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To: Public Service Commission

From: The Office of Consumer Services  
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Date: June 11, 2009

Subject: OCS comments on Commission's June 1, 2009 draft SB75 rulemaking,  
Docket No. 09-999-08

The Office of Consumer Services acknowledges the Commission's efforts to prepare a preliminary draft of the rules for complete filings in general rate cases and major plant addition cost recovery applications. However, we believe that the draft, which relies almost exclusively on the master data requests, does not satisfy the intent of SB 75. Accompanying this memo is a preliminary set of rules redlined and using as a beginning point, the Commission's draft. Some general comments are necessary to explain the Office's perspective.

We believe that the master data requests satisfy only a very small part of SB 75's requirement for rules concerning minimum filing requirements and do not satisfy the statutory mandate that a utility's general rate increase or decrease application be a complete filing. Significant additions and amendments to the Commission draft are necessary. The draft prepared by the Office and submitted with this memorandum, also requires significant additions and amendments. The Office does not view its draft as a final product but rather as the better beginning point from which the meaning and intent of SB 75 will be incorporated into rules.

The Office's draft begins the process of conforming the rules to terms, phrases, and directives used in the statute. The subject matter of the rules should be described by statutory language. For example, to conform the rules to the statute and to achieve consistency among the rules, we replaced words such as "Company" with "utility" and "will" with "shall". The Office believes that standard legal, rulemaking and administrative terms and phrases should be used. The Office does not contend that its draft corrected all errors. The Office's draft will benefit from input from all parties and the Commission.

In general, the Office is concerned that some of the overall intent of the rules governing complete filings has not been adequately captured by this draft. The Office has provided additional information to remedy these concerns, including:

- Additional clarity as to the items, documents, info, etc, **required** to be submitted and the timeline. Absent these clarifications, these rules do not provide specific enough requirements to ensure a proper balance between the interests of the utility and consumers. The statutory time limit for adjudicating the case must be accompanied with assurances that intervenors have access (for the full 240 days) to all the information necessary to complete their review of the case.
- The addition of a definition of what constitutes a complete filing or material omission. This fundamental definition must be included in the rules in order for the Commission to carry out the fundamental intent of the complete filing determination addressed by SB 75.

In addition, the Office provides suggestions for some specific additions to more fully characterize the information necessary for the Office (and other intervenors) to conduct its review of utility filings. These changes and additions are incorporated into our redline version and include:

- A change to what is numbered Rule 710 in our version to clarify that the requirements of that rule would be necessary regardless of when test year is determined.
- An addition to what is numbered Rule 710 in our version to indicated that the utility must comply with recent orders and settlements and identify any deviations from those requirements within its filing.
- Several additions to what is numbered Rule 710 in our version requiring accounting adjustment information in the general rate application itself, as opposed to requiring it in the additional information that is provided only to the Office, the Division and other parties as requested. This information is critical to making any rate change request and should be included within the application provided directly to the Commission.
- The addition of a requirement that company must provide advance notice of rate case in order for protective order to be in place and executed in advance of filing date. Absent this requirement, the Company would be unable to provide a complete filing on the date of its original filing.
- A change in the definition of materiality in regard to dollars or percentage change when company must provide certain supporting documents and evidence. This change is necessary to ensure that intervenors have access to all substantive information.

- The clarification of what studies should be included in class cost of service information. This change is necessary for proper evaluation in the case of proposed changes to the classes used by a utility.
- The inclusion of additional revenue requirement documentation. This change is necessary to enable intervenors to adequately assess revenue requirements related to OMAG, plant additions, taxes, etc.
- The inclusion of additional interjurisdictional information. This information is necessary to evaluate the company's forecasting of allocation of costs among its jurisdictions.
- The addition of a description of format in which certain NPC information will be provided. Providing the data in the requested format will standardize the information provided, and streamline the process. This is data the utilities routinely use in preparation of their power cost studies.
- The addition of language to the protective order in order to accurately reflect the responsibilities of state utility regulatory agencies.

C: All parties of record