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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Rulemaking for Provisions Delineating "Complete" Application Requirements for Rate Case and Major Plant Addition Applications Pursuant to Utah Code Sections 54-7-12 and 54-7-13.4.	Docket No. 09-999-08 **SECOND SET OF PRELIMINARY COMMENTS OF THE UTAH INDUSTRIAL ENERGY CONSUMERS TO THE PROPOSED RULES FOR A "COMPLETE" FILING**

On July 17, 2009, Rocky Mountain Power Company ("RMP") and Questar Gas Company ("Questar") (together referred to as the "Utilities") distributed their suggestions and comments on the Public Service Commission's ("Commission") July 2, 2009, Draft of SB 75 Rules ("Utilities' Comments") for what constitutes a "complete" filing pursuant to Utah Code Annotated Sections 54-7-12 and 54-7-13.4. The UIEC hereby submit the following comments and suggestions on the proposed draft rules and, to some extent, to the Utilities' Comments.

As a preliminary matter, we believe that the Commission should consider adding a provision that would serve somewhat as a "sunset" provision in these rules. These requirements are new for the Utilities, as well as the regulators and other parties. It would be helpful to require a mandatory review approximately two years after the rules become effective. At that

time, an analysis can be conducted as to whether the rules are too burdensome for the utilities, or whether the rules are effective providing parties with the necessary information in a timely fashion, and whether any modifications should be made. Although we realize that the rule can be amended without that explicit requirement, a sunset clause would ensure that the Commission, regulators and intervenors have a chance for a mid-course correction once we see the effect of the rule in practice.

R746-700. This rule sets forth the purpose of the 7XX series rules and explains the provisions for complete filings for general rate case and major plant addition applications. We do not agree with the Utilities' Comment that under subsection C, subsections 722 and 723 should be stricken from the list of minimum requirements. In fact, as we proposed in previous comments and the technical conference, and for reasons discussed more fully below, the information now provided as Master Data Responses ("MDR"), which is enumerated in sections 722 and 723, should be filed with the Commission as part of the complete application. Thus, we would accept the Utilities' proposed change later in subsection C requiring that the information be "filed" with the Commission as part of a complete application, but we disagree that 722 and 723 should be excluded from the list. Of course, that would make the Utilities' subsection D unnecessary.

R746-700 (D). We disagree with the Utilities' proposal to limit discovery to those limitations set forth in the Utah Rules of Civil Procedure. The Rules of Civil Procedure limit the number of data requests of any party to 25. This is unworkable and inappropriate for utility rate cases. It is also in conflict with the Commission's Rule R746-100-8. Utility regulation is very different from the type of litigation contemplated in the Rules of Civil Procedure. In civil

judicial practice, each side usually has a fair amount of their own information that is relevant to the case. In the practice of utility regulation, however, the utility has all of the relevant information, and the parties have little, if any. Placing an artificial limitation on acquiring necessary information in a general rate case or major plant addition case would serve as a barrier to the determination of just and reasonable rates

R746-700 (E). This subsection deals with the format and detail of documents provided under the Rule. We strongly encourage the Commission to require a utility to correlate the information it is providing in its application with the specific requirement stated in the applicable rule. This could easily be done by filing separate schedules for each of the subsections of R746-720, 721, 722, 723 and 730. Given the fourteen day window for a party to challenge the completeness of the application, the burden on the utility to organize it in a way that can be easily correlated with the rule is small in comparison to the burden on a party to determine completeness of un-correlated information. Other jurisdictions require information to be organized in specific schedules, and we believe the requirement should be included in Utah's rule.

R746-710. The Commission's draft of subsection A(2) should be preserved, requiring a utility proposing to use a future test period to also file the alternative test periods specified in the July 2 draft of the subsection. The Utilities' Comments would likely result in exactly the same situation that occurred in Docket No. 08-035-38—namely that there was so little information filed on the test year ulimtely ordered by the Commission that when the test year decision was made, the 240-day clock had to be restarted. In the future, for example, if the utility files an application supporting test period A, and at least two other parties argue for a test

period B and test period C, each of which are different from A and each other, and if the Commission decides to use test period C, the application would by definition be incomplete. The utility would not have filed adequate information to support its application in light of the decided test year, and would have to re-file its case, thus staring the 240-day period anew.

In addition, we disagree with the Utilities' Comments contending that the requirement exceeds the authority granted by statute. The statute gives the Commission wide latitude in establishing requirements for a "complete filing." Utah Code Ann. § 54-7-12(b) (2009).

R746-720. This rule sets forth the information to be provided as part of a general rate case application. We are concerned that, by enumerating all of the information that the utility must file in a "complete application," the utility will not be required to file anything that is not enumerated, even if it has always been the utility's practice to provide it. We suggest, therefore, that Rule 746-720 (as well as Rules 721, 722, 723 and 730) state that the list of information is the minimum requirement and that, in addition, the utility must file nothing less than it filed in the previous general rate case unless the Commission relieves the utility of this obligation.

R746-721. Under subsection A of R746-721, which deals with the Utah Class Cost of Service Study, we propose the following change with respect to A.1: "~~A~~ Utah Class Cost of Service Stud~~y~~ies based on all of the test periods filed with the application, along with all supporting documentation …"

Also, under subsection D of R746-721, we oppose the Utilities' Comments, which would allow the utility to play hide-and-seek with the tariff changes it seeks in the application. We suggest that the Rule require the utility to clearly list the proposed changes to rates, rate design, and service regulations, and identify where in the tariff they occur. Again, the burden on the

utility is small compared to the burden on other parties to try to find every proposed change and its supporting documentation within the fourteen-day limitation.

R746-722. This section deals with information to be available at the time of filing a case based on a forecasted test period. It has been the experience of the UIEC, that a utility often may "update" or "supplement" information in the MDRs later in the case. In some instances, the information originally supplied as part of the MDRs is inaccurate, incomplete, or does not support the utilities' position in the case. In those instances, usually upon receiving a data request, the utility may serve a "supplemental data response," replacing the original information with new data or even providing information that it had originally inadvertently omitted. The result is that regulators, interveners and their experts, who have relied on the original information to develop their case, must modify their analysis or, in extreme cases, essentially start over with their analysis. The information provided under subsection 722 should be required for a complete application. The utility should be required to file it, and to stand by it as support for the application. If that information is absent, incomplete or inaccurate, the utility may supplement it, but in that case, it should be presumed that the application was incomplete from the outset, and the 240-day period should begin to run anew. If the parties are to be bound by the 240-day period, the utility should be bound by its initial filing.

R746-723. For the reasons stated in the previous paragraph, the information listed in R746-723 should be filed as part of the application if the utility includes net power costs in a case having a forecasted test period.

By offering these comments, the UIEC do not acquiesce to any of the Utilities' Comments that are not addressed here, and reserve the right to propose further changes or make additional comments as part of the formal rulemaking proceeding.

DATED this 23rd day of July, 2009.

/s/ William J. Evans

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CERTIFICATE OF SERVICE
(Docket No. 09-999-08)

I hereby certify that on this 23rd day of July 2009, I caused to be e-mailed, a true and correct copy of the foregoing **SECOND SET OF PRELIMINARY COMMENTS OF THE UTAH INDUSTRIAL ENERGY CONSUMERS TO THE PROPOSED RULES FOR A "COMPLETE" FILING** to:

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