Mark C. Moench (2284)
Yvonne R. Hogle (7550)
Rocky Mountain Power
201 South Main Street, Suite 2300
Salt Lake City, UT 84111
(801) 220-4050
(801) 220-3299 (fax)
mark.moench@pacificorp.com
yvonne.hogle@pacificorp.com
Attorneys for Rocky Mountain Power

Colleen Larkin Bell (5253)
Jenniffer R. Nelson (7947)
Questar Gas Company
180 East First South
P.O. Box 45360
Salt Lake City, Utah 84145-0360
(801) 324-5556
(801) 324-5935 (fax)
colleen.bell@questar.com
jenniffer.nelson@questar.com
Attorneys for Questar Gas Company

Gregory B. Monson (2294)
Ted D. Smith (3017)
Stoel Rives LLP
201 South Main Street, Suite 1100
Salt Lake City, UT 84111
(801) 578-6946
(801) 578-6999 (fax)
gbmonson@stoel.com
tsmith@stoel.com
Attorneys for Rocky Mountain Power and Questar Gas Company

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of Rule-Making for Rule 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 **JOINT COMMENTS OF ROCKY MOUNTAIN POWER AND QUESTAR GAS COMPANY ON PROPOSED 7XX SERIES RULES**

Rocky Mountain Power, a division of PacifiCorp ("Rocky Mountain Power"), and Questar Gas Company ("Questar Gas") (sometimes collectively the "Energy Utilities") respectfully provide these joint comments and suggested amendments to the proposed 7XX series rules published in the Utah State Bulletin on August 15, 2009. The proposed rules were developed in response to Utah Code Ann. §§ 54-7-12(1)(b)(ii) and 54-7-13.4(1)(a)(ii). These

statutes were amended or enacted by Senate Bill 75 ("SB 75") during the 2009 General Session of the Utah Legislature. L. Utah 2009, ch. 319. These comments and suggested amendments are provided pursuant Utah Code Ann. § 63G-3-301(11) and to the Notice of Proposed Rule, DAR File No. 32866, Utah State Bulletin, August 15, 2009, Vol. 2009, No. 16, page 41.

Specifically, these comments and suggested amendments are directed to the following proposed rules:

- R746-700-1. General Provisions Applicable to All 7XX Series Rules.
- R746-700-10. Test Period Information to Be Included With a General Rate Case Application.
- R746-700-20. Information For a General Rate Case Application for an Electrical Corporation or a Gas Corporation.
- R746-700-21. Cost of Service and Rate Design Information for a General Rate Case Application for an Electrical Corporation or a Gas Corporation.
- R746-700-22. Additional Information for a General Rate Case Application Using a Forecasted Test Period Filed by an Electrical Corporation or a Gas Corporation.
- R746-700-23. Additional Power Costs Information for a Forecasted Test Period to Be Filed by an Electrical Corporation.[1]
- R746-700-30. Information for an Alternative Cost Recovery for a Major Plant Addition Application Filed by an Electrical Corporation or a Gas Corporation.

The Energy Utilities do not provide comments or suggested amendments on proposed rules R746-700-40, R746-700-41, R746-700-50, and R746-700-51, which are also part of the 7XX series rules and apply only to telecommunications and water public utilities.[2]

[1] R746-700-23 applies only to electrical corporations. Accordingly, the comments and suggestions on R746-700-23 are attributable only to Rocky Mountain Power.

[2] Certain incidental proposed amendments resulting from universal find and replace functions appear in these proposed rules, but the Energy Utilities have not made any effort to specifically review these rules to make certain that these amendments are applicable or to

Two types of amendments are proposed. Attachment 1 includes all amendments, substantive and nonsubstantive, the Energy Utilities respectfully request the Commission to make to the proposed rules. Attachment 2 proposes nonsubstantive amendments for the Commission's consideration should it choose not to make the substantive amendments proposed by the Energy Utilities.

I. INTRODUCTION

The Energy Utilities appreciate the efforts of the Commission in soliciting and considering the input of interested parties in the pre-rulemaking process in this matter. They particularly appreciate the fact that the Commission made modifications to the rules originally drafted and revised based on their comments and suggestions. The proposed rules represent a significant effort by the Commission to propose a set of rules that will provide utilities and other parties with greater certainty as to what constitutes a "complete filing" for general rate case and major plant addition applications. The Energy Utilities do not object to providing most of the substantial information the proposed rules require them to provide in conjunction with applications for general rate cases or major plant addition cases. The proposed rules are generally substantially more reasonable than the original draft and revised draft of the rules reviewed in the pre-rulemaking process.

Nonetheless, the Energy Utilities believe that some aspects of the proposed rules should be changed to better reflect the intent of SB 75 and to be more consistent with the public interest. Most of the proposed changes relate to issues that have already been thoroughly raised by the Energy Utilities during the pre-rulemaking process. Accordingly, in these comments the Energy

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determine whether other nonsubstantive amendments proposed for the rules applicable to the Energy Utilities would also be applicable to these rules.

Utilities will generally simply raise those issues again and will not fully reiterate their arguments which have been made previously, but will rather incorporate them by this reference. There are a few substantive issues on which the Energy Utilities are able to provide additional perspective on their concerns. They will be discussed more fully below.

In addition, the Energy Utilities believe that certain nonsubstantive amendments to the rules would make them more streamlined, consistent and clear. The Energy Utilities respectfully suggest that these amendments be made to the proposed rules.

A computer-generated redline comparing the proposed rules with all of the Energy Utilities' suggested changes is Attachment 1 to these comments. The Energy Utilities recognize that substantive amendments would require republication of the rules in the Utah State Bulletin and a further comment period under Utah Code Ann. § 63G-3-303. They recommend that the Commission adopt the changes on an emergency basis under section 63G-3-304 to comply with the requirements of sections 54-7-12(1)(b)(ii) and 54-7-13.4(1)(a)(ii) that rules be created and finalized within 180 days of the effective date of SB 75,[3] and that they simultaneously submit the substantive amendments for public review and comment under section 63G-3-303.

A computer-generated redline comparing the Energy Utilities' suggested nonsubstantive changes with the proposed rules is Attachment 2 to these comments. The Energy Utilities do not believe these amendments would require republication of the rules under Utah Code Ann. § 63G-3-303(2) before they are made effective.

[3] The effective date of SB 75 was March 25, 2009. *See* http://le.utah.gov/~2009/status/sbillsta/sb0075.htm. Accordingly, the rules must be finalized by September 21, 2009. The Notice of Proposed Rule indicates that the proposed rules may become effective on September 23, 2009. The Energy Utilities respectfully suggest that the Commission review this date discrepancy.

II. COMMENTS

The Energy Utilities will first provide comments on five substantive issues that were not explored at length in the pre-rulemaking proceedings: (1) the general bias in the rules against use of forecasted test periods, (2) the requirement for the filing an additional test period if a public utility does not seek approval of a test period prior to filing a general rate case application, (3) the materiality thresholds for additional information to be filed and provided to parties in connection with a general rate case application, (4) the requirement to provide information following the base historical period "to date," and (5) the requirement to provide information on sales of properties, which in the aggregate are material. They will then explain the reasons for the more prominent or recurring nonsubstantive changes suggested for the consideration of the Commission. Finally, the Energy Utilities will briefly mention issues previously explored in filings and statements during the public meetings in the pre-rulemaking process in this matter that are still concerns with the proposed rules.

A. Additional Perspectives on Substantive Issues

1. General Bias of Proposed Rules Against Use of Forecasted Test Periods

Despite the fact that use of forecasted test periods was authorized by the Public Utility Code prior to 1975, *see* L. Utah 1975, ch. 166, and that forecasted test periods were regularly and consistently used during the late 1970s and 1980s, the Commission began disallowing their use in the 1990s. Although the 2003 amendment to section 54-4-4(3) extended the time period for the end of forecasted test periods and required that they be used if they best reflect the conditions

during the rate-effective period, the Commission continues to be reluctant to use them to the extent permitted.[4]

The proposed rules contain numerous requirements that apply when a public utility proposes to use a forecasted test period that are not imposed if the public utility uses a historic test period. The Energy Utilities understand that if a forecasted test period is proposed, the applicant must explain how the forecast was made, but the proposed rules require far more than that type of information. For example, R746-700-20.B simply states that if a non-forecasted test period is used, the applicant is required to provide information identifying and supporting each and every adjustment to the historical base period. R746-700-20.C, however, requires the provision of at least 24 categories of information for a forecasted test period. Some of these categories, such as a division of costs between union and nonunion and employee and contract labor or a breakdown of employee benefit components, apply equally to a forecasted or adjusted historical period. Furthermore, under the proposed rules, if a forecasted test period is used, the applicant must provide prior historical information, but need not provide the prior historical information if a non-forecasted test period is used. Prior historical information is just as applicable to a non-forecasted test period as to a forecasted test period.[5] In addition to the foregoing, the detailed information required by R746-700-22 and R746-700-23, much of which relates to prior historical years, is only required if a forecasted test period is used.

[4] For example, in Docket Nos. 07-035-93 and 07-057-13, the Commission rejected the proposals of the Energy Utilities to use forecast test periods that ended approximately 18 months after filing even though those test periods were supported by the Division of Public Utilities ("DPU") and Office of Consumer Services ("OCS").

[5] As discussed below, the Energy Utilities do not believe they should be required to provide this information that is already publicly available to all parties when using either type of test period.

The Commission's bias against use of forecasted test periods is apparent based on a comparison of what constitutes a complete filing for a general rate case application if a forecasted test period is used versus a non-forecasted test period. In fact, the proposed rules create a disincentive, unrelated to information actually relevant or needed, to filing rate cases based on forecasted test periods. This is clearly improper in light of the 2003 amendment to section 54-4-4(3).

In addition, the Commission's bias is apparently based on the incorrect premise that use of historical data is somehow more accurate than use of forecasted data. In 1975, Dr. Alfred Kahn, a noted economist and regulator, observed:

> The fact is … regulatory commissions have always been in the business of projecting, whether they knew it or not. When they used historic test year statistics, fully verifiable and verified, graven in stone, as the basis of future rates, they were in fact projecting. They were assuming that the future would be similar to the past. It is no more speculative, then, to make the best possible estimate of future costs when setting future rates; and honesty compels it.[6]

What Dr. Kahn observed in 1975 remains true today, and that truth is recognized as the legal policy of Utah—that rates should be set to best reflect conditions in the rate-effective period. Utah Code Ann. § 54-4-4(3). Utilities are entitled to have rates set that will cover their costs prudently incurred in providing service during the period those rates will be in effect. Because rates are set prospectively and costs will be incurred prospectively, rates should always be based on the costs that best reflect the conditions the utility will encounter in the future. In other words, rates must be set to cover forecasted costs. If they are not set on that basis, the statute establishes that they are not just and reasonable.

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[6] A. Kahn, "Between Theory and Practice: Reflections of a Neophyte Public Utility Regulator," *Public Utilities Fortnightly* 29 (Jan. 2, 1975).

Someone might argue against using forecasted test periods on the ground that setting rates based on forecasted costs results in higher rates. While that will not always be the case, it is likely true for most periods. However, assuming future costs will be higher than historic costs, insisting that rates be based on historic costs assures that the rates will not be just and reasonable, especially for utilities that are growing and have a need for major capital additions. That is certainly not proper. It has never been the Commission's job to set rates that are lower than the actual, prudent costs that the utility will incur during the rate-effective period. Rather, the law requires the Commission to set rates at the level that covers the cost of providing service. *See Stewart v. Utah Public Service Comm'n,* 885 P.2d 759, 767 (Utah 1994).

To the extent the proposed rules reflect a Commission bias against the use of forecasted test periods, they should be amended to remove that improper bias.

2. Requirement for Filing an Additional Test Period in Lieu of a Preapproval Process

The Energy Utilities appreciate the Commission's modification of the proposed rules to remove the four alternative test periods that would have been required under the draft rules to be filed if a public utility did not seek prior approval of a forecasted test period. This is a significant improvement. The Energy Utilities, however, continue to object to the requirement that they file even one alternative test period that they do not believe represents the costs that will be incurred during the rate-effective period.

R746-700-10.A.2 requires a utility proposing a future test period that has not been approved through a prefiling process to file a complete test period for the 12-month period ending on the last day of June or December, whichever is closest, following the filing date of the application. This requires the applicant to compile and file complete test period data for a test period that it does not believe best reflects conditions that will be encountered during the rate-

effective period. As noted in filings and statements during the pre-rulemaking process, it is improper to require that a party file information in order to make its application "complete" that it believes is irrelevant and that is not supportive of its position.

3. Materiality Thresholds

In the proposed rules, the materiality threshold in R746-700-22.A.3 was changed from 0.1 percent of total state revenue requirement or $500,000, whichever is *greater*, as included in the pre-rulemaking drafts, to 0.1 percent of total state revenue requirement or $500,000, whichever is *less*, at the urging of the OCS.[7] In making this change, the Commission has reduced the materiality threshold for Rocky Mountain Power to $500,000 and for Questar Gas to approximately $250,000. These materiality thresholds may have made sense in prior years when the Energy Utilities' revenue requirements were substantially smaller than they are today. However, in the context of current revenue requirements, which have increased as a result of customer growth, significant investment in plant and inflation, these thresholds are simply too low and will result in excessive review of issues in general rate cases that have little if any significance in setting just and reasonable rates.

The materiality thresholds if the test were *greater* rather than *less* would be approximately $1,500,000 for Rocky Mountain Power and $500,000 for Questar Gas. These thresholds are much more reasonable in the context of current revenue requirements of approximately $1.5 billion for Rocky Mountain Power and $250 million for Questar Gas. Even these thresholds are far too low in the context of the general "rule of thumb" in accounting

[7] It is somewhat ironic that the OCS has supported the filing of extensive information throughout the pre-rulemaking process on the basis that it needs this level of information at the commencement of a case in order to analyze and respond to a general rate case application within 240 days because of its limited resources, but at the same time argues for an unreasonably low materiality threshold which unnecessarily increases its potential workload.

standards.[8] However, they may be justified in an effort to identify expenses that it is worthwhile to scrutinize for prudence.

Rocky Mountain Power also notes that no materiality threshold has been included in R746-7-00-23. Thus, under R746-700-23.C.4, for example, Rocky Mountain Power would arguably be required to list and explain any change in its Power Cost Model since the prior general rate case, even if such a change was clearly not material. In addition, there is no reference point for the requirement in the last sentence of this provision requiring providing more detailed information for "Material" changes. Rocky Mountain Power respectfully recommends that the Commission include a materiality threshold in this proposed rule of 0.5 percent of net power costs.

4. Provision of Information To Date

Several of the provisions of R746-700-20 and R746-700-22 require the provision of information "To Date." The Energy Utilities appreciate that the Commission adopted their suggested definition of "To Date" referring to information up to the most recent date for which information is reasonably available to the public utility in preparing its general rate case application. R746-700-23.A.1.e. Otherwise, it is conceivable that a party may have argued that an application was not complete because it did not include information through the date of filing. Inclusion of such information would, of course, have been impossible because accounting results are not available immediately and, even if they were, it would be impossible to complete

[8] Although there is no hard and fast rule regarding a percentage of income or revenue that is material for purposes of financial disclosure or auditing, a "rule of thumb" is that the range is between five and ten percent. *See In re Westinghouse Securities Litigation*, 90 F.3d 696, 714 n. 14 (3d Cir. 1996) (citing *Statement of Financial Accounting Concepts No. 2*, 56 (Financial Accounting Standards Board, May 1980)).

preparation of a detailed rate case application while at the same time constantly updating it for new information.

On further reflection, the Energy Utilities recognize that even providing information reasonably available at the time an application is filed may create a significant burden with little corresponding benefit. For example, assume a public utility files a general rate case application in May of 2010. The application would likely be based on a base year of 2009. It may propose a test period of 2011. Therefore, the application would include complete information for the base year of 2009 and the test period of 2011. It would also include, under certain rules, such as R746-700-22.D.17 and 44, forecasted monthly information for 2010. However, in circumstances in which the rules require information to be provided "To Date," it arguably would be required to file actual information through March of 2010. This information would not be available until late April or May of 2010, and it would, therefore, be extremely difficult to include it in an application to be filed in May of 2010. In addition, it would provide very little, if any, useful additional information not already provided to the Commission and the parties in the application. Certainly, if an issue arose during the case about a material deviation between forecasted and actual results of operations, it would be appropriate to seek discovery of actual results for some period between the base year and the test period. As a general rule, however, there is no need to include this information in the application or material to be provided with the application.

Accordingly, the Energy Utilities propose that "To Date" be defined in a way that requires production of information between the base year and the test period only if the application is filed more than six months following conclusion of the base year.

5. Sales of Properties Whose Proceeds Are Material in the Aggregate

R746-700-22.D.47 requires an applicant to provide detailed information on properties sold or forecasted to be sold during the base year, to date and the test period if the proceeds for

the properties, in aggregate, are material. Thus, if the proceeds on the sale of any single property or a few properties are material, the information must be provided on all properties sold or forecasted to be sold regardless of the materiality of those individual properties. For example, if one or more significant properties are sold, the applicant must provide detailed information on sales of even the most insignificant of properties, such as the sale of a used vehicle or even less significant item of property such as a used tool. While providing the required information on the sale of a large and materially significant property should not be avoided through breaking the sale into smaller components each of which is not material, an applicant should not be required to provide the information on the sale of unrelated insignificant properties just because sales of significant properties have taken place.

B. Nonsubstantive Suggestions

In reviewing the proposed rules following their publication, it became apparent to the Energy Utilities that the rules could be streamlined and made more consistent and clear by making nonsubstantive changes to them. The Energy Utilities are, therefore, respectfully proposing nonsubstantive amendments in Attachments 1 and 2 for the consideration of the Commission. These comments will not explain each nonsubstantive change proposed, but will rather explain only the most prominent or recurring nonsubstantive changes.

The major nonsubstantive change the Energy Utilities propose is to move most of the definitions from R746-700-22 to R746-700-1. Items for which terms are defined in R746-700-22, such as Base Year, Test Period, Historical Year, To Date, Workpapers, Provide and Describe and Models are used in other proposed rules, but because they are not yet defined their definition must be used in lieu of the defined term. This is not only inefficient, it has the potential of introducing interpretive inconsistencies and confusion. By moving these definitions to the general provisions applicable to all 7XX series rules, R746-700-1, the same defined terms can be

used throughout the rules. This proposed change accounts for the vast majority of the nonsubstantive changes proposed by the Energy Utilities in Attachments 1 and 2.

Another nonsubstantive change that recurs in several places in the rules is the requirement that information be provided for the Base Year, To Date and for the Test Period. In some places in the rules this requirement is stated as providing the information for the Base Year, the Test Period and To Date and in other places it is stated as providing the information for the Base Year, To Date and the Test Period. The Energy Utilities believe that the second of these statements is more chronologically correct and will apply in all or almost all circumstances. In all or almost all circumstances, the chronological order of these three periods will be Base Year, To Date and Test Period.

Another nonsubstantive change that appears in multiple instances is the use of similar qualifiers in the same circumstance. For example, in R746-700-20.C.3.a, the proposed rules provide that information on contract labor employees and union labor employees will be provided "as available and separately identified." However, R746-700-20.C.3.b-c do not include this same qualifier although it is equally applicable. Similarly, R746-700-22.B.3 includes "to the degree available" the first time it references separate costs, but does not include the phrase in a subsequent reference.

Rules R746-700-20, 21, and 22 apply only to electrical or gas corporations and their titles so state. However, there is no reference in the body of these rules to the fact that they are only applicable to these two types of public utilities. Under the general legal principle that titles are not normally considered in interpretation of statutes or rules, *see, e.g. Anderson Development Co. v. Tobias*, 116 P.3d 323, 336 (Utah 2005), the Energy Utilities suggest that the introductory provisions in these rules include a reference to electrical corporations and gas corporations.

In several places, the proposed rules require an applicant to provide information reflecting adjustments from prior Commission orders. By simply specifying that adjustments from prior Commission orders must be made, these provisions ignore the possibility that an adjustment required in a prior Commission order may have been modified or overruled by a subsequent Commission order. The Energy Utilities assume that what the Commission intends is that the applicant make adjustments consistent with *currently applicable* requirements. Therefore, the Energy Utilities have proposed nonsubstantive changes to the rules to make this clear.

The proposed rules use the term "shall" in some cases and "will" in other cases without any apparent rationale for the differences. The Energy Utilities have left the term "shall" where it is in an introductory provision. However, consistent with other usage in the proposed rules, the Energy Utilities have changed shall to will where it is used to describe what a document will show. In making these proposed changes, the Energy Utilities are not attempting to make a requirement optional rather than mandatory. They are simply attempting to make usage of these terms consistent throughout the rules.

In a handful of places, the Energy Utilities are recommending that phrases be stricken that appear to be unnecessary because they are duplicative of other requirements in the proposed rules. Examples of this include the phrase "unless the information or document is already included in or with the application" in R746-700-22, the sentence requiring that spreadsheets and workpapers be provided in electronic format with formulas intact and input data available in R746-700-22.A.2 (moved to R746-700-1.B.2) in light of the same requirement in R746-700-1.E.1 (moved to R746-700-1.F.1), and R746-700-22.B.5.d in light of the requirements in R746-700-23.

Other proposed nonsubstantive changes include grammatical corrections or suggestions for clarity.

In addition to these nonsubstantive changes, the Energy Utilities note a minor point regarding the alternative test period in R746-700-10.A.2. As proposed, the rule requires the applicant to file test period data for a test period that may end only days or at most six months following the date the application is filed. For example, if an application were filed June 29 of a given year, the alternative test period would be the 12-months ending June 30 of the same year, only one day after the application is filed. If the application were filed on June 30, the alternative test period would be the 12-months ending December 31 of the same year, only six months after the application is filed. The alternative test period would never extend more than six months beyond the date the application is filed and would often be less than six months. This test period will add little information not already available in the base year data filed by the applicant.

C. Prior Issues

In their filed comments and statements in public meetings during the pre-rulemaking process, the Energy Utilities raised issues with the draft rules, some of which continue to have application to the proposed rules. The Energy Utilities believe the Commission understands their positions on these issues and that lengthy argument regarding them in these comments is unnecessary. However, for the record, they wish to reiterate those positions and adopt their prior comments on them by reference. They also respectfully request that the Commission amend the proposed rules to address them, but recognize that the Commission has not been persuaded to do so to date.

First, although the test year preapproval process in R746-100-10.B is presented as an option to filing an additional test period with a general rate case application where a forecasted

test period is proposed, the Energy Utilities continue to be of the view that any preapproval process is inconsistent with the 240-day period for the Commission to act on a general rate case application. This requirement has been part of the Public Utility Code since 1981, L. Utah 1981, ch. 215, § 4,[9] and was reaffirmed in SB 75. The purpose of SB 75 was to provide certainty to public utilities and other parties regarding what constitutes a complete filing; it was not to provide additional time for the parties or Commission to act on a rate increase application if a forecasted test period is proposed.

Second, the proposed rules have now converted what were formerly known as Master Data Requests to requirements for a complete filing. By requiring in R746-700-22 and R746-700-23 that these materials be filed with the application, the Commission has addressed one of the issues raised earlier by the Energy Utilities—that materials not filed with the Commission could not possibly be part of the complete filing requirement. In doing so, however, the Commission has overlooked the bigger issue: how can material that has traditionally been provided, if at all, as part of the discovery process during a general rate case, now be required to be filed for an application to constitute a prima facie case and be a complete filing? Although the Energy Utilities are willing to provide the additional information required by these rules in the form of discovery responses at the commencement, or within a reasonable period of time following commencement, of a general rate case, they have opposed and continue to oppose making them part of the requirement for a complete filing. SB 75 was not intended to expand what was required for a complete filing. Rather, it was intended to provide certainty regarding the "minimum filing requirements" for a complete filing. *See* Utah Code Ann. § 54-7-12(1)(b).

[9] Prior to the 1981 amendment, the Commission was required to act on a rate increase application within 120 days, but the Commission could extend the period for up to an additional 120 days if necessary. *Id.*

Third, R746-700-23 requires Rocky Mountain Power to file extensive net power cost analyses and materials with its application. Under the Master Data Request process, previously accepted by Rocky Mountain Power and the other interested parties, including the Division of Public Utilities and OCS, these discovery responses were not due for 15 to 30 days following the filing of the application. The reasons were practical ones. It takes substantial time to put these materials into docket-quality form. If Rocky Mountain Power is required to provide them with its application, it will be required to devote additional resources to regulatory compliance and will also be required to use older net power cost data in preparing its application. One part of the problem caused by the decision to convert the provision of this information from discovery responses to complete filing requirements is that doing so necessitates that they be provided with the application. If they are left as discovery responses, as they should be, there is no problem with them being provided within 30 days after the application is filed.

Fourth, several aspects of R746-700-20 and R746-700-22 require the Energy Utilities to file historical information prior to the Base Year that has already been filed with the Commission, the DPU and the OCS and that is publicly available to any other interested party. Although it may not be a substantial burden for the Energy Utilities to compile and provide this information again as part of their applications, it is likewise not a substantial burden for other parties to compile this information from the reports already available to them if they wish to do so. By requiring the Energy Utilities to accept this burden rather than the parties who may want this information for the preparation of their cases, the Commission has embarked on a slippery slope that requires Energy Utilities to do work for the benefit of other parties based on the false premise that the Energy Utilities have greater access to this information than the other parties.

Fifth, R746-700-30 seems to require provision of information far beyond what would reasonably be necessary to establish a prima facie case for a single-item rate adjustment

associated with a major plant addition. This is particularly the case where the utility has already gone through the process of gaining approval for the major plant addition under the Energy Resource Procurement Act, Utah Code Ann. §§ 54-17-101, *et seq*. While it is true that a rate adjustment must consider changes in investment, revenues and costs associated with a major plant addition, the approval proceeding will already have considered the impact of the significant energy resource decision on the public utility's revenue requirement. Utah Admin. Code R746-430-2.(1)(g) ("An analysis of the estimated effects the Significant Energy Resource will have on the Affected Utility's revenue requirement"). R746-700-23 should not be a wish list of everything that any party might conceivably want to know about a major plant addition. It should be limited to the information necessary for a prima facie case to support single-item rate recovery for the major plant addition.

III. CONCLUSION

The Energy Utilities appreciate the efforts of the Commission in developing the proposed rules and particularly appreciate the Commission's acceptance of certain of their suggestions from the pre-rulemaking process. The Energy Utilities have no objection to providing substantial information to the Commission and parties in connection with their filing of applications for general rate cases or major plant addition cases. Nonetheless, they respectfully propose that the Commission make the amendments to the proposed rules on an emergency basis before making the rules effective on a permanent basis set forth in Attachment 1. In the event the Commission is unwilling to make the substantive changes proposed, the Energy Utilities provide suggested nonsubstantive changes in Attachment 2 for the Commission's consideration. The Energy Utilities believe these proposed nonsubstantive changes will make the rules more streamlined, consistent and clear and respectfully request that the Commission adopt them.

DATED: September 15, 2009.

Respectfully submitted,

ROCKY MOUNTAIN POWER

Mark C. Moench
Yvonne Rodriguez Hogle
Rocky Mountain Power

QUESTAR GAS COMPANY

Colleen Larkin Bell
Jenniffer R. Nelson

_____

Gregory B. Monson
Ted D. Smith
Stoel Rives LLP

Attorneys for Rocky Mountain Power and Questar Gas

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing **JOINT COMMENTS OF ROCKY MOUNTAIN POWER AND QUESTAR GAS COMPANY ON PROPOSED 7XX SERIES RULES** to be served upon the following by electronic mail to the addresses shown below on September 15, 2009:

Michael Ginsberg
Patricia E. Schmid
Assistant Attorney Generals
500 Heber M. Wells Building
160 East 300 South
Salt Lake City, UT 84111
mginsberg@utah.gov
pschmid@utah.gov

Philip J. Powlick
William A. Powell
Marlin Barrow
David T. Thomson
Division of Public Utilities
400 Heber M. Wells Building
160 East 300 South
Salt Lake City, UT 84111
philippowlick@utah.gov
wpowell@utah.gov
mbarrow@utah.gov
dthomson@utah.gov

Paul H. Proctor
Assistant Attorney General
500 Heber M. Wells Building
160 East 300 South
Salt Lake City, UT 84111
pproctor@utah.gov

Michele Beck
Cheryl Murray
Office of Consumer Services
200 Heber M. Wells Building
160 East 300 South
Salt Lake City, UT 84111
mbeck@utah.gov
cmurray@utah.gov

Gary A. Dodge
Hatch, James & Dodge
10 West Broadway, Suite 400
Salt Lake City, UT 84101
gdodge@hjdlaw.com

F. Robert Reeder
William J. Evans
Vicki M. Baldwin
Patrice Lemasney
Parsons Behle & Latimer
201 South Main Street, Suite 1800
Salt Lake City, UT 84111
bobreeder@parsonsbehle.com
bevans@parsonsbehle.com
vbaldwin@parsonsbehle.com
plemasney@parsonsbehle.com

Stephen F. Mecham
Callister, Nebeker & McCullough
10 East South Temple, Suite 900
Salt Lake City, UT 84133
sfmecham@cnmlaw.com

SaltLake-481581.3 0085000-01022