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**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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In the Matter of a Request for Agency Action for  
Creation of a DSM Steering Committee for DSM  
Issues involving Sensitive, Confidential or  
Proprietary Information or Settlement Negotiations

DOCKET NO. 12-\_\_\_\_ - \_\_\_\_

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**REQUEST FOR AGENCY ACTION**

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**I. INTRODUCTION**

1. This Request for Agency Action (“Request”) is made by PacifiCorp, doing business in Utah as Rocky Mountain Power (Rocky Mountain Power), the Utah Division of Public Utilities (Division), the Office of Consumer Services (Office), the Utah Association of Energy Users (UAE), Utah Clean Energy (UCE), Southwest Energy Efficiency Project (SWEEP) and Western Resource Advocates (WRA) (collectively, the “Parties”). The Parties respectfully request that the Utah Public Service Commission (“Commission”) approve the creation of a DSM Steering Committee for purposes of receiving input on Demand Side Management and Energy Efficiency (“DSM”) issues involving sensitive, confidential or proprietary information and settlement negotiations, as more particularly described below.

**II. BACKGROUND**

2. Beginning in or around 1997, in connection with Commission Docket No. 97-035-01, the Commission directed the creation of a task force to analyze costs and benefits of

proposals for electric energy efficiency and renewable resources. In various subsequent dockets, including Commission Docket No. 02-035-T12, the Commission assigned various tasks to task forces. Participants in these task forces eventually became known as the “DSM Advisory Group.”

3. Utah Code Section 54-7-12.8 requires that Rocky Mountain Power, before filing an energy efficiency or conservation tariff, seek and receive input from the Division and the Office, as well as other “interested parties.” The Commission and parties to various Commission Dockets over the years appear to have assumed that consultation with and discussions within the DSM Advisory Group would satisfy the requirements of Commission orders, as well as the requirement of Utah Code Section 54-7-12.8 that Rocky Mountain Power seek and receive input on DSM tariffs.

4. Participation in the DSM Advisory Group has been open to anyone and everyone. Through the years, the DSM Advisory Group has grown greatly in size and scope. Currently, its members include representatives from Rocky Mountain Power, the Division, the Office, Commission staff, other states’ commission staff, industrial groups, energy efficiency advocates, low-income advocates, renewable energy developers, energy efficiency product vendors, consulting firms and others.

5. While the DSM Advisory Group has served and continues to serve an important role in facilitating discussions among all interested parties on many DSM issues, the size and diversity of DSM Advisory Group participants at times has compromised its effectiveness as a tool for substantive analysis, negotiations and recommendations on specific DSM tariffs and issues. This problem is particularly acute given the frequent need to discuss proprietary,

sensitive or confidential information in connection with proposed DSM program changes, proposed terms of contracts with potential vendors, or settlement of disputed DSM issues.

6. Some DSM Advisory Group members may have financial interests that could be aided by knowledge of sensitive, confidential or proprietary information necessary for substantive discussions of DSM programs, changes and contracts, and others of whom cannot participate in settlement negotiations relating to DSM issues that might come before the Commission for resolution. As a result, meaningful analysis of specific programs and proposed changes and meaningful settlement negotiations have become virtually impossible within the larger DSM Advisory Group. Consequently some issues have been unnecessarily contested before the Commission.

7. In recognition of the above concerns, the settlement recently approved by the Commission in Docket No. 11-035-T14 required the parties to that settlement to “participate in good faith discussions intended to result in agreement on changes to the DSM advisory process, including the structure and efficacy of the DSM Advisory Group and its subcommittees.” (Settlement Stipulation, Page 5.) The parties to that Settlement Stipulation are the Parties to this Request, and this Request is a result of the discussions contemplated by that Settlement Stipulation.

### **III. ACTION REQUESTED**

8. In order to facilitate meaningful discussions and negotiations involving sensitive DSM issues, and meaningful compliance with the "seek and receive input" requirement of Utah Code Section 54-7-12.8, the Parties to this Request seek Commission approval of a two-pronged approach to future analyses and discussions of DSM programs and issues:

- a. The broad DSM Advisory Group should continue to schedule periodic meetings as needed or appropriate to solicit input, receive suggestions and facilitate

general discussions of DSM programs and issues in situations when involvement of the broader group is appropriate and beneficial. The Parties anticipate that DSM Advisory Group meetings should occur approximately semi-annually to permit general discussions and analyses of DSM program results, new or revised DSM programs, and other DSM issues of general concern.

b. A smaller DSM Steering Committee should be created to meet regularly (which may include meetings at the end of DSM Advisory Group meetings) when discussion of sensitive, confidential or proprietary information is anticipated, or when settlement negotiations are warranted to address pending or anticipated disputes relating to DSM programs and issues. The DSM Steering Committee should meet, in person or electronically, at least quarterly, and more often as requested by Rocky Mountain Power or a majority of DSM Steering Committee members. To the extent appropriate, and consistent with confidentiality and other concerns, the Steering Committee should provide periodic reports to the DSM Advisory Group, and to the Commission. The Steering Committee members should be limited to those who can properly receive sensitive, confidential and proprietary information and engage in settlement discussions, and who are willing to commit to active participation.

9. The Parties submit that discussions within and consultation with the DSM Steering Committee and/or the DSM Advisory Group, as proposed above, will satisfy the requirements of applicable Commission orders and Utah Code Section 54-7-12.8.

#### **IV. STEERING COMMITTEE REQUIREMENTS AND MEMBERS**

10. In addition to representatives of the Division and the Office, membership in the DSM Steering Committee should be limited to those in a position to properly sign, and who are willing to sign, a Confidentiality Agreement enforceable by the Commission, generally in the

form attached hereto as Exhibit “A,” to enable Steering Committee members to receive sensitive, confidential and proprietary information. Among other things, each such Steering Committee member should be required to confirm that, in the course of performing normal job functions, that member will not be in a position to utilize confidential, proprietary or sensitive information to the competitive disadvantage of Rocky Mountain Power or its customers. Each Steering Committee member should also be able and willing to participate in confidential settlement discussions regarding disputed DSM issues. All members of the DSM Steering Committee should be required to commit to regular and active participation in DSM Steering Committee meetings and activities, and must be in a position to speak for and bind the entity represented by that member, either immediately or promptly after consultation with the entity.

11. The Parties request that the DSM Steering Committee initially be made up of a representative assigned by each of the Parties to this Request, all of whom are signatories to the stipulation in Docket 11-035-T14, all of whom have demonstrated knowledge and have made a commitment to actively participate in discussions regarding a wide variety of DSM issues, and all of whom are able and willing to satisfy the requirements of paragraph 10 of this Request. The proposed initial DSM Steering Committee members include representatives of Rocky Mountain Power, the Division, the Office, large commercial and industrial customer groups, low-income customer groups and energy efficiency advocacy groups. Upon request, with the affirmative vote of a majority of then-current DSM Steering Committee members or by Commission order, new members who meet all the requirements of paragraph 10 of this Request should be added to the Steering Committee provided the total membership should not exceed twelve members.

## **V. CONCLUSION**

This Request is submitted to seek Commission approval and creation of a DSM Steering Committee as proposed herein. The Parties respectfully request that the Commission schedule a

technical and scheduling conference in this docket as soon as practicable to determine appropriate procedures and timelines for Commission consideration of this Request.

RESPECTFULLY SUBMITTED: \_\_\_\_\_.

ROCKY MOUNTAIN POWER

By: \_\_\_\_\_  
Carol Hunter  
Vice President

UTAH DIVISION OF PUBLIC UTILITIES

By: \_\_\_\_\_  
Chris Parker, Director

OFFICE OF CONSUMER SERVICES

By: \_\_\_\_\_  
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