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Division of Public Utilities

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MEMORANDUM

To: Utah Public Service Commission

From: Division of Public Utilities
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Bill Duncan, Manager
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Date: September 15, 2009

Subject: In the Matter of the Rule-Making for Provisions Delineating “Complete” Application Requirements for Rate Case and Major Plant Addition Applications Pursuant to Utah Code Section 54-7-12 and 54-7-13.4, Docket No. 09-999-08.

ISSUE:

On May 3, 2009, the Utah Public Service Commission (PSC) held a scheduling conference to establish a schedule for public comments and participation concerning the implementation of certain provisions of Senate Bill 75, passed in the 2009 Legislative Session of the Utah Legislature. The comments and participation sought by the PSC from interested parties and individuals are to assist the PSC in preparing to undertake the rulemaking required by Utah Code Section 54-7-12(1)(b)(ii) (directing rulemaking concerning the minimum requirements to be met for a rate case application to be considered a “complete” filing) and Section 54-7-13(1)(a)(ii) (directing rulemaking concerning the minimum requirements to be met for a major plant addition application to be considered a “complete” filing).

The pre-rule making scheduling for Docket No. 09-999-08 issued on May 4, 2009, by the PSC, was completed July 9, 2009. The Utah Division of Public Utilities (Division) notes that subsequent to July 9, 2009 certain interested parties submitted to the Commission additional

written comments after July 9, 2009 through July 25, 2009. On July 30, 2009, the Commission submitted its rules to the Utah Legislative Administrative Rules Review Committee. On August 15, 2009, the final rules were published in the Utah State Bulletin; Volume 2009, Number 16 dated August 15, 2009.

COMMENTS:

The Division has participated in all aspects of this Docket, by providing initial rules input, involvement with all conferences and meetings as outlined in the scheduling conference and through providing comments to proposed rules as they progressed through various drafts up to the draft rules presented prior to the final rules that were submitted to the Rules Commission and published in the Utah State Bulletin.

Thus, the following comments will only address the changes from the final rules submitted as compared to the draft just prior to such submission. The Division believes the Commission is cognizant of our comments to that point and that our comments were considered and noted as it produced its final rules for publication.

Our comments will not address every change in detail but will only address changes the Division deemed were of note or significant. The Division will also address a rule that the Division believes should be deleted from those that were published. The Division has no comments on changes that were required to adhere to Utah State Bulletin publication requirements or Rule Committee formatting or form requirements. Other than those outlined below, the Division also has no specific comments related to changes which were done by the Commission that clarified the rules, improved a filing requirement rule, or which were done to maintain consistency across the rules.

Under the general provisions Section (700-1) of the rules, the Division notes the changes that were made to the notification requirement and to the rules as to electronic and paper filing provision. The Division accepts the notification change without comment. The Division believes the paper and electronic media changes are worthwhile in that they should reduce the time and effort required to provided filing of paper documents yet provide enough latitude that if paper documents are needed by the Division they can be obtained.

The Division notes the changes made to the test period information provisions of Section 700-10. The Division has no comments on the changes except that we will specifically address the change to rule A.2. As the Commission knows, the test year rules under A.2 received a great deal of attention and discussion under this Docket along with the whole section itself in general. We believe that the change made to rule A.2 is an effort to strike a compromise among the parties to the Docket for this specific provision. As such, the Division believes the compromise represents the minimum amount of information that the Commission should accept to support a complete filing. The Division herein again emphasizes its agreement with the Commission that Section 700-10 should be a part of filing requirement rules.

There are changes to dollar or percentage parameters in the provisions specific to Electric and Gas utilities as to materiality, plant additions and cost saving. These have been changed or modified. Some were discussed in the last meeting under the Docket and examples of the results of the changes were provided. The Division has reviewed the changes and accepts them. We believe the changes will provide adequate information to enable the Division to commence with a proper review of a rate case filing. The Division also accepts the changes to the rules that clarify the interaction of 54-17-302 and the rules under Section 700-30.

Under section 700-40 having to do with telecommunications corporations, the Division notes that there is one section of the draft rule that was inadvertently left in the published rule that parties agreed should be removed during the public meetings. That section is R746-700-40 (B) (7), concerning providing copies of supporting work papers on the account Property Held for Future Use. It requires an explanation of all additions and transfers including a description of property; a description of the transaction; and amount. The Division believes this section should be deleted.

The Division also recommends deleting the second sentence in 700-40-(B) (3) which reads “Adjustments will be in “top sheet” form.” The Division believes this sentence is redundant and could be confusing to applicants.

The Division supports Section 700-40 rules, with the above changes, and believes that it will benefit not only the regulatory agencies, but also the telephone companies and their consumers.

This rule will allow the Division of Public Utilities to more thoroughly review the unregulated activities that regulated telephone companies are increasingly entering. The information provided in a filing will help the DPU in carrying out the Legislative policy declaration found in UC 54-8b-1.1(7) which states that ‘it is the policy of the state to seek to prevent prices for tariffed public telecommunications services or price-regulated services from subsidizing the competitive activities of regulated telecommunications corporations.’ This rule will assist the Division in keeping the consumer rates for basic telecommunications services at an affordable level.

Other benefits of this rule go to the efficiency of handling a rate case. In particular, adoption of this rule will:

1. Provide a standard against which all filings may be judged as to being acceptable, and determine a starting point that allows the 240 day clock to be more accurately gauged, giving all parties more reliable timing expectations and allowances.
2. Filing parties will benefit from awareness of majority of informational requirements at the beginning of the rate case and prevent unexpected data requests that tend to slow the process and create undue friction.

3. Allow for more efficient planning and scheduling of staff and consultants, creating budgeting and pre rate case cost estimates, which will lead to better cost control opportunities.

Under Section 700-50 having to do with water corporations, the Division supports the rule, and believes that it provides advantages for both the company and the Division.

Advantages to the Water Companies:

Allows the water company to know up front what documentation and information is required of them in order for the Division to complete a rate case increase analysis.

The water company can work on gathering the required information at their own convenience. Otherwise, the water company is given a set period of time on the data request that the information must be submitted.

If the water company is aware of the information required from them prior to requesting a rate increase, then they can work with the Division informally in gathering the information. If the water company is unaware of the information they will be required to submit, they are often overwhelmed at the information requested in the Division's data request.

The water company will be provided with sample forms, both electronic and hard copies that will assist them in providing the detail and organization required by the Division.

Advantages to the Division:

The Division will be able to work much more efficiently. Instead of getting data in small amounts, and then usually having to request clarification or additional data, the Division will have much of the information needed up front and can perform their analysis more efficiently and timely.

The Division has the opportunity to provide forms for the water companies to use in order to assist them in providing the required information in the detail and organization that is needed in order to conduct our analysis. Currently, the water companies often attempt to provide the information they think the Division needs and many times the water companies have to redo it. This is frustrating to both the water company trying to provide the information and for the Division in trying to perform an analysis with small amounts of the data coming in at any one time, and trying to re-familiarize ourselves with the case analysis each time.

Finally, the Division has no comments for Section 100-16, and accepts it as filed.

cc: Michele Beck, Utah Office of Consumer Services