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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of Rocky Mountain Power for Approval of a Significant Energy Resource Decision and Voluntary Request for Approval of Resource Decision	Docket No. 17-035-40 Reply of the Utah Division of Public Utilities to Responses to Utah Industrial Energy Consumers' Motion to Stay Proceedings
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Pursuant to Utah Admin. Code R746-1-301, the Utah Division of Public Utilities (Division) files its Reply to the Responses of the Office of Consumer Services' (OCS) and the Utah Association of Energy Users' (UAE) (jointly Responses) to the Utah Industrial Energy Consumers' (UIEC) Motion to Stay Proceedings (Motion). A stay in this proceeding should be denied, but arguably certain actions of Rocky Mountain Power (RMP) have been contrary to the transparent process contemplated by the relevant statutes.

The Motion and the Responses set forth lengthy facts pertaining to the events in this docket. The Division will not repeat these recitals but instead will only discuss certain particularly relevant events.

The regulatory process must be nimble enough to permit regulated public

utilities to react to time-limited opportunities. Contrary to the arguments found in the Responses, prior completion of the solicitation process in Docket No. 17-035-23 pursuant to Utah Code Ann. § 54-17-201 et seq. is not a condition precedent to the filing of an application for approval in this docket of an energy resource under Utah Code Ann. § 54-17-301 et seq. (Approval Statute).

Utah Code Ann. § 54-17-302 requires the Commission make certain determinations in its decision approving, approving with conditions, or disapproving the request for approval. The facts necessary to make those determinations, including decisions pertaining to the request for proposals in Docket No. 17-035-23 under Utah Code Ann. § 54-17-201 et seq., will be available prior to the Commission issuing its decision pursuant to the schedule set forth in this docket. The Approval Statute requires that the solicitation process be completed prior to the Commission's decision but does not preclude the solicitation process proceeding on a parallel track to the request for approval.

Finally, the Commission's rules and a pending Integrated Resource Plan (IRP) in Docket No. 17-035-16 do not preclude this parallel process. The Commission is empowered to waive its rules should it find it appropriate. Any argument that an IRP process in which a future action is contemplated must be completed prior to the filing of a request for approval of such an action, for example the resource approval sought here, would result in a period of forced inaction by the utility while an IRP proceeding is pending before the Commission.

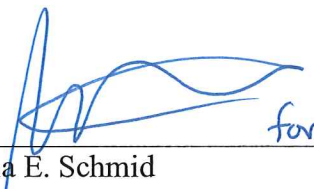
Notwithstanding the above, RMP's actions prior to filing its application could be said to be inconsistent with the transparent, robust process which is a hallmark of the regulatory paradigm, particularly as it is applied to expedited types of proceedings and the Commission's

IRP Standards and Guidelines.¹ By December 2016, RMP had entered into “safe harbor” purchase contracts for wind equipment. On April 17, 2017, RMP filed indicating its intent to issue a wind request for proposals. Nonetheless, it was not until June 16, 2017 that RMP filed its solicitation process request in Docket No. 17-035-23. Then, on June 30, 2017, RMP filed its request for resource approval in this docket. Finally, it was not until August 2, 2017 that RMP filed an update to its IRP in Docket No. 17-035-16 addressing the wind and transmission projects contemplated in this docket.

RMP’s actions demonstrate that it had determined to pursue a resource acquisition, and approval of that resource acquisition, long before it filed its requests in Docket No. 17-035-23 and in this docket, and filed its update to the IRP. Accordingly, it could be argued that the path chosen by RMP has precluded or made more difficult an open discussion and robust review of its actions, which could conceivably result in recommendations and testimony asserting that its request for approval should be denied.

For the reasons stated above, the Division requests that the Commission deny the request for stay.

Respectfully submitted this 16th day of October 2017.



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¹ See Docket No. 90-2035-01, Report and Order on Standards and Guidelines, June 18, 1992, p. 20.

