Gary A. Dodge (0897)
Phillip J. Russell (10445)
HATCH, JAMES & DODGE
10 West Broadway, Suite 400
Salt Lake City, UT 84101
Telephone: 801-363-6363
Facsimile: 801-363-6666
Email: gdodge@hjdlaw.com
prussell@hjdlaw.com

Counsel for Utah Association of Energy Users

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of Rocky Mountain Power for an Accounting Order for Settlement Charges Related to its Pension Plans	Docket No. 18-035-48

PRE-HEARING BRIEF OF THE UTAH ASSOCIATION OF ENERGY USERS

Pursuant to the Scheduling Order and Notice of Oral Argument issued March 5, 2019 in this docket by the Public Service Commission of Utah ("Commission"), the Utah Association of Energy Users ("UAE") files this pre-hearing brief addressing the deferred accounting order requested by Rocky Mountain Power ("RMP" or "Company") in this docket.

RMP filed its Application for Approval of a Deferred Accounting Order ("Application") seeking Commission authorization to defer the expected impacts associated with a 2018 "pension event," and any similar such "pension events" that may occur in the future, and to amortize the impact of all such "pension events" over a certain period of time. As noted in its comments filed February 1, 2019, UAE recommends that the Commission decline to approve the requested deferred accounting and amortization.

I. THE COMPANY'S REQUEST TO DEFER THE COSTS OF THE 2018 PENSION EVENT, ALLOWING THOSE COSTS TO BE RECOVERED IN FUTURE RATES, AMOUNTS TO SINGLE-ISSUE RATEMAKING AND SHOULD BE REJECTED.

The Company's proposal to defer costs from the December 31, 2018 pension event, amortize them over a 21-year period, and recover the deferred and amortized costs in future rates, amounts to single-issue ratemaking and should not be allowed. The expected costs of RMP's pension program are currently recovered in rates set in the last general rate case and can be examined and adjusted in any future general rate case. While the Company does not seek an immediate change in rates from the deferred accounting order in this docket, its proposal with respect to the 2018 pension event would push costs incurred in 2018 into a future year, which costs may then be included in rates set in a future general rate case. The effect of this proposal would be to allow the Company to push 2018 costs that are intended to be recovered in current base rates into future base rates. This proposal should be rejected for several reasons.

First, the Company's proposal would, if granted, authorize the type of retroactive or single-issue ratemaking that is widely recognized to be improper.[1] The Company states in its reply comments filed February 19, 2019, in this docket that it is "not seeking ratemaking treatment as part of its request, only that the Company be given the opportunity to seek ratemaking treatment at some future date."[2] In reality, however, approval of the Company's proposal would allow costs from the 2018 pension event to be included in a future test period for

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[1] *E.g.*, *Utah Dept. of Business Regulation, Division of Public Utilities v. Public Service Commission*, 614 P.2d 1242, 1248 (Utah 1980); *In the Matter of the Application of Rocky Mountain Power for Approval of its Proposed Energy Cost Adjustment Mechanism*, Docket No. 09-035-15, (Report and Order at p. 9, March 2, 2011).

[2] RMP Reply Comments at 9.

potential recovery, without consideration of all of the relevant 2018 countervailing considerations necessary to properly determine just and reasonable rates. Thus, while the Company is not currently seeking any particular ratemaking treatment with respect to the costs of the 2018 pension event, it is asking this Commission to allow it to push costs from the 2018 event forward—albeit amortized over 21 years—into a future test year and effectively treat those costs as though incurred in that test year. There is little meaningful difference between the deferred accounting order that RMP seeks in this docket and any other request for retroactive or single-issue ratemaking.

Moreover, Utah appellate courts have disallowed accounting orders that result in future rate increases. For example, in *Utah Department of Business Regulation v. Public Service Commission*, 720 P.2d 420 (Utah 1986), the Utah Supreme Court reversed a Commission ruling that permitted Utah Power & Light to transfer funds from its energy balancing account to its general revenues. While the utility termed the transfer a mere "accounting adjustment" that did not affect current rates, it would have had the practical effect of increasing future EBA rates to make up for the decreased balance resulting from the "accounting adjustment." *See id*. at 422-423 (noting Division argument that Commission decision "has effectively increased utility rates for consumers" because "if the diverted funds had been retained in the EBA, the PSC in its [subsequent] EBA rate-making decision . . . would have set the EBA rate even lower than it did."). The same is true here.

Finally, as noted in the comments filed by the Office of Consumer Services ("OCS") on February 1, 2019, the Company has not demonstrated that the costs of the 2018 pension event exceed the pension costs anticipated in the last general rate case. OCS notes in its comments that the level of pension costs assumed in base rates set in the 2014 general rate case order exceed the costs that the Company will have actually incurred, even including the current accounting treatment for the costs of the 2018 pension event. While the Company correctly notes that the level of actual costs incurred should not be the only factor in determining whether a deferred accounting order should issue, it is a relevant factor in that determination. UAE agrees with RMP that a utility should be incentivized to reduce costs after the entry of a general rate order, but utilities should be incentivized to reduce costs so that rates can be kept low, not to prop up shareholder earnings. Entry of a deferred accounting order in this case—as applied to the costs of the 2018 pension event—would not serve to reduce rates now or in the future, but rather to increase future rates for the sole benefit of RMP's shareholders.

Because the Company's proposed deferred accounting treatment for costs associated with the 2018 pension event amounts to improper single-issue ratemaking, it should not be approved. The Company has not met its burden to demonstrate that the 2018 pension event fits within the narrow category of events for which single-issue ratemaking may be proper. Nor has it met its burden to demonstrate that current rates, including projected pension costs imbedded in those rates, are unjust or unreasonable. The Company is free to file a general rate case at its discretion. It should not be permitted to defer 2018 expenses or otherwise adjust pension expenses outside the context of a general rate case.

II. THE COMMISSION SHOULD DECLINE TO ADOPT AN ORDER PERMITTING LONG-TERM AMORTIZATION OF FUTURE PENSION EVENTS AT THIS TIME.

The Commission should also decline to adopt a general order permitting long-term amortization of any future pension events. Rather, the rate effects of such events should be decided at the appropriate time and in the context of a general rate case. UAE generally supports the concept of permitting RMP to amortize the costs of some potential pension events over a certain period of time. However, it is premature to adopt any specific amortization for future pension events without having the plenary information afforded by a general rate case necessary to determine how such amortization may affect just and reasonable rates.

As an isolated and conceptual matter, UAE believes that permitting the Company to amortize costs of future pension events, thus "smoothing out" those costs over time, may be beneficial to ratepayers under some circumstances. However, UAE encourages the Commission to decline to adopt a general ruling on all hypothetical future pension events. Specific proposals for amortization should be presented in general rate cases so that the effects of such amortization can be analyzed along with all other information relevant to setting of base rates. An isolated proposal to allow amortization of any specific type of costs is premature and inappropriate until it is presented with the full scope of information used to determine base rates. Only such a full scope of information will allow UAE—and this Commission—to understand how amortization of the costs of pension events will interact with other costs and, ultimately, affect the proper level of rates.

For the above reasons, UAE respectfully requests that the Commission decline to enter an order permitting the Company to amortize the costs of future pension events in this docket. Rather, the Company should be permitted to address projected pension costs in each general rate case so that UAE, other parties, and the Commission can properly determine the effects of the same.

DATED this 28th day of March 2019.

HATCH, JAMES & DODGE

/s/ ___________________________
Gary A. Dodge
Phillip J. Russell
Attorneys for UAE

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by email this 28th day of March 2019 on the following:

ROCKY MOUNTAIN POWER

R. Jeff Richards	robert.richards@pacificorp.com
Yvonne Hogle	yvonne.hogle@pacificorp.com
Jana Saba	jana.saba@pacificorp.com

DIVISION OF PUBLIC UTILITIES

Chris Parker	chrisparker@utah.gov
William Powell	wpowell@utah.gov
Patricia Schmid	pschmid@agutah.gov
Justin Jetter	jjetter@agutah.gov

OFFICE OF CONSUMER SERVICES

Michele Beck	mbeck@utah.gov
Cheryl Murray	cmurray@utah.gov
Steven Snarr	stevensnarr@agutah.gov
Robert Moore	rmoore@agutah.gov

/s/ *Phillip J. Russell*