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Attorney for the Commission Staff

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IDAHO PUBLIC UTILITIES COMMISSION</b>	)	
<b>STAFF</b>	)	<b>CASE NO. PAC-E-12-01</b>
<b>Complainant,</b>	)	
	)	<b>COMMISSION STAFF REPLY</b>
<b>vs.</b>	)	
	)	
<b>PACIFICORP dba ROCKY MOUNTAIN POWER</b>	)	
<b>Respondent.</b>	)	

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**COMES NOW** the Staff of the Idaho Public Utilities Commission, by and through its Attorney of record, Kristine A. Sasser, Deputy Attorney General, and in response to Rocky Mountain Power's (RMP) Answer to the Commission Staff's Complaint submitted on January 31, 2012, in Case No. PAC-E-12-01, submits the following reply.

**BACKGROUND**

On November 2, 2011, Staff spoke with Ted Orchard, owner of Idaho Travertine in Idaho Falls. Mr. Orchard said he was fairly certain that Rocky Mountain Power (RMP; Company) had assigned him to the wrong rate schedule - Schedule 6 (General Service - Large Power) - when he had "taken back" his business on April 14, 2010.<sup>1</sup> Sometime after he resumed ownership,

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<sup>1</sup> Mr. Orchard sold his business in March 2008 but resumed ownership in 2010. During the period when the business was owned and operated by another party, electric service was provided to a customer named Rocky Mountain Travertine.

Mr. Orchard visited RMP's local office, where he was told that no one there could help him and that he needed to call the Company's 800 number to discuss the rate assignment issue. Mr. Orchard did not call because at that point contact was initiated with the Commission. Mr. Orchard indicated to Staff that he did not elect to be on Schedule 6 in April 2010, nor has he ever opted to be on Schedule 6 as evidenced by an informal complaint he had filed with the Commission several years ago.

#### Prior Informal Complaint

In 1997, Mr. Orchard filed an informal complaint with the Commission regarding his rate schedule assignment. At that time, he was receiving service under Schedule 6. Following Staff's investigation, it was determined that Schedule 23 (General Service) would provide a more favorable rate for Idaho Travertine. The Company agreed to switch him to Schedule 23. At that time, the Commission Staff did not recommend that RMP provide a refund to the customer for the difference between Schedule 23 and Schedule 6 rates.

Rocky Mountain Power now indicates that its records show that both Idaho Travertine and Rocky Mountain Travertine were billed under Schedule 6 for as far back as RMP's account records go (December 1997). Neither the customer nor the Company can provide documentation to prove whether Idaho Travertine's account was actually changed to Schedule 23 in March of 1997 pursuant to RMP's agreement to resolve the original 1997 complaint. However, Staff has determined that as of December 1997, Idaho Travertine was billed under Schedule 6, despite the fact that it had been determined earlier that year that Schedule 6 was an inappropriate rate schedule.

#### Current Complaint

To resolve the current informal complaint, Staff requested that in accordance with Customer Relations Rule 203.01(c), Idaho Travertine be moved to Schedule 23 and provided a refund from the time when service was reestablished in the name of Idaho Travertine (April 2010) to the point at which service was switched to Schedule 23 from Schedule 6 (November 2011), i.e., 18 months. Staff's position is that there is sufficient evidence to indicate that the customer was assigned to an inappropriate rate schedule when he came back on service in 2010.

RMP agreed to move the customer to Schedule 23 but declined to provide the customer with a refund. According to the Company, RMP's responsibility is to provide rate information to its customers and to respond to customer requests for review of rate schedule assignment. RMP does not monitor customer accounts to determine whether a customer could be assigned to a different, less expensive rate schedule.

## STAFF ANALYSIS

Staff maintains that Rule 203 of the Utility Customer Relations Rules applies directly to Idaho Travertine's situation. Rule 203 refers to "billing under an inappropriate tariff schedule".

### **203. BILLING UNDER INAPPROPRIATE TARIFF SCHEDULE**

**01. Rebilling Required.** If a customer was billed under an inappropriate tariff schedule, the utility shall recalculate the customer's past billings and correctly calculate future billings based on the appropriate tariff schedule. A customer has been billed under an inappropriate tariff schedule if:

- ...
- c. The customer, who is eligible for billing under more than one (1) tariff schedule, was billed under a schedule contrary to the customer's election, or the election was based on erroneous information provided by the utility.

IDAPA 31.21.01.203.01. Staff maintains that this customer is entitled to a refund of \$15,952.31 because Rocky Mountain Power arbitrarily assigned the customer to a rate schedule on April 14, 2010.

Idaho Travertine is eligible to receive service under two different rate schedules: Schedules 6 and 23. RMP's Electric Regulation No. 3 states that, "Where optional electric service schedules are available, the Company, upon request will assist the Customer in the selection of the electric service schedule most favorable to him..." Schedules 6 and 23 have no specific eligibility requirements. The lack of specific eligibility requirements, such as minimum and/or maximum energy usage or demand characteristics (as used by other regulated utilities) means that customers are at a distinct disadvantage when it comes to selecting an appropriate rate schedule. If the customer doesn't know enough about the consequences and is unaware of what to ask, RMP retains the same rate schedule as the prior customer.

At the time this customer signed up for service in April of 2010, RMP continued Idaho Travertine on the same schedule (6) as the previous customer at the same service location. A few simple questions by the Company regarding Idaho Travertine's usage would have led to the

conclusion that Schedule 23 was the appropriate schedule. RMP does not ask new commercial customers signing up for existing service locations about specific usage characteristics before assigning a tariff schedule. The Company defaults to the same schedule as that of the prior customer. If a new customer is eligible for both Schedules 6 and 23, RMP customer service representatives recommend calling back if more information is wanted regarding rate schedules. RMP offers no unsolicited advice regarding which schedule would be more appropriate.

Idaho Travertine had previously filed an informal complaint with the Commission in 1997 regarding schedule assignment. At the time that complaint was filed, the customer was receiving service under Schedule 6. To resolve the complaint, the Company agreed to provide service prospectively to the customer under Schedule 23. Unfortunately, RMP cannot provide evidence that Idaho Travertine was actually switched to Schedule 23, despite its stated intention to do so pursuant to resolution of the customer's complaint.

But for an omission by RMP in failing to switch Idaho Travertine to the appropriate schedule, the succeeding customer (Rocky Mountain Travertine) would have automatically been assigned to Schedule 23. There is no reason to assume that Rocky Mountain Travertine would have proactively elected to be billed under a different, less favorable, schedule. Consequently, when Mr. Orchard resumed ownership of the business and requested service, he should have been automatically assigned to Schedule 23. Rocky Mountain Power does not present any evidence as to why this account would have been billed under any schedule except Schedule 23 from March of 1997 up until the present.

Contrary to representations made by RMP in its Answer, Staff does not expect old customer records and old informal complaints to be fully researched when the Company is setting up a new account. However, when a new commercial customer calls to sign up for electric service, the Company is the party in the best position to analyze what schedule would be most appropriate for the new customer. The new customer does not have past history for service to previous customers, nor would the Company provide a prior customer's billing history, due to privacy concerns. It is Staff's belief that the Company has a greater responsibility to provide meaningful information to new customers beyond merely telling the new customer there are optional rates and to call back if more information is wanted. The customer is entitled to helpful guidance from the Company regarding the selection of an appropriate rate schedule. The Company has the tools that no one else has, i.e., historical usage and billing history. If historical usage had been reviewed by the Company when Mr. Orchard contacted RMP to sign up for

service in April of 2010, it would have been obvious to the Company that Schedule 6 was not the most advantageous rate schedule.

Customers should be provided with the necessary information, up front, to make an informed decision on a rate selection. RMP should utilize specific criteria when setting up a new customer account that assesses usage characteristics to assist the customer in determining an appropriate tariff. Moreover, Staff objects to RMP's analogy that this situation is similar to choosing a cell phone plan. There is a considerable amount of competition between wireless telephone companies and the competition keeps rates in check. A customer who is unhappy with his cell phone company can easily find another. RMP customers have no choice for electric service.

Because of the variability between Schedules 6 and 23 and the severe consequences of customer ignorance and utility apathy, Staff believes that all RMP customers assigned to Schedule 6 and Schedule 23 ought to be reviewed annually to verify those customers are assigned to the appropriate schedule. In 2008, Staff was lead to believe an annual review was performed by RMP on commercial and industrial customers. In Production Request No. 10 in Case No. PAC-E-08-07, Staff asked RMP how customer usage was monitored to ensure that the assigned schedule continued to be appropriate. In response to that production request, RMP stated:

PacifiCorp evaluates a customer's rate schedule when a change in service requirements is requested or when other customer-initiated inquiries are reviewed. In addition, the Company's customer account managers perform annual reviews of commercial and industrial customers and work with them to assure they are on the appropriate rate schedule.

Staff asked RMP to provide the results of Idaho Travertine's annual review to see why it remained on an inappropriate rate schedule after its annual review. RMP admitted that the Company did not perform an annual review of Idaho Travertine because account managers are assigned only to certain commercial and industrial customers.

## **SUMMARY**

Rocky Mountain Power's tariff includes two general service rate schedules for commercial customers: Schedule 6 (Large Power) and Schedule 23 (General Service). Neither schedule has specific eligibility criteria related to demand or energy usage. According to RMP,

at the time of *initial* connection of a new business building, the Company, in consultation with the customer, determines the appropriate schedule.

After initial assignment of a rate schedule to a service location, existing and subsequent customers stay on the same rate schedule until the customer contacts the Company to change service requirements or question rates. Customers do not have sufficient expertise or resources to compare schedules. It may be difficult for customers who are eligible for more than one rate schedule to conduct a comprehensive billing analysis in order to determine the least cost rate option. Since Schedules 6 and 23 have no specific eligibility criteria, there is no way to determine the appropriateness of a rate schedule assignment without doing such an analysis.

In Mr. Orchard's case, he assumed at the time he signed up for service again in 2010 that he would be assigned by RMP to the most favorable schedule. The Company never asked about Idaho Travertine's planned usage or any other information that would have allowed for a reasoned selection between rate schedules. The customer service representative's passive statement that "optional rate schedules" were available did not prompt Mr. Orchard to ask for a rate schedule comparison.

Rocky Mountain Power arbitrarily assigned Mr. Orchard to a rate schedule without any inquiry into customer usage or assessment of appropriate criteria to assist the customer in choosing a schedule. Consequently, Staff maintains that this customer is entitled to a refund of \$15,952.31.

Respectfully submitted this 7<sup>TH</sup> day of February 2012.

  
Kristine A. Sasser  
Deputy Attorney General

Technical Staff: Marilyn Parker

i:umisc:comments/pacc12.1ksmp reply comments to complaint

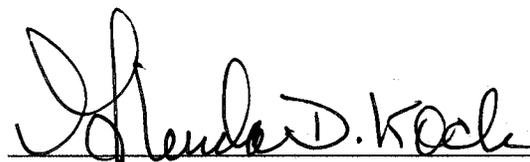
## CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 7<sup>TH</sup> DAY OF FEBRUARY 2012, SERVED THE FOREGOING **COMMISSION STAFF REPLY**, IN CASE NO. PAC-E-12-01, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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