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IDAHO PUBLIC
UTILITIES COMMISSION

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September 3, 2013

***VIA ELECTRONIC FILING
AND OVERNIGHT DELIVERY***

Jean D. Jewell
Commission Secretary
Idaho Public Utilities Commission
472 W. Washington
Boise, ID 83702

Attention: Jean D. Jewell
Commission Secretary

**RE: CASE NO. PAC-E-13-04
IN THE MATTER OF THE APPLICATION OF ROCKY MOUNTAIN POWER TO
INITIATE DISCUSSIONS WITH INTERESTED PARTIES ON ALTERNATIVE RATE
PLAN PROPOSALS**

Enclosed please find the original and seven (7) copies of Rocky Mountain Power's Response to the Motion to Strike in this proceeding.

Please let me know if you have any further questions.

Sincerely,

Mark C. Moench
Senior Vice President and General Counsel
Rocky Mountain Power

Enclosures

Cc: Service List

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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE)
APPLICATION OF PACIFICORP) CASE NO. PAC-E-13-04
DBA ROCKY MOUNTAIN)
POWER TO INITIATE)
DISCUSSIONS WITH) MOTION TO STRIKE
INTERESTED PARTIES ON)
ALTERNATIVE RATE PLAN)
PROPOSALS)**

ROCKY MOUNTAIN POWER’S MOTION TO STRIKE

Rocky Mountain Power (the “Company”) hereby submits its motion to the Idaho Public Utilities Commission (“Commission”) to strike the legal brief attached as an exhibit to the testimony filed by Ms. Christina Zamora on behalf of the Community Action Partnership Association of Idaho (“CAPAI”) on August 23, 2013, as well as the portions of her testimony that: (1) generally complain about the burden of numerous rate cases while simultaneously attacking Company’s efforts to avoid such burdens through an alternative rate plan; (2) incorrectly accuse the Company of failing to comply with CAPAI’s discovery request; (3) improperly rely on a legal brief that has already been withdrawn from the case; and (4) raise legal issues on which Ms. Zamora admittedly is “not well versed” and puts forth inappropriate legal conclusions in testimony. As discussed below, including a legal brief as an exhibit to the

testimony of a lay witness is highly improper, and the testimony by Ms. Zamora on these subjects improperly draws legal conclusions, contains mistakes of fact that are not supported by the record and is generally self-contradictory and confusing. In support of its motion, Rocky Mountain Power states as follows:

1. On August 23, 2013, Christina Zamora pre-filed testimony in Case PAC-E-13-04 on behalf of CAPAI. Ms. Zamora's testimony addressed a number of issues, including: (1) the burden numerous rate case filings by other Idaho utility companies places on CAPAI's limited resources and the difficulty CAPAI faces internally when it seeks to intervene in a rate case; (2) discovery issues that have already been resolved; and (3) legal opinions for which Ms. Zamora has no expertise. Indeed, it is difficult to ascertain the purpose of Ms. Zamora's testimony, other than to raise procedural issues already raised in CAPAI's motion to compel, which has since been withdrawn.

2. Ms. Zamora's testimony begins by outlining the financial burden that "nearly annual" general rate cases – by Idaho Power, Rocky Mountain Power and Avista – have had on CAPAI's limited resources. She opines about the uncertainty of federal funding for CAPAI, the fact that CAPAI may be interested in participating in other cases, and the approvals it must obtain from CAPAI's board of directors before the organization is permitted to intervene in any given case. Ms. Zamora states that CAPAI has not been able to "meaningfully participate in general rate cases." This testimony is not only irrelevant to the present case, but it is undermined by the very procedure that underlies the Company's rate plan, which is a less costly alternative to a general rate case. In the present case, CAPAI has intervened, participated in settlement discussions, and conducted discovery. Thus, it appears that CAPAI has had the opportunity to participate. Whether this participation precludes CAPAI from intervening in other cases is an

internal problem for which the Commission cannot provide relief. Lastly, despite the lengthy discussion on CAPAI's limited resources, Ms. Zamora goes on to criticize the practice of settlement negotiations. The very purpose of these negotiations is to limit the resource expenditures involved with a fully litigated general rate case. As such, public policy has favored settlement in lieu of litigation since time immemorial. Company requests that page 4, lines 22-23, and page 8, lines 9-24 be stricken from the record.

3. Next, Ms. Zamora's testimony describes studies that were done in *Avista's* previous rate case – which has no bearing on this case and does not obligate Rocky Mountain Power to perform such studies. The relevance of this portion of the testimony is unclear, but it seems as though Ms. Zamora wishes to describe the usefulness of these studies in order to compel – by means of a discovery request – Rocky Mountain Power to perform similar studies. As discussed in the Company's Response to the motion to compel, this type of request is beyond the bounds of lawful discovery; the Company is under no obligation to perform studies in response to a request for documents. Even so, the Company did in fact provide CAPAI with the study it requested. Thus, CAPAI's motion to compel was withdrawn. Strangely, Ms. Zamora's testimony repeatedly refers to and relies on this withdrawn motion. As such, this portion of Ms. Zamora's testimony is irrelevant, seeks to address issues that have already been resolved, and pages 12 lines 9-24, page 13 lines 1-23, page 14 lines 1-10, page 19 lines 15-21, page 20 lines 1-16, and page 21 lines 18-20, should be stricken from the record.

4. The most troubling aspect of Ms. Zamora's testimony is that she specifically disclaims knowledge of “proper rate case procedure,” yet the majority of her testimony critiques the procedure in this case and relies heavily on a (withdrawn) legal brief. Despite her “limited knowledge” Ms. Zamora improperly draws the legal conclusion that “the procedure employed in

this case is in violation of the law” and thus, “Rocky Mountain Power’s application should be considered withdrawn[.]”. Confusingly, Ms. Zamora asks the Commission to consider Company’s application withdrawn, yet her testimony repeatedly refers to CAPAI’s motion to compel discovery. Thus, the relief requested does not align with the relief requested in the motion and even if it did, the Company already complied with the discovery request of CAPAI as indicated by CAPAI’s withdrawal of its motion to compel. The most appropriate means for sorting out the confusion in Ms. Zamora’s testimony is cross examination. However, Ms. Zamora cannot be fairly and adequately cross-examined on legal issues that are beyond the scope of her expertise and knowledge. This portion of her testimony is admittedly beyond the scope of her expertise, unlawfully draws legal conclusions, and page 3, lines 11-14, page 16, lines 9-13, page 17, lines 1-6 and page 21, lines 9-13 should be stricken in their entirety.

(5). Because Ms. Zamora’s testimony inappropriately relies on a legal brief, and because the brief has been withdrawn from the case, the exhibit containing the brief should also be stricken in its entirety.

WHEREFORE, Rocky Mountain Power respectfully requests the following:

That the Commission (1) grant Rocky Mountain Power’s motion to strike; (2) disregard any statements containing legal conclusions and (3) disregard the withdrawn legal brief on which Ms. Zamora’s testimony relies.

RESPECTFULLY SUBMITTED,
This 3rd day of September 2013.



Mark C. Moench
Daniel E. Solander

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of September, 2013, I caused to be served, via electronic mail, a true and correct copy of Rocky Mountain Power's Stipulation Testimony in PAC-E-13-04 to the following:

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