

November 12, 2020

***VIA ELECTRONIC FILING***

Utah Public Service Commission  
Heber M. Wells Building, 4<sup>th</sup> Floor  
160 East 300 South  
Salt Lake City, UT 84114

Attention: Gary Widerburg  
Commission Administrator

RE: Docket No. 17-035-61—In the Matter of the Application of Rocky Mountain Power to Establish Export Credits for Customer Generated Electricity

In accordance with the Order Granting Motion to Deviate issued by the Public Service Commission of Utah on November 9, 2020, Rocky Mountain Power hereby submits its Response to Utah Solar Energy Association's ("USEA") Motion for Immediate Relief from Implementation Date in Commission's October 30, 2020 Order Terminating Transition Program and Motion to Deviate ("USEA's Motion") filed on November 6, 2020. Also, included in this filing is Rocky Mountain Power's Motion for Emergency Waiver of Levels 1 and 2 Interconnection Review Processing.

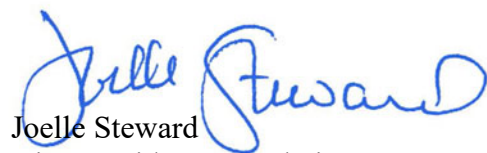
Rocky Mountain Power respectfully requests that all formal correspondence and requests for additional information regarding this filing be addressed to the following:

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Informal inquiries may be directed to Jana Saba at (801) 220-2823.

Sincerely,



Joelle Steward  
Vice President, Regulation

CC: Service List - Docket No. 17-035-61

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*Attorney for PacifiCorp*

**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

In the Matter of the Application of Rocky Mountain Power to Establish Export Credits for Customer Generated Electricity	Docket No. 17-035-61 <b>RESPONSE TO MOTION FOR IMMEDIATE RELIEF FROM IMPLEMENTATION DATE IN COMMISSION'S OCTOBER 30, 2020 ORDER TERMINATING TRANSITION PROGRAM</b> <b>MOTION FOR EMERGENCY WAIVER OF LEVEL 1 AND LEVEL 2 INTERCONNECTION REVIEW PROCESSING</b>
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Pursuant to the Utah Public Service Commission R746-1-301, the Utah Rules of Civil Procedure Rule 7(d), and the Order Granting Motion to Deviate issued by the Public Service Commission of Utah (“Commission”) on November 9, 2020, PacifiCorp d.b.a. Rocky Mountain Power (“the Company” or “Rocky Mountain Power”) hereby submits its Response to Utah Solar Energy Association’s (“USEA”) Motion for Immediate Relief from Implementation Date in Commission’s October 30, 2020 Order Terminating Transition Program and Motion to Deviate (“USEA Motion”) filed on November 6, 2020.

Additionally, pursuant to Utah Administrative Code R746-1-109, R746-312-3(2) and Utah Rules of Civil Procedure 7(c), Rocky Mountain Power also moves the Commission to

modify the Company’s obligation to comply with the timeframes established in R746-312-8(2)(c) and R746-312-9(2)(c) to process Levels 1 and 2 interconnection applications (the “Applications”) received between October 31 through the date of the Commission decision on the USEA Motion.

## **I. RESPONSE TO USEA MOTION**

### *A. INTRODUCTION*

The USEA Motion should be denied because the relief it seeks is inconsistent with the agreement reached with USEA and other parties as part of the Settlement Stipulation, approved by the Commission in Docket No. 14-035-114 (“Stipulation”).<sup>1</sup> The Stipulation expressly includes a firm and specific end date to the applicability of Schedule 136. USEA now seeks to essentially re-negotiate a material term of the Stipulation, erasing the provision defining the end date for Schedule 136 and establishing a new end date for Schedule 136. The Commission should reject this attempt to re-write the agreement and deny USEA’s Motion.

### *B. ARGUMENT*

The Commission should uphold the terms of the Stipulation, which were agreed upon by the parties. Paragraph 15 of the Stipulation unambiguously sets the end date for the Transition Program, as follows:

The Commission will establish a transition program (“Transition Program”) for customer generation systems as specified in Utah Code Ann. § 54-15-102(3), who submit an interconnection application after the NEM Cap Date until the earlier of: (a) the date on which the Transition Cap is reached, as provided in Paragraph 22 below, or (b) the date the Commission issues a final order in the Export Credit Proceeding, as provided below (“Transition Customers”). For purposes of this Paragraph 15, “the date the Commission issues a final order in the Export Credit Proceeding” means the day the order is issued, without respect to time periods for requesting reconsideration or for appeals. This date is used solely to establish the conclusion of the period allowing entry into the Transition

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<sup>1</sup> *Investigation of the Costs and Benefits of PacifiCorp’s Net Metering Program*, Docket No. 14-035-114, Order Approving Settlement Stipulation (September 29, 2017).

Program, and will be unaffected by any action subsequent to the Commission's order.<sup>2</sup>

Because the cap had not been reached, Paragraph 15 specifies that the Commission's Order on October 30, 2020 ended the Transition Program. In making its Motion, USEA acknowledges this result and the basic application of Paragraph 15.

Rather than abide by the terms of the Stipulation, however, USEA now argues that Paragraph 15 should be discarded, because, it contends, “[a]t the time the parties entered the Stipulation three years ago, they did not foresee how disruptive and destructive a flash cut termination of the Transition Program would be to the rooftop solar industry and solar customers.” The fact, however, that a party to a settlement later determines that a term of the settlement was less advantageous than it first believed is not grounds to vary the terms of an agreement.

Paragraph 15 reflects an important term of settlement. Solar companies used the Schedule 135 end date as a marketing tool resulting in a glut of applications that was administratively difficult for the Company to process, and Paragraph 15 was negotiated to specifically to avoid a repeat of that situation. If the Commission allowed USEA to rewrite the Stipulation and extend the Transition Program through January 1, 2021,<sup>3</sup> a similar flood of applications would not only undermine the intent of Paragraph 15 but create an administrative challenge for the Company as well as further uncertainty for applicants in light of the program caps agreed to in the

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<sup>2</sup> Stipulation ¶ 15 (emphasis added).

<sup>3</sup> To support its request for a January 1, 2021 effective date, USEA references the direct testimony of Company witness Joelle Steward, which uses that date as a reference point for an unknown point in time. The Company has always understood that the Transition Program and Schedule 136 would end “the date the transition cap is reached or the date the Commission issues a final order,” as expressly explained in the direct testimony of Company witness Robert Meredith. (*In the Matter of the Application of Rocky Mountain Power to Establish Export Credits for Customer generated Electricity*, Docket No. 17-035-61, Direct Testimony of Robert M. Meredith (February 3, 2020), Lines 185-192.)

Stipulation.<sup>4</sup> Furthermore, in light of the participation cap for Schedule 136 agreed to in the Stipulation, an extension of the Transition Program beyond the date of the order would require further decision or clarification as how to fairly administer the cap. For instance, the agreement in Paragraph 15 foreclosed the need to determine if a waiting list was necessary for participation under Schedule 136 in the event applications that reserved capacity were subsequently withdrawn. As stated in the Order approving the Stipulation, Utah Code § 54-7-1 “encourages negotiated resolution.” Extending the Transition Program past the time explicitly agreed to by the parties in the Stipulation would discourage settlements in the future because parties would not be able to rely on them. For this reason alone, the Commission should deny USEA’s Motion.

Moreover, USEA’s fears of “disruptive and destructive” consequences are unwarranted. USEA argues that without an approved tariff in place, solar companies are unable to design proposals for customers. In making this argument, USEA ignores that the details of the tariff are not difficult to extrapolate from the Commission’s Order and the former Schedule 136. In addition, the Company made its compliance filing with its proposed Schedule 137 on November 10, 2020, which will become effective upon approval of the Commission. The proposed Schedule 137 is consistent with the Commission’s October 30, 2020 Order. New applications can be processed in the normal course, and the well-understood terms of the October 30, 2020 Order will apply. Therefore, there is no impediment to solar companies in evaluating and forecasting savings for customers under Schedule 137.

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<sup>4</sup> For reference, as of the date of the Order, the residential and small business customer class have interconnected 98.37 MW and an estimated 42.55 MW have applied for interconnection out of a total 170 MW program cap. Also of note the Company has already received 248 applications (as of November 10) from customer generators since October 30, 2020. It is not hard to imagine the cap being reached very quickly as solar installation companies stress the urgency to apply. Maintaining near real-time information for customers and the industry on the status of applications in relation to the cap would be challenging.

Finally, the parties agreed in Paragraph 34 of the Stipulation “not to initiate or support any regulator action that challenges any term of this Stipulation.” The USEA Motion directly challenges a material term of the Stipulation. Therefore, the USEA Motion itself violates the Stipulation and should be denied on these grounds also.

**II. RMP MOTION FOR TEMPORARY WAIVER OF INTERCONNECTION RULES**

USEA’s Motion creates uncertainty about the way the Company should process applications for interconnection received while the Company awaits a Commission decision on the effective date of Schedule 137. According to the October 30, 2020 Commission order, new applications received starting October 31, 2020 should be processed according to Schedule 137. However, should the Commission grant USEA’s motion to extend the Schedule 136 transition program to January 1, 2021, the applications would need to be reprocessed as Schedule 136 applications. To avoid the administrative burden for the Company and confusion to customers, Rocky Mountain Power requests the following temporary waiver of processing timelines for Levels 1 and 2 interconnection applications received during the period of October 31, 2020 through the date of the Commission’s decision on USEA’s Motion:

<b>Rule</b>	<b>Regulatory Timeline</b>	<b>Proposed Modified Timeline</b>
Level 1:		
R746-312-8(2)(c) <sup>5</sup>	PacifiCorp within 10 business days after receipt of an interconnection request must evaluate the request for completeness and notify the requester as to whether the application is complete.	10 business days from the date of the Commission decision on USEA’s Motion

<sup>5</sup> The Company is not proposing a temporary change related to R746-312-8(2)(c)(ii).

Level 2:		
R746-312-9(2)(c) <sup>6</sup>	PacifiCorp within 10 business days after receipt of an interconnection request must evaluate the request for completeness and notify the requester as to whether the application is complete.	10 business days from the date of the Commission decision on USEA's Motion

This will allow the Company to wait for a Commission determination on the USEA Motion before processing the applications received during the adjudication of USEA's Motion. Compliance with the interconnection rules referenced above in R746-312 would impose an undue hardship on the Company and create unnecessary confusion to customers, which outweighs the benefits of that rule.

### III. CONCLUSION

For the foregoing reasons, the Commission should deny the USEA Motion and affirm its October 30, 2020 Order terminating Schedule 136 as of the date of that Order. As part of its decision on the USEA Motion, the Company respectfully requests the Commission grant a waiver of the interconnection rules R746-312-8(2)(c) and R746-312-9(2)(c) to process Levels 1 and 2 interconnection applications received between October 31 through the date of the Commission decision on the USEA Motion as specified.

RESPECTFULLY SUBMITTED this November 12, 2020.

ROCKY MOUNTAIN POWER



Emily Wegener  
Rocky Mountain Power

*Attorney for Rocky Mountain Power*

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<sup>6</sup> The Company is not proposing a temporary change related to R746-312-9(2)(c)(ii).

## CERTIFICATE OF SERVICE

I hereby certify that on November 12, 2020, a true and correct copy of Rocky Mountain Power's **RESPONSE TO MOTION FOR IMMEDIATE RELIEF FROM IMPLEMENTATION DATE IN COMMISSION'S OCTOBER 30, 2020 ORDER TERMINATING TRANSITION PROGRAM and MOTION FOR EMERGENCY WAIVER OF LEVEL 1 AND LEVEL 2 INTERCONNECTION REVIEW PROCESSING** in Docket No. 17-035-61 was served by email on the following Parties:

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