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**BEFORE THE
PUBLIC SERVICE COMMISSION OF UTAH**

In the Matter of the PacifiCorp’s
Revisions to Schedule 135, Net Metering
Service and Proposal for New Schedule
135A, Net Metering-Transition Service

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**Docket No. 16-035-T14
MOTION FOR EMERGENCY
RELIEF OF SUNRUN AND ENERGY
FREEDOM COALITION OF
AMERICA**

Pursuant to Utah Administrative Rule § R746-100-3J and Utah Code Annotated 63G-4-405, Sunrun and the Energy Freedom Coalition of America (“EFCA”) (collectively “Movants”) respectfully move the Public Service Commission (“Commission”) to grant immediate relief to prevent Rocky Mountain Power Company’s (“Company”) Advice No. 16-13 filing from becoming effective and forcing all new net metering applicants into a new classification as of tomorrow, December 10, 2016.

Sunrun and EFCA renew their request for the Commission to immediately grant the Motion to Dismiss or, in the Alternative, Suspend Advice No. 16-13. Should that disposition not be possible today, Sunrun and EFCA request that the Commission stay the effectiveness of the proposed tariff changes that will follow from either a Commission act approving the request or a failure to act within thirty days of the tariff filing. This motion is necessary to avoid the chilling effect of public concern and confusion regarding this proceeding on the solar industry in Utah. Sunrun and EFCA note that the interested parties’ November 22, 2016 comments provide a

thorough discussion of the nature and extent of this harm. Should the Commission issue an order granting the Company's Advice No. 16-13, Sunrun and EFCA ask for a stay on the effectiveness of that order and the effective date of the proposed changes to allow parties to seek Commission reconsideration and judicial review, if necessary. In support of the Motion for Emergency Relief, the movants state as follows:

1. On November 9, 2016, Rocky Mountain Power Company ("Company") submitted Advice No. 16-13 seeking certain changes to tariffs and standard forms associated with its net metering program. The Company seeks to close its currently effective net metering service tariff, Schedule 135, and replace that service with a new "transitional" tariff, Schedule 135-A, which would only apply to customers that apply to engage in net metering after December 9, 2016. The Schedule 135 and 135-A tariffs will be nearly identical, with the exception that the transitional tariff will include specific notice language to indicate a distinction that customers under Schedule 135-A could be imminently placed on new rates while legacy customers on the closed Schedule 135 would continue on the same rate structure for some undetermined amount of time.

2. On November 22, Sunrun and EFCA jointly filed a Motion to Dismiss or, in the alternative Suspend Advice No. 16-13 ("Motion to Dismiss or Suspend"). The Division of Public Utilities, the Office of Consumer Services, Utah Clean Energy, Utah Solar Energy Association, Sunrun and EFCA, Vivint Solar, Salt Lake City Corporation, the University of Utah, Western Resource Advocates ("WRA"), and Utah Citizens Advocating for Renewable Energy ("UCARE") all submitted comments on that day requesting that the Commission reject or suspend the proposed tariff or at least indefinitely postpone its effective date pending the outcome of ongoing proceedings in Docket No. 14-035-114.

3. Nearly every party commented that if the proposed tariff were allowed to go into effect, that customer confusion would create a substantial chilling effect on the solar industry in Utah. The Office and Division agreed in their comments that the notice provision and tariff filing creates confusion or uncertainty in the current regulatory context.

4. As the deadline for Commission action has become imminent, the focus on the solar industry in Utah has become more intense, with media outlets picking up the story and contributing to the public awareness that a significant change in the rights of net metering customers is at stake with this proceeding. The stakes of Commission action, or inaction, have grown more intense even since the filing of opening comments in this proceeding.

5. Granting emergency relief to stay the effectiveness of the proposed changes will serve the public interest in a fair and transparent process. A stay or other temporary remedy will provide the Commission ample time to consider the merits of the Company's proposal in light of the multiple parties' motions and comments, including hearings as necessary. As provided in Utah Code Annotated § 63G-4-405(1), "Unless precluded by another statute, the agency may grant a stay of its order or other temporary remedy during the pendency of judicial review, according to the agency's rules." The Commission has discretion to issue a stay or fashion a temporary remedy to protect the public's right of meaningful access to self-generation and to prevent the type of public confusion that will artificially chill the solar industry in Utah. The public is surely confused how it is possible that the Company can seek new relief and have it go into effect through an automatic process (i.e., without the Commission publicly addressing the merits or propriety of the relief sought in this venue). The interested parties, including Sunrun and EFCA, are certainly concerned that this could occur, should the Commission fail to act today

on either this request for emergency relief or the previous Motion to Dismiss or Suspend and requests to reject in every other parties' comments.

6. The Company will not be prejudiced by an order staying the effectiveness of the tariff, as the Company has no right to the relief sought. As addressed in the Motion to Dismiss or Suspend, this is because the Company has no legal or regulatory basis for seeking the changes at this time, well before the Commission conducts its determination of the costs and benefits of net metering. An argument that rejecting, suspending or staying the tariff would harm or in any way prejudice the Company would rest purely on speculation that (1) the Commission will at some future time actually grant grandfathering rights to some segment of net metering customers and (2) that the Commission will take some future action to establish a separate class and new rates for net metering customers. As the Company alleges, no customer will see an immediate change in rates as a result of its filing and the Company will not collect any additional revenue. In fact, customers that install solar after the 10th, if the tariff becomes effective, would receive the same net metering rates as other customers until the Commission takes further action. The Company would be prohibited from applying rates retroactively. The right to apply new rates prospectively for net metering customers will not be established until the Commission takes formal action at some time in the future. It is premature for the Company to claim harm or prejudice until it has demonstrated that the current rates are no longer just and reasonable and warrant the requested relief. In contrast to such speculative harm, the confusion of the public is well-documented in comments received in this docket, as well as the assertions in November 22 comments regarding the chilling effect this consumer confusion is having and will have on the Utah solar industry.

7. Moreover, the Company's relief can be sought at a later time, when the Commission has determined the costs and benefits of the net metering program and has

designated the appropriate time and place to modify net metering terms, conditions, and rates. The Company has no present legal right to close its net metering tariff, as no prior Commission order has authorized this action. If the Commission does not act on the merits of the tariff on this day and intends to let the tariff become effective by operation of law, a stay to the effectiveness of the tariff is appropriate to allow the Commission to engage in further deliberations to determine whether to dismiss, reject, deny or suspend the tariff based on the record of this case.

8. Sunrun and EFCA renew the request that the Commission consider its Motion to Dismiss or Suspend in an expedited fashion and issue an order on this day granting that relief. Should the Commission grant the previously requested relief on this day, the movants acknowledge that the current motion could be rendered moot. Similarly, the requested relief will be rendered moot if the Company unequivocally withdraws Advice No. 16-13 on this day.

9. Should the Commission approve Advice No. 16-13, by act or failure to act, Sunrun and EFCA urgently request that the Commission issue an order by the end of today to stay the effectiveness of the changes sought through Advice No. 16-13 for such time as the Commission needs to duly consider the comments and motions of parties and issue a final order addressing the merits of the Company's request in light of that record. The Commission has the authority under R746-405.E.4.a to "reject, suspend, alter, or modify the effectiveness" for elements that do not conform to rules, that contain errors, "or for other reasons as the Commission determines." Commission discretion supports issuance of a stay or other temporary remedy under these circumstances. The current circumstances warrant the Commission's exercise of discretion to prevent customer confusion and the resulting chilling effect on the solar industry.

CERTIFICATE OF SERVICE

I hereby certify that I will cause a true and correct copy of the foregoing **MOTION FOR EMERGENCY RELIEF OF SUNRUN AND ENERGY FREEDOM COALITION OF AMERICA** to be delivered to the Utah Public Service Commission on December 9, 2016 via hand delivery and to be served via email on that day on the following persons:

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