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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

Investigation of Revenue Requirement
Impacts of the New Federal Tax Legislation
Titled: "An act to provide for reconciliation
pursuant to titles II and V of the concurrent
resolution of the budget for fiscal year 2018"

Docket No. 17-035-69

**UAE'S RESPONSIVE COMMENTS
REGARDING RMP TARIFF
FILING ON TAX REFORM RATE
REDUCTIONS**

In accordance with the Commission's Scheduling Order in this docket dated March 7, 2018, the Utah Association of Energy Users ("UAE") files these comments in response to the tariff filing made by Rocky Mountain Power, a division of PacifiCorp ("RMP" or "the Company") in this docket on March 16, 2018.

This docket was initiated by the Commission last December to explore ratemaking implications of significant changes to federal tax rates. On January 2, 2018, UAE filed a motion for deferred accounting treatment of all benefits associated with the U.S. Tax Reconciliation Act ("DAO Motion"). Specifically, UAE sought an order deferring for later ratemaking treatment all savings or benefits received or realized by RMP as a result of the reduced tax rates. Other

parties, including the Division, the Office of Consumer Services (Office) and the Utah Industrial Energy Consumers (UIEC) supported the DAO Motion. RMP filed comments also supporting deferral and promising to provide additional details in its filing which was made on February 7, 2018.

In RMP's comments filed February 7, 2018, the Company provided an overview of the Tax Reform Act, including several changes that impact the Company's income tax expense and ultimately its revenue requirement. These changes included the reduction in the federal corporate income tax ("FIT") rate from 35 percent to 21 percent, a requirement to normalize certain deferred income taxes associated with public utility property utilizing the average rate assumption method; the elimination of the allowance for bonus depreciation for public utility property; the repeal of the domestic production activities deduction ("DPAD"); the repeal of the exclusion from income for contributions in aid of construction ("CIAC") received from governments for public purposes; and the repeal of the deduction and imposition of certain limitations with respect to certain expenditures. RMP provided a *partial* estimate ("Partial Estimate") of the impacts from the Tax Reform Act that included only projected impacts from the change in the FIT rate and the repeal of the DPAD, which was estimated to result in an annual reduction of approximately \$76 million to its Utah jurisdictional revenue requirement. RMP stated that it did not estimate the impacts that would result from the other changes in the Tax Reform Act because they were either more complex in nature or because RMP believed additional guidance or information is required. RMP proposed to provide rate relief of approximately \$20 million to customers beginning on May 1, 2018 and defer the remaining balance, and to address the impacts from the other changes in a future filing.

On February 23, 2018, UAE responded to RMP's comments. UAE requested that the Commission grant its DAO Motion and enter a deferred accounting order requiring RMP to defer all benefits of the Tax Reform Act beginning January 1, 2018. While the February 7 filing by RMP did not afford UAE the opportunity to examine the details of RMP's calculation of its Partial Estimate, UAE agreed that RMP's approach appeared reasonable in concept. UAE also supported the Company's proposal to allocate the deferral benefit among rate classes based on the rate base allocation from the most recent annual cost of service study. However, UAE also stated that RMP's proposal to initially reduce rates by only \$20 million was substantially inadequate in light of the \$76 million Partial Estimate of revenue requirement reductions. While some uncertainty about the final revenue requirement savings calculated using the December 2017 Results of Operations ("ROO") may make it reasonable for the initial reduction to be set at a level that is a little less than the full amount of the Partial Estimate, UAE proposed that the initial reduction should be no less than 80 percent of the Partial Estimate, or approximately \$61 million. Other parties, including the Division, the Office, and UIEC responded as well to support the DAO motion, while the Division and UIEC both recommended that rates be reduced to reflect the Company's entire Partial Estimate for annual revenue requirement reduction.

The Commission's order on February 28, 2018 granted UAE's DAO Motion and its March 3, 2018 Scheduling Order set the schedule for RMP's Tariff Application, which was filed on March 16, 2018.

The reduction reflected in customer rates should ultimately be 100% of the revenue requirement reduction associated with the reduction in tax rates as calculated using the December 2017 ROO. UAE continues to recommend that the initial reduction should be no less

than 80 percent of the Partial Estimate. UAE is willing to accept an immediate rate reduction reflecting slightly less than 100% of the Partial Estimate as a precaution against the possibility that the December 2017 ROO calculation may turn out to be materially less than the Partial Estimate, which was based on the ROO for the period ending June 30, 2017. However, a significant majority of the Partial Estimate should be returned to ratepayers as soon as practicable.

Accounting Treatment and Allocation of Tax Savings. In its March 16 Tariff Application, the Company proposes Tariff Schedule 197 to implement its proposed rate reduction of approximately \$20 million to be effective May 1, 2018, while the final impacts from the Tax Reform Act are being finalized. The Company proposes that the \$20 million rate reduction should be allocated to customer class on the basis of rate base in the most recent cost of service study. The Company proposes prices that were developed as percentage adjustments applied to customers' monthly Power Charges and Energy Charges, similar to the rate design in the Company's Energy Balancing Account and Renewable Energy Credits Balancing Account filings that are made each year. UAE continues to accept as reasonable this general approach for allocating the benefits of the Tax Reform Act.

RMP argues that by not returning the full amount of the tax reduction now, the deferred benefits can be used to offset future rate increases, in the interest of gradualism and rate stability. The Company suggests that this deferral might be used to offset future costs related to investments in its thermal fleet, the potential early closure of several of its coal plants, closure costs of the Deer Creek mine, the expiration of PTCs, or operations and maintenance expenses related to the energy imbalance market. Further, even though RMP's own financial outlook has

not been lowered by the ratings agencies, the Company points out that Moody's Investor Service lowered the outlook for 24 regulated utilities primarily based on Tax Reform Act impacts on cash flows and issued a Sector Comment for regulated utilities entitled "Tax reform is credit negative for sector, but impacts vary by company."

RMP's proposal to reduce rates by only \$20 million involves just over one quarter of its Partial Estimate of its annual revenue requirement reduction. This proposed reduction is woefully inadequate. The requirements of income tax normalization already require customers to pay for utilities' income taxes in rates based on tax rates that are typically significantly above utility effective tax rates. Given the significant decrease in the statutory tax rate, it is essential as a matter of ratepayer equity that the income tax recovery in rates be reduced fully and quickly to reflect this fact. The retention by RMP of overfunded tax payments to be used as a tool for offsetting future costs is not a reasonable public policy option. Customers are the best stewards of their own money. They should not be expected to overpay their electric bills now in order to soften the impact of some potential future unspecified utility cost. Moreover, a statutory mechanism already exists under the STEP legislation to build funds toward potential future early thermal plant retirements.

It is important to remember that the Company only considered tax benefits resulting from the reduced FIT rate and repeal of the DPAD to determine the Partial Estimate because the other impacts were either complex or required further guidance. One significant element that is lacking from this Partial Estimate is consideration of excess accumulated deferred income tax ("Excess ADIT"). RMP indicates that this item will be addressed in the Company's supplemental tariff filing in this docket, due June 15, 2018. According to the Company's June

2017 ROO summary, the Utah jurisdictional ADIT is greater than \$2 billion, which means that the Excess ADIT that will need to ultimately be refunded customers is very significant.

As the Company described in its February 7 filing, the Excess ADIT on public utility property are subject to normalization rules using the average rate assumption method under the Tax Reform Act, which basically means that the Excess ADIT subject to these requirements cannot be returned faster than the depreciable lives on the property without incurring a penalty. However, these normalization rules do not apply to non-property Excess ADIT, and the rate at which the non-property Excess ADIT should be amortized should be set by the Commission.

Excess ADIT represents income tax prepayments by customers that are now greater than the Company's expected future income tax obligations for the associated assets due to the lower tax rate. The normalization provisions governing the return of Excess ADIT to customers creates a significant inter-generational burden on customers to the advantage of utilities; that is, past overpayments of federal income taxes by customers associated with public utility property can only be returned over a very extended time period. This inter-generational burden required by statute should not be exacerbated by delaying the return of past customer overpayments any longer than is necessary to comply with the normalization requirements in the law. When RMP makes a full accounting of its Excess ADIT in its June 15 supplemental filing, the Commission should take steps to begin returning the Excess ADIT to customers as soon as possible while complying with the normalization requirements of the Tax Reform Act. The Commission should also order the return of the non-property Excess ADIT over a much shorter amortization schedule (e.g. five to seven years).

Requested Relief. UAE submits that the \$20 million rate reduction currently proposed by RMP is substantially inadequate. UAE asks the Commission to enter orders requiring RMP to i) implement a rate reduction effective on or before May 1, 2018, through its proposed Tariff Schedule 197, designed to return at least \$61,000,000 to Utah customers during calendar year 2018, which amount should later be adjusted to reflect 100% of the revenue requirement reduction associated with the lower FIT rate and repeal of the DPAD applied to the ROO for the period ending December 31, 2018; ii) quantify all of the impacts from the Tax Reform Act in its Tax Reform Act impact filing by June 15, 2018; iii) prepare an amortization schedule for the Utah jurisdictional share of Excess ADIT in its Tax Reform Act impact filing by June 15, 2018, which would return to customers public-utility-property-related Excess ADIT at the fastest rate possible without incurring a normalization penalty; iv) prepare an amortization schedule in its June 15, 2018 filing that would return non-property Excess ADIT to customers over a five to seven year amortization period, and v) reflect the benefit from all of the impacts from the Tax Reform Act, including amortization of Excess ADIT, in its proposed Tariff Schedule 197 at the earliest possible time.

DATED this 9th day of April 2018.

HATCH, JAMES & DODGE



/s/ _____

Gary A. Dodge
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by email this 9th day of April 2018 on the following:

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