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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

Application of Rocky Mountain Power for
Approval of Solicitation Process for 2022 All
Source Request for Proposals,

Docket No. 21-035-52

Office of Consumer Service's Response in
Support of the Division of Public Utilities'
Motion for Order to Preserve Records

Pursuant to Utah Code § 54-10a-301 and UTAH ADMIN. CODE r. 746-101, the Office of Consumer Services (OCS) files this Response in Support of the Division of Public Utilities' (DPU) Motion for Order to Preserve Records.

BACKGROUND

On April 22, 2022, the Public Service Commission of Utah (PSC) approved Rocky Mountain Powers's (RMP) application to conduct a solicitation process under Energy Resource Procurement Act, Utah Code §§ 54-17-201 to -203. Pursuant to the application, RMP solicited bids for approximately 1,345 megawatts of renewable and non-renewable resources and 600 megawatts of battery storage. However, in April 2022, RMP filed a notice informing the PSC and interested parties that the date for final short list for the 2022 REP would be delayed. On September 29, 2023, RMP filed a second notice stating that RMP is suspending the 2022 RFP due to changes in the operational and regulatory environments. The second notice also stated "[d]etails on resumption and bid eligibility will be forthcoming. [RMP] will provide updates

periodically until the 2022 AS RFP is resumed or terminated.” September 29, 2023, Second Notice at 2.

On October 26, 2023, the DPU filed a Motion for an Order to Preserve Records (Motion) seeking an Order requiring RMP “to preserve all records related to bids the Company received in response to the 2022 AS RFP.”¹ Motion at 4. The DPU argues: “Because the Company has yet to provide additional information about the future of the RFP at this date, the Division is uncertain whether the Company will eventually acquire additional resources through the RFP or through some other process.” *Id.* at 2. In addition, the preservation of the requested records “will allow the Division to perform its statutory duty to evaluate the prudence of and costs associated with the Company’s decision to suspend the RFP and the Company’s costs incurred in acquiring future resources, whether through the resumed or modified RFP process or in lieu of the approved 2022 AS RFP.” *Id.* at 3-4.

ARGUMENT

The OCS supports the position of the DPU for the reasons outlined in their Motion. The documentation sought to be preserved is highly relevant to the issues of prudence of RMP’s decision to suspend, and possibly terminate, the 2022 AS RFP. As well as the issues surrounding the possible resumption, modification of the RFP, or the acquisition of resources outside the 2022 AS RFP process. Moreover, while the DPU’s Motion is based, in part, on the DPU and PSC’s specific statutory authority to request records and information from utilities, the OCS has standing to file this response. *See id.* at 3. The OCS has the authority to request

¹ Specifically, the DPU seeks an Order requiring RMP to preserve “all records related to bids received in response to the 2022 AS RFP. These records encompass any information that the Company would use to evaluate bids, determine a final shortlist, or otherwise determine which acquisitions are prudent, including: third-party bids; benchmark bids; resource commercial operation dates; prices; resource types; resource operating characteristics such as expected energy, supply curves, and capacity; bid terms; company communication with bidders; and internal information and communication regarding bids.” Motion at 3.

information from utilities in ongoing dockets, including the instant docket and any future docket dealing with the prudence of RMP actions regarding the 2022 AS RFP. UTAH ADMIN. CODE r. 746-101-501, 602. Accordingly, DPU's arguments regarding the PSC's authority to issue the requested order and the justifications for a preservation order apply to the OCS as well as the DPU. Therefore, the OCS files this Response in Support of the DPU's Motion and asks the PSC to issue an order requiring RMP to preserve the identified records.

CONCLUSION

For the reasons outlined above, the OCS supports the DPU Motion and joins the DPU in requesting the PSC issue an order requiring RMP to preserve the subject records.

Respectfully submitted, November 3, 2023.

/s/ Robert J. Moore
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