

R. Jeff Richards (7294)  
Yvonne R. Hogle (7550)  
201 South Main Street, Suite 2400  
Salt Lake City, Utah 84111  
Telephone No. (801) 220-4050  
Facsimile No. (801) 220-3299  
E-mail: [robert.richards@pacificorp.com](mailto:robert.richards@pacificorp.com)  
E-mail: [yvonne.hogle@pacificorp.com](mailto:yvonne.hogle@pacificorp.com)

Gregory B. Monson  
D. Matthew Moscon  
Stoel Rives LLP  
201 South Main Street, Suite 1100  
Salt Lake City, Utah 84111  
Tel. 801.578.6946  
Fax 801.578-6999  
[gbmonson@stoel.com](mailto:gbmonson@stoel.com)  
[dmmoscon@stoel.com](mailto:dmmoscon@stoel.com)

*Attorneys for Rocky Mountain Power*

**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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IN THE MATTER OF THE  
INVESTIGATION OF THE COSTS AND  
BENEFITS OF PACIFICORP'S NET  
METERING PROGRAM

**Docket No. 14-035-114**  
**ROCKY MOUNTAIN POWER'S  
MOTION TO STRIKE UCE AND TASC'S  
REPLIES TO LEGAL BRIEF**

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PacifiCorp dba Rocky Mountain Power (“Rocky Mountain Power” or “the Company”) hereby moves to strike the Reply of Utah Clean Energy and the Reply of the Alliance for Solar Choice, both of which were filed in this action on June 9, 2015.

**BACKGROUND**

The Commission entered its First Order Amending Scheduling Order and Notices of Workgroup Meetings, Hearing and Public Witness Hearing (“Scheduling Order”) on March 19,

2015. In the Scheduling Order, the Commission ruled that the deadline for filing any motions and supporting briefs to be considered in advance of direct testimony was May 6, 2015. Rocky Mountain Power duly filed its brief regarding the proper legal interpretation and meaning of Utah Code Ann. § 54-15-105.1(1) (the “Legal Brief”) by that deadline. Utah Clean Energy (“UCE”) and the Alliance for Solar Choice (“TASC”) did not file any motions or briefs on or before that deadline. Instead, on May 27, 2015, UCE and TASC, along with the Sierra Club, the Interstate Renewable Energy Council, the Division of Public Utilities (the “Division”), and the Office of Consumer Services (the “Office”), responded to Rocky Mountain Power’s Legal Brief (the “Responses”).

Rocky Mountain Power timely filed its reply memorandum in support of the Legal Brief on June 9, 2015. UCE and TASC also filed “Replies” on that date, purporting to reply to the Responses filed by the Division and the Office.

### **ARGUMENT**

UCE and TASC’s Replies are improper. The Rules governing this proceeding provide that, in the absence of a Commission rule addressing a particular subject, “the Utah Rules of Civil Procedure shall govern.” Utah Admin. Code R746-100-1(C). There is no Commission Rule authorizing UCE and TASC to file replies to Rocky Mountain Power’s Legal Brief. Instead, the Utah Rules of Civil Procedure address the briefing that is allowed in response to a motion and provide as follows:

a party opposing the motion shall file a memorandum in opposition. Within 7 days after service of the memorandum in opposition, the moving party may file a reply memorandum, which shall be limited to rebuttal of matters raised in the memorandum in opposition. ***No other memoranda will be considered without leave of court.***

Utah R. Civ. P. 7(c)(1) (emphasis added).

Here, UCE and TASC had their opportunity to respond to the Legal Brief when they submitted their Responses. The Rules simply do not afford them a second opportunity to respond to the Legal Brief, or to any arguments advanced by the Division or the Office in support thereof, and the Replies should be stricken.

If UCE and TASC wanted two opportunities to argue their position, they could have and should have filed a motion advancing their interpretation of Utah Code Ann. § 54-15-105.1 by the May 6, 2015, deadline set in the Scheduling Order. This would have allowed them to brief their position and reply to any responses filed in opposition thereto. Having failed to timely submit a motion, however, UCE and TASC should not be permitted to end run the Rules by filing “Replies” to Rocky Mountain Power’s Legal Brief. At the very least, UCE and TASC should have sought leave from the Commission to submit additional briefing, offering a justification for their failure to file a motion on May 6, 2015. Having failed to seek or be granted leave, UCE and TASC have no basis for submitting their Replies.

### **CONCLUSION**

For the foregoing reasons, Rocky Mountain Power requests that the Commission strike the Replies filed by UCE and TASC on June 9, 2015.

DATED this 19<sup>th</sup> day of June, 2015.

RESPECTFULLY SUBMITTED,

ROCKY MOUNTAIN POWER



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Yvonne R. Hogle

STOEL RIVES LLP

Gregory B. Monson

D. Matthew Moscon

*Attorneys for Rocky Mountain Power*