

P.S.C.U. No. 33

Fluorescent Lamps:

21,800 per 2-lamp luminaire	320 per luminaire	\$10.18 per luminaire
43,600 per 4-lamp luminaire	640 per luminaire	\$18.62 per luminaire

Special Burning-hour Service

Dawn to Dawn (24 hour Service)

Sodium Vapor Lamps:

5,600 HPS	70	\$ 6.47
50,000 HPS	400	\$26.49

Dawn to Dusk (Daylight Service Only)

Sodium Vapor Lamps:

50,000	400	\$18.63
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Dusk to Midnight

The rate for dusk to midnight burning will be 85% of the rate for dusk to dawn burning.

(2) Traffic and Other Signal Systems (Computer Code 104)

Customer Charge:

\$3.61 per service connection

Energy Rate:

5.2211¢ per kWh

Minimum:

Customer Charge plus appropriate energy charges

(3) Metered Outdoor Nighttime Lighting (Computer Code 205)

Metered Outdoor Lighting Service is available for outside lighting facilities which require electric service only during the period from dusk to dawn (nighttime hours). This service shall be supplied and metered through a separate circuit. All other lighting requirements (except associated incidental nighttime indoor lighting requirements including such facilities as rest rooms or concession stands) and power requirements will be supplied, metered, and billed in accordance with the appropriate Electric Service Schedule. The Metered Outdoor Lighting option has been approved by the Public Service Commission of Utah on an interim basis. The terms, rates, and continued availability of the nighttime lighting option are subject to examination and modification by the Public Service Commission of Utah in Case No. 87-035-12.

Rate:

Annual Facility Charge:

\$11.00 per kW, based on maximum annual kW, but not less than \$55.00

Annual Customer Charge:

\$73.00 per service connection

Annual Minimum:

Customer Charge plus Facility Charge

Monthly Customer Charge:

\$6.25 per service connection

Monthly Energy Rate:

6.5349¢ per kWh

The monthly energy charge for traffic signal systems, metered lighting and the energy charges incorporated in the flat rates for street lighting shown above shall be increased or reduced by the Monthly Energy Charge Adjustment set forth in the currently effective Electric Service Schedule No. 35.

UTAH POWER & LIGHT COMPANY

P.S.C.U. No. 33

**SPECIFICATIONS AND SERVICE:** Each street lighting lamp will be operated from a series or multiple circuit, at the Company's option. The entire installation including initial lamp requirements and wiring with suitable connection to Company's system will be furnished and installed by Customer. Street Lighting Service includes energy, lamp, and glassware renewals and cleaning of glassware. Burning-hours of lamps will be controlled by the Company. Each point of delivery where electric service is delivered to a traffic signal and/or other associated warning or signal system or group of such systems shall be separately metered and billed, and the entire system except the meter and service conductors to the point of delivery shall be furnished, installed, maintained, and operated by the Customer.

**CONVERSIONS:** The Company will, upon written request of Customer, convert existing street lighting facilities to other types of lamps (i.e., convert incandescent fixtures and lamps to sodium vapor fixtures and lamps, etc.). In such an event, Customer shall pay to Company an amount equal to the depreciated value of all Company-owned facilities removed from service and replaced with new equipment plus the cost of removal less any salvage value. Priority in making conversions shall be determined by Company, guided by two principles:

- (1) the order in which requests are received by the Company; and
- (2) the degree by which Customers' lighting prices were affected by the pricing adjustments established by the Public Service Commission of Utah in its Report and Order issued March 7, 1983, in Case Nos. 79-035-12, 80-035-17, and 81-035-13.

**CONTRACT PERIOD:** Three years or longer.

**ELECTRIC SERVICE REGULATIONS:** Service under this Schedule will be in accordance with the terms of the Electric Service Agreement between the Customer and the Company. The Electric Service Regulations of the Company on file with and approved by the Public Service Commission of the State of Utah, including future applicable amendments, will be considered as forming a part of and incorporated in said Agreement.

# Exhibit D

## Ishimatsu, Barbara

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**From:** Stewart, Rob  
**Sent:** Tuesday, November 08, 2011 11:39 AM  
**To:** Ishimatsu, Barbara  
**Cc:** Coughlin, Barb  
**Subject:** Copy of email from Autumn to

The following is pulled from our Lotus Notes complaint tracking for Menlove-Johnson Inc.(1).  
Autumn may have a copy of the original.

**From:** Braithwaite, Autumn  
**Sent:** Thursday, March 31, 2011 5:02 PM  
**To:** 'wjohnson@menlove.com'  
**Subject:** Refund Response

Good afternoon Mr. Johnson,

Thank you for the additional information provided on March 8, 2011.

Please let me clarify, Utah Rate Schedule 15 was not a new application in that it created new rates or applications, rather it was a migrated schedule from Utah Rate Schedule 12. The creation of Utah Rate Schedule 15 removed the non-street lighting applications from the customer owned street lighting schedule, Utah Rate Schedule 12. Utah Rate Schedule 12 clearly stated it was only for the lighting of public grounds by governmental agencies.

When Utah Rate Schedule 15 was created, customers that were put on this schedule were those government agency customers on Utah Rate Schedule 12 and were either traffic and other signal systems, or were metered outdoor nighttime lighting. There was not a migration to Utah Rate Schedule 15 from Utah Rate Schedule 6.

Mr. Busch indicated that Section 9(a)(3) of Electrical Service Regulation No. 8 states, "incorrect service classification, provided that the information supplied by the customer was not erroneous or deficient" constitutes overbilling. Service classification is not the same as Electric Service Schedules. Your issue is not with the service classification, rather it is with the Electric Service Schedule. General service schedule 6 is the standard schedule for all general service applications including non-public metered outdoor nighttime lighting services. Schedule 15 is an optional schedule. As stated in my previous e-mail, Electric Service Regulation No. 3, Section (4) Selection and Changes of Electric Service Schedules states:

Where optional Electric Service Schedules are available, the Company will assist the Customer, upon request, in the selection of the Electric Service Schedule most favorable for his/her service requirements. The recommendation to the Customer will be based on his/her statement of the class of service required, the amount and manner of use, and other pertinent information.

Rocky Mountain Power is willing to adjust the billings to the date of November 17, 2010 as this was the date Mr. Busch contacted the Company to inquire about having the account placed on Utah Rate Schedule 15.

Please let me know if you have further questions,

# Confidential Exhibit E

## Exhibit F

**Ishimatsu, Barbara**

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**From:** Braithwaite, Autumn  
**Sent:** Wednesday, August 10, 2011 9:04 AM  
**To:** Wes Johnson  
**Cc:** Stewart, Rob; 'Valarie Stewart'; [dennismiller@utah.gov](mailto:dennismiller@utah.gov)  
**Subject:** Rocky Mountain Power Response

Good morning Mr. Johnson,

I would like to thank you for meeting with myself and Rob Stewart for the mediation meeting. We appreciate you and Mr. Busch taking the time to discuss your concerns regarding Rocky Mountain Power's decision to not adjust your electric account back to October 2008. As we indicated at that time, we have reviewed your account with Rocky Mountain Power's legal department. Respectfully, the Company maintains its decision to not adjust the Menlove – Johnson Inc (aka Menlove Toyota) electric account.

The contract for electrical service for commercial operation at or near 2380 S. Highway 89, Woods Cross, Utah, was signed on January 11, 2008. The contract states "Billings will be based on Rate Schedule No. 06 and superseding schedules". Rocky Mountain Power received a request for the site lighting rate schedule to be reviewed on November 17, 2010. Electric Service Regulation No. 3 Section (4) states: "Where optional Electric Service Schedules are available, the Company will assist the Customer, upon request, in the selection of the Electric Service Schedule most favorable for his/her service requirements. The recommendation to the Customer will be based on his/her statement of the class of service required, the amount and manner of use, and other pertinent information." Based on the contract and Regulation No. 3, the Company will not adjust the account back to October 2008.

Best Regards,

Autumn Braithwaite  
Customer and Regulatory Liaison