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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

Application of Rocky Mountain Power to Increase the Deferred EBA Rate through the Energy Balancing Account Mechanism))))))	Docket No. 19-035-01 Reply Comments of the Office of Consumers Services
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Pursuant to Utah Code § 54-10a-301, Utah Admin. Code r. 746-1, and the Utah Public Service Commission’s (“Commission”) March 29, 2019, Scheduling Order, Notice of Hearing, and Tariff Status (“Scheduling Order”) the Office of Consumer Services (“Office”) submits these Reply Comments. On April 4, 2019, in accordance with the Scheduling Order, the Utah Division of Public Utilities (“Division”) after conducting a preliminary review of PacifiCorp’s d/b/a Rocky Mountain Power Application to Increase the Deferred EBA Rate through the Energy Balancing Account Mechanism filed a Memorandum concluding that Rocky Mountain Power’s “filing appears to not depart substantially from prior years’ filings.” April 4, 2019, Memorandum at 1. The Division’s April 4th Memorandum was filed in accordance with the Commission’s February 16, 2017, Order in Docket No. 09-035-15, which imposed interim rate procedures into the EBA mechanism.

However, the portion of the February 16, 2017 Order which imposed interim rates into the EBA has been appealed by the Office and the Utah Association of Energy Users in two

separate appeals. Utah Office of Consumer Services v. Utah Public Service Commission, No. 20170364-SC and Utah Office of Consumer Services v. Utah Public Service Commission, No. 20180536-SC. The appeals were consolidated for oral argument, which was heard on March 20, 2019 before the Utah Supreme Court. The Court has yet to issue a decision. In order not to waive any issue presently on appeal, the Office objects to all portions of the Division’s April 4th Memorandum, which reference the imposition of, and the procedures for, the application of interim rates in the EBA mechanism.

The Office also objects to the Division’s alternative suggestion that the Commission adjust the net power component of base rates “until the conclusion of the Division’s audit and related process allow establishments of final rates.” April 4, 2019, Memorandum at 2. As set out in the briefing of the pending appeals, under the General Rate Case statute, Utah Code § 54-7-12, (“GRC statute”) and the Energy Balancing Statute, Utah Code § 54-7-13.5, (“EBA statute”), base rates can only be changed in a general rate case. Specifically, subsection 54-7-13.5(1)(a) of the EBA statute provides “‘Base rates’ means the same as that term is defined in Subsection 54-7-12(1)” of the GRC statute. Subsection 54-7-12(1) defines “base rates” as “those charges included in a public utility’s general applicable rate tariffs.” The GRC statute defines a “general rate increase” as “any direct increase in a public utility’s *base rate*,” Utah Code § 54-7-12(1)(c)(ii) (emphasis added) and defines a “general rate decrease” as “any direct decrease in a public utility’s *base rate*.” Utah Code § 54-7-12(1)(c)(i) (emphasis added). Finally, subsection 54-7-12(2)(a) states that “[a] public utility that files for a general rate increase or decrease shall file a complete filing with the commission”

Because the term “complete filing” in the citation above refers to a general rate case, general rate increases and decreases—i.e., adjustments in base rates—can only take place in a

general rate case. This Commission, therefore, lacks the statutory authority to change base rates outside a general rate case and the Divisions alternative suggestion must be rejected.

Respectfully submitted, April 18, 2019.

/S/ Robert J. Moore _____
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