

**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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In the Matter of the Tariff Advice Letter of Rocky Mountain Power Proposing a Reduction to the Schedule 193 Tariff Surcharge	DOCKET NO. 11-035-T14
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**SETTLEMENT STIPULATION**

**I. INTRODUCTION**

1. This Settlement Stipulation (“Stipulation”) is entered into in Docket No. 11-035-T14 by and among the parties whose signatures appear on the signature pages hereof (collectively referred to herein as the “Parties” and individually referred to as a “Party”).

2. The Parties conducted settlement discussions on January 6 and 11, 2012, to which all intervening parties to the docket that is the subject of this Stipulation were invited. This Stipulation has been entered into by the Parties after consideration of the views of all intervening parties expressed during that process.

3. The Parties contend, based upon the evidence offered herein and to be offered at the hearing, that this Stipulation is just and reasonable in result, and therefore the Parties request that the Commission approve the Stipulation terms and conditions.

**II. BACKGROUND**

4. On November 23, 2011, Rocky Mountain Power (the “Company”) submitted its Tariff Advice No. 11-13 (the “Application”) proposing a reduction to the Schedule 193 tariff surcharge. This matter was subsequently assigned to Docket No. 11-035-T14. Schedule 193 implements a surcharge (the “DSM Surcharge”) on customer bills to fund cost effective demand-

side management (“DSM”) programs in Utah. Rocky Mountain Power proposed to reduce the DSM Surcharge collection rate applied to customer bills from the currently effective 3.6 percent to 2.4 percent; the proposed reduction would have reduced annual DSM Surcharge collections from \$62.6 million at the current rate to \$41.5 million.

5. On December 1, 2011, Utah Clean Energy (“UCE”), Southwest Energy Efficiency Project (“SWEEP”), and Western Resource Advocates (“WRA”) petitioned to intervene, and requested the Commission suspend the proposed effective date of the adjustment requested by Rocky Mountain Power in order to investigate the appropriateness of reducing the DSM surcharge collection rate, whether and how it will be possible to increase cost-effective DSM expenditures (and savings) in 2012, and to establish a schedule for analyzing and resolving the issues raised in their Petition and in Rocky Mountain Power Advice No. 11-13.

6. On December 19, 2011, the Commission issued an order suspending the advice letter and setting the matter for hearing on January 12, 2012.

7. On December 20, 2011, the Utah Association of Energy Users (“UAE”) submitted a response to the Petition of UCE, SWEEP, and WRA for suspension of Rocky Mountain Power’s proposed adjustment to Schedule 193, arguing that regular changes in the amount of the DSM surcharge are not in the public interest and that a reasonable fixed DSM surcharge should be adopted, so long as amounts collected through the surcharge are used within a reasonable time for new or enhanced DSM programs and incentives that have been shown to be highly cost-effective.

8. On December 22, 2011, the Commission issued an order approving the intervention of UCE, SWEEP and WRA.

9. On December 22, 2011, the Division of Public Utilities filed comments recommending that the Commission approve Rocky Mountain Power's proposed DSM Schedule 193 surcharge reduction cost adjustment.

10. On December 23, 2011, Rocky Mountain Power filed its response to the Petition of UCE, SWEEP, and WRA arguing that suspending the application would not be in the public interest and requesting the Commission approve the surcharge reduction following hearing on this matter.

11. On December 23, 2011, the Office of Consumer Services filed its response to the Petition of UCE, SWEEP, and WRA supporting the surcharge reduction or, in the alternative, supporting a delay in the reduction only until the time of the next rate increase, anticipated to be June 1, 2012.

12. On December 23, 2011, the Division of Public Utilities filed its objection to the Petition of UCE, SWEEP, and WRA, opposing the suspension of the surcharge reduction.

13. On January 3, 2012, UCE, SWEEP, and WRA filed a Reply to the other Parties' responsive pleadings.

14. On January 6 and 11, 2012, the Parties to the Stipulation met to discuss settlement of this proceeding.

### **III. TERMS OF STIPULATION**

15. Subject to Commission approval and for purposes of this Stipulation only, the Parties agree as follows:

16. The Parties agree that, under this Stipulation and upon Commission approval, effective February 1, 2012, the Company's Schedule 193 Collection should be set at 3.2%, a level which will collect approximately \$54.2 million annually (\$49.7 million for the remaining

eleven months of 2012)—an amount that the Company anticipates should be sufficient to reimburse the Company for projected expenses associated with existing and new planned energy efficiency and load control programs. This rate will be in effect for 2012, and reflects an amount the Parties believe should result in reasonable rate stability beyond 2012 based on current projections. The Parties agree that the Schedule 193 Collection may be revisited in the future and adjusted as warranted, for reasons including, but not limited to, the implementation of new cost-effective programs. Attached Exhibit A illustrates the revenue impact of the Stipulation by customer rate schedule. Attached Exhibit B details the development of the proposed rates by customer rate schedule.

17. The Parties acknowledge that this Stipulation represents the following changes to the advice filing submitted by the Company on November 23, 2011:

	November 23, 2011 Filing	Stipulation
DSM Deferred Account Balance	2011 year-end balance based on projection as of filing date.	2011 year end actual balance.
Unpaid Invoices	DSM deferred account balance reflects only invoices paid.	DSM deferred account balance reflects invoices received but not yet paid.
Expenses associated with energy efficiency and load control programs	Forecasted expenses associated with existing programs as set out in approved tariffs	Forecasted expenses associated with existing programs modified as planned for 2012 <sup>1</sup> plus the programs planned for 2012 <sup>2</sup>
Refund of over collection	Proposed schedule 193 rate includes refund of over collection.	Proposed schedule 193 rate does not include refund of over collection. Refund will be treated as separate sur-credit on customers' bills.
Projected Company Revenue for 2012	Revenue based on projected revenue from last Utah GRC at current rates, including estimated June 2012 Energy Balancing Account surcharge.	No change

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<sup>1</sup> Modifications to Home Energy Savings, Energy Star New Homes and FinAnswer Express

<sup>2</sup> Home Energy Reporting and Commercial Load Control

18. The Parties request that the Commission approve First Revision of Sheet No. 193.2, Schedule 193, Demand-side Management (DSM) Cost Adjustment, attached as Exhibit C, with an effective date of February 1, 2012.

19. The Company will file by May 1, 2012, for a line item sur-credit on customers' bills to refund, over a one-year period, the DSM deferred account balance as of February 1, 2012, the effective date of the Schedule 193 rate change, currently projected to be approximately \$5 million. The requested effective date for the sur-credit will be June 1, 2012, concurrent with the effective date of the first Energy Balancing Account surcharge. Amounts credited to customer accounts will be debited to the DSM deferred account.

20. Provided the programs are cost effective, the Company will use best efforts to request approval from the Public Service Commission of Utah to implement a home energy reporting program by the end of the first quarter, 2012, and a commercial load curtailment program by the end of the third quarter, 2012.

21. Parties agree to participate in good faith discussions intended to result in agreement on changes to the DSM advisory process, including the structure and efficacy of the DSM Advisory Group and its subcommittees. Issues to be discussed include, but are not limited to, the creation of a process for timely and meaningful reviews of DSM program developments and modifications, a process for solicitation and consideration of program proposals from Advisory Group members, and a framework for periodic reporting on program spending and performance trends. Parties will use their best efforts to resolve these issues by May 1, 2012.

22. Parties agree to participate in good faith discussions within the DSM Advisory Group and subcommittees to resolve the issues not addressed by this stipulation.

23. Not all Parties agree that each aspect of this Stipulation is warranted or supportable in isolation. Utah Code Ann. § 54-7-1 authorizes the Commission to approve a settlement so long as the settlement is just and reasonable in result. While the Parties are not able to agree that each specific component of this Stipulation is just and reasonable in isolation, all of the Parties agree that this Stipulation as a whole is just and reasonable in result and in the public interest.

24. All negotiations related to this Stipulation are confidential. No party shall offer into evidence in future cases before the Commission, the fact or content of any such negotiations. Except as expressly provided in this Stipulation, issues resolved by this settlement are not binding precedent in future cases involving similar issues, in accordance with Utah Admin. Code R. 746-100-10 F. 5.

25. The Parties agree that no part of this Stipulation or the formulae and methodologies used in developing the same, or a Commission order approving the same shall in any manner be argued or considered as precedential in any future case except with regard to issues expressly resolved by this Stipulation.

26. The Parties request that the Commission hold a hearing on this Stipulation. The Parties shall support the Commission's approval of this Stipulation. As applied to the Division and the Office, the explanation and support shall be consistent with their statutory authority and responsibility.

27. The Parties agree that if any person challenges the approval of this Stipulation or requests rehearing or reconsideration of any order of the Commission approving this Stipulation, each Party will use its best efforts to support the terms and conditions of this Stipulation. As applied to the Division and the Office, the phrase "use its best efforts"

means that they shall do so in a manner consistent with their statutory authority and responsibility. In the event any person seeks judicial review of a Commission order approving this Stipulation, no Party shall take a position in that judicial review opposed to the Stipulation.

28. Except with regard to the obligations of the Parties under the four immediately preceding paragraphs of this Stipulation, this Stipulation shall not be final and binding on the Parties until it has been approved without material change or condition by the Commission.

29. This Stipulation is an integrated whole, and any Party may withdraw from it if it is not approved without material change or condition by the Commission or if the Commission's approval is rejected or materially conditioned by a reviewing court. If the Commission rejects any part of this Stipulation or imposes any material change or condition on approval of this Stipulation or if the Commission's approval of this Stipulation is rejected or materially conditioned by a reviewing court, the Parties agree to meet and discuss the applicable Commission or court order within five business days of its issuance and to attempt in good faith to determine if they are willing to modify the Stipulation consistent with the order. No Party shall withdraw from the Stipulation prior to complying with the foregoing sentence. If any Party withdraws from the Stipulation, any Party retains the right to seek additional procedures before the Commission, including presentation of testimony and cross-examination of witnesses, with respect to issues resolved by the Stipulation, and no party shall be bound or prejudiced by the terms and conditions of the Stipulation.

30. This Stipulation may be executed by individual Parties through two or more separate, conformed copies, the aggregate of which will be considered as an integrated instrument.

**IV. RELIEF REQUESTED**

31. Based on the foregoing, the Parties request that the Commission schedule a hearing on this Stipulation and, thereafter, enter an order approving the terms and conditions set forth in this Stipulation.

RESPECTFULLY SUBMITTED: January 13, 2012.

**ROCKY MOUNTAIN POWER**

By: \_\_\_\_\_  
Carol Hunter  
Vice President

**UTAH DIVISION OF PUBLIC UTILITIES**

By: \_\_\_\_\_  
Chris Parker, Director

**OFFICE OF CONSUMER SERVICES**

By: \_\_\_\_\_  
Michele Beck, Director

**UAE INTERVENTION GROUP**

By: \_\_\_\_\_  
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**UTAH CLEAN ENERGY**

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Attorney for Utah Clean energy

SOUTHWEST ENERGY EFFICIENCY PROJECT

By: \_\_\_\_\_  
Howard Geller  
Executive Director

WESTERN RESOURCE ADVOCATES

By: \_\_\_\_\_  
Charles R. Dubuc, Jr.  
Attorney for Western Resource Advocates

## CERTIFICATE OF SERVICE

I hereby certify that on January 13, 2012, a true copy of the foregoing **SETTLEMENT**

**STIPULATION** was served by email on the following:

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