

1 **BEFORE THE PUBLIC SERVICE COMMISSION OF WYOMING**

2 **DOCKET NUMBER 10016-47-CR-06**

3 **PRE-FILED TESTIMONY OF BRYCE J. FREEMAN**

4  
5  
6 **Q. PLEASE STATE YOUR NAME, ADDRESS AND OCCUPATION.**

7  
8 A. My name is Bryce J. Freeman. My business address is 2515 Warren Avenue, Suite 304,  
9 Cheyenne, WY, 82002. I am the Administrator of the Wyoming Office of Consumer  
10 Advocate (OCA). The OCA is an independent consumer advocacy agency that was  
11 created by an act of the legislature in the 2003 general session.

12  
13 **Q. WHAT IS THE FUNCTION OF THE OCA?**

14  
15 A. Pursuant to W.S. 37-2-401,

16  
17 The office of consumer advocate shall represent the interests of Wyoming citizens  
18 and all classes of utility customers in matters involving public utilities. In the  
19 exercise of its powers the office of the consumer advocate shall consider all  
20 relevant factors, including, but not limited to, the provision of safe, efficient and  
21 reliable utility services at just and reasonable prices.  
22

23  
24 **Q. ARE THE ANALYSES AND RECOMMENDATIONS OF THE OCA, IN THIS OR**  
25 **ANY OTHER CASE BEFORE THE COMMISSION, INFLUENCED OR**  
26 **DIRECTED BY THE COMMISSION?**

27  
28 A. No. Although the OCA is a division within the Commission according to W.S. 37-2-401,  
29 it is a separate division with no reporting or supervisory links to the Commission and the  
30 OCA has the right under W.S. 37-2-402(ii), to appeal decisions of the Commission that it  
31 does not find in the public interest. The only link between the OCA and the Public  
32 Service Commission is the source of common funding provided by the assessment on  
33 gross utility operating revenues; this assessment funds both the Commission and the

1 OCA. Additionally, as Administrator of the OCA I report directly to the Governor of  
2 Wyoming.

3  
4 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND**  
5 **OCCUPATIONAL EXPERIENCE.**

6  
7 A. I received a Bachelor of Science degree in business administration from the University of  
8 Wyoming in 1982. The area of concentration in my undergraduate work was statistics.  
9 After graduating from the University of Wyoming, I was employed for three years by the  
10 Laramie County Treasurer as Deputy Treasurer, and then for six years by the Wyoming  
11 Department of Revenue as a Principal Appraiser dealing primarily with utility valuation  
12 and capital cost issues. I came to the Wyoming Public Service Commission in April of  
13 1994, in the capacity of Senior Economist, serving in that position for approximately two  
14 years. In 1996 I accepted a position as Lead Rate Analyst in the rates and pricing section  
15 on the Commission Staff, and in May of 2003 I was appointed Administrator of the OCA.

16  
17 **Q. HAVE YOU TESTIFIED BEFORE THIS COMMISSION IN PREVIOUS**  
18 **PROCEEDINGS?**

19  
20 A. Yes. I have detailed the cases in which I have testified before this Commission, in  
21 Appendix A attached to my testimony.

22  
23 **Q. ON WHOSE BEHALF DO YOU APPEAR HERE TODAY?**

24  
25 A. I appear here today on behalf of the OCA. As I indicated previously, the OCA is an  
26 independent party in this proceeding, separate and apart from the Commission or its  
27 advisory staff.

28  
29 **Q. AS A MEMBER OF THE OCA, DO YOU ADVOCATE THE INTERESTS OF**  
30 **CERTAIN GROUPS OF CONSUMERS OVER OTHERS?**

31  
32 A. No. As a member of the OCA, it is my statutory obligation to advocate the best interest  
33 of all citizens in the state. Specifically, W.S. § 37-2-401 states that the OCA “shall

1 represent the interests of Wyoming citizens and all classes of utility customers in  
2 matters involving public utilities.” This public interest standard requires the OCA to  
3 represent the broadest possible utility consumer constituency, even though some of those  
4 consumers may also be represented independently as parties in this case. The OCA is  
5 responsible for balancing the positions and recommendations of the Company, and of  
6 other parties, to arrive at a set of recommendations that serve the overall long term public  
7 interest.

8 **Q. ARE YOU SPONSORING ANY EXHIBITS IN THIS PROCEEDING?**

9 A. No. All of the relevant information that I wish to present to the Commission in this  
10 proceeding is included in the text and tables contained in the body of this testimony.

11 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**

12 A. The purpose of my testimony in this proceeding is to explain and support the  
13 recommendations offered by the OCA regarding the application filed by the Company in  
14 this proceeding. Specifically, my testimony will address five primary issue areas: 1) the  
15 application’s status as a general rate case proceeding rather than a pass-on proceeding, 2)  
16 the rate design contained within the cost of service study filed in this proceeding, 3) the  
17 impact of the loss of WYRULEC’s contract to supply electric power to the Town of  
18 Torrington, 4) the investigation of mechanisms that might assist the Company’s demand  
19 metered customers in mitigating the impact of the Tri-State A-33 rate, and 5) adoption of  
20 the Company’s proposed avoided cost tariff . My testimony will provide an analysis of  
21 each of these issues and make recommendations for Commission action.

22 **Q. PLEASE PROVIDE THE COMMISSION WITH SOME HISTORICAL**  
23 **PERSPECTIVE REGARDING THIS CASE.**

24 A. There seems to have been some confusion regarding this point since before the case was  
25 filed and thereafter. Some history may be useful to the Commission in determining  
26 whether or not this case is in fact a request for a general rate increase.

1 As the Commission will recall, in Docket Number 10016-42-CP-05 filed on November  
2 23, 2005, WYRULEC sought authority to pass-on an increase in wholesale power costs  
3 from its wholesale power supplier, Tri-State Generation and Transmission, Inc.,  
4 amounting to \$162,591 or an average increase of 2.53%. At the time Tri-State's member  
5 rates were based on a Tri-State coincident peak billing methodology that reflected the  
6 billing demand of the member systems at the time of Tri-State's system peak. The  
7 increase requested by WYRULEC reflected an increase in the demand rate to its member  
8 systems under the then effective "A 32" rate.

9 This request was processed as a traditional pass-on filing and was approved with a Notice  
10 and Order issued by the Commission on December 20, 2005, with rates effective for  
11 usage on and after January 1, 2006. No interventions or protests were made  
12 subsequently.

13 On April 6, 2006, Wyrulec filed an application in Docket Number 10016-44-CR-06,  
14 seeking authority for a general rate increase of \$445,011 or a 4.46% average annual  
15 increase. This application was processed as a traditional general rate case application and  
16 was approved by the Commission, as filed, with an order issued on July 11, 2006. The  
17 Company did not submit an updated cost of service study in the general rate case filing,  
18 rather, it relied on an updated financial analysis based on the cost of service study  
19 submitted in its most recent general rate case proceeding in Docket Number 10016-41-  
20 CR-05 which was filed on July 18, 2005. In that case, the Company requested authority  
21 for general rate increase of \$600,078 or 5.87% on average to be effective on January 1,  
22 2006, coincidentally the same effective date as the above described pass-on.

23 As this history demonstrates, WYRULEC has requested and the Commission has  
24 approved two general rate increases and one pass-on within the last eighteen months  
25 totaling \$1,207,680 or approximately 12.86%. The current application to pass-on the  
26 increased wholesale power costs associated with the new Tri-State "A 33" rate was  
27 approved on an interim basis, for usage on and after January 1, 2007, bringing the total  
28 increase since January 1, 2006 to \$1,839,092 or approximately 18.82%. The impact on  
29 WYRULEC's customers is not insignificant and is consistent with the concerns that we

1 raised in our Notice of Intervention, Initial Concerns and Request for Hearing filed on  
2 December 18, 2006.

3 **Q. HOW DO THESE RECENT CASES AFFECT THE APPLICATION AND**  
4 **SUPPORTING INFORMATION FILED BY THE COMPANY IN THIS**  
5 **PROCEEDING?**

6 A. For some time WYRULEC has pursued a strategy of reviewing its costs and revenues on  
7 a regular, periodic basis and when necessary requesting a change in base rates to reflect  
8 those changes, rather than accumulating the need for a large rate increase and then  
9 making a large and abrupt change in rates. It has also passed on the increased cost of its  
10 wholesale power contemporaneously with increases from its wholesale power supplier.  
11 The OCA has scrutinized the Company's requests and when necessary has intervened to  
12 protect the public interest, but we have been generally supportive of the Company's  
13 strategy of smaller but more frequent rate increases.

14 The frequent filing of requests, sometimes more frequently than annually, for pass-on and  
15 general rate increases, does however, present some challenges in assembling accurate  
16 financial information to support those requests. In the instant case as I described earlier,  
17 the Company has had a total of three rate changes in the last eighteen months. In order to  
18 provide an accurate representation of the Company's financial position in this proceeding  
19 the impacts of those previous rate changes must be adjusted to annualize and normalize  
20 them.

21 In the cost of service study prepared for this proceeding the Company did in fact make  
22 adjustments to reflect the annualized revenue increases associated with all three of the  
23 previously approved applications to reflect a full year of revenues with the effective rate  
24 changes, based on a July 31, 2006, year end test year. The Company also updated the  
25 volumes used in calculating the revenues to be derived from the new rates, but it did not  
26 make any adjustments for known and measurable changes to its operating expenses that  
27 occurred since the time of its last general rate case filing in Docket Number 10016-41-  
28 CR-05.

1 This creates a mismatch in the cost of service study prepared by the Company that  
2 contributes to the confusion regarding whether or not the Company's request is  
3 appropriately considered a request for a general rate increase.

4 **FILING STATUS**

5 **Q. DO YOU CONSIDER THIS FILING TO BE A REQUEST FOR A GENERAL**  
6 **RATE INCREASE BY WYRULEC?**

7 A. No. On its face it would appear as if this was so, but a more careful analysis indicates  
8 otherwise.

9 **Q. PLEASE EXPLAIN.**

10 A. The cost of service study shows on several schedules, for example on Schedule A – 1.0,  
11 that the adjusted test year rate of return for WYRULEC is 8.02% which exceeds the rate  
12 of return authorized in Docket Number 10016-44-CR-06 of 7.46%. Pursuant to  
13 Commission rule 249(c)(ii), a utility is only allowed to pass-on prudently incurred  
14 wholesale commodity costs that are not within the jurisdiction of the Commission and  
15 which:

16 [T]he pass-on only includes actual or projected increases in commodity or  
17 commodity related costs and will not result in the public utility's  
18 normalized rate of return on rate base exceeding that last authorized by the  
19 Commission. If the public utility is exceeding its authorized rate of return  
20 on rate base, the Commission may initiate a rate investigation on its own  
21 motion to have the public utility show why its base rates should not be  
22 adjusted, or may take any other duly authorized action to assure rates and  
23 earnings remain just and reasonable.

24 So, as I said initially, the application appears to violate the above cited Commission rule.  
25 However, upon further investigation I am convinced that the Company is not currently  
26 exceeding its last authorized rate of return on rate base and that granting the pass-on  
27 increase will not cause WYRULEC to exceed its authorized return. Further, WYRULEC  
28 has demonstrated, through the course of my investigation, that the only increase in  
29 expense that it is proposing to recover is that associated with the increase in its purchased  
30 power expense from Tri-State.

1 **Q. WHAT INVESTIGATION HAVE YOU DONE IN THIS MATTER?**

2 A. Since the application was file in December, I have propounded two sets of data requests  
3 which were answered by the Company. I have also met with the Company on numerous  
4 occasions, both in person and telephonically. Finally, the Company, at my behest, has  
5 filed testimony explaining and supporting the application submitted in this proceeding.

6 **Q. WHAT CONVINCES YOU THAT THIS IS A PASS-ON RATHER THAN A**  
7 **GENERAL RATE CASE PROCEEDING?**

8 A. First, in reviewing the Company's cost of service study, and in particular schedule A –  
9 1.0, I am satisfied that the Company is not proposing to recover any additional expenses,  
10 other than the wholesale power cost increase, that were not authorized in the last rate  
11 case proceeding. Schedule A – 1.0 column (b) which shows adjustments to the test year  
12 ended July 31, 2006, contains adjustments for increased revenues associated with  
13 previously referenced pass-on and general rate case proceedings and an adjustment for  
14 increased purchased power expense. Column (d), which quantifies the proposed pass-on  
15 in this proceeding, likewise shows the adjusted revenues from the proposed change in  
16 rates as well as the increase in wholesale purchased power expense. Note that the  
17 amounts of the adjustments to revenues and expenses shown in column (d) are identical.

18 **Q. HOW CAN THE COMPANY BE EXCEEDING ITS AUTHORIZED RETURN IF**  
19 **IT ONLY PROPOSES TO PASS-ON THE COST OF ITS PURCHASED POWER**  
20 **EXPENSE?**

21 A. The appearance of over earning relates at least partially to the timing of the rate increases  
22 that I referenced previously and the difficulty in normalizing and annualizing those  
23 increases in the context of a cost of service study. The Company provided several  
24 responses to questions regarding this issue and further discussions with the Company  
25 have clarified why the rate of return appears to increase when the Company is seeking  
26 only a dollar-for-dollar pass through of its purchased power expenses.

27 Moreover, Mr. Hedrick explains in his testimony in support of the application (filed on  
28 May 21, 2007) that the revenue and expense adjustments shown in column (b) of

1 schedule A – 1.0 reflect the expenses in the actual unadjusted test year ended July 31,  
2 2006. Those expenses and the test year revenue shown in column (a) of schedule A – 1.0  
3 combined to produce a return of 3.56%. The adjusted test year results shown in column  
4 (c) of schedule A – 1.0 use the same actual test year expenses as those shown in column  
5 (a) but adjust the operating revenue to correspond to the normal annualized levels  
6 approved in Docket Numbers 10016-41-CR-5, 10016-42-CP-05 and 10016-44-CR-06.  
7 This leads to a mismatch in the amount of revenue and expense used to calculate the  
8 return shown in column (c) of schedule A – 1.0. Columns (d) and (e) of schedule A – 1.0  
9 simply reflect the proposed pass-on of the new Tri-State A 33 purchased power cost  
10 increase that was effective on January 1, 2007. It should be noted that schedule A – 1.0  
11 shows the entire increase of \$988,251 which includes revenue for the Company’s  
12 Nebraska customers. The amount allocated to Wyoming customers is \$631,412.

13 **Q. WHAT IS THE EFFECT OF THIS MISMATCH OF OPERATING REVENUES**  
14 **AND EXPENSES IN THE COST OF SERVICE STUDY?**

15 A. WYRULEC’s failure to properly match revenues and expenses on schedule A – 1.0 of  
16 the cost of service study results in a substantial overstatement of the return shown in  
17 column (c) of schedule A – 1.0. In his testimony Mr. Hedrick provides a revised  
18 schedule A – 1.0 reflecting updated revenues and expenses as of December 31, 2006.  
19 Rather than the operating and interest expenses of \$11,758,677 shown on original  
20 schedule A – 1.0, the revised schedule shows operating and interest expense of  
21 \$11,979,906, a difference of \$221,229. Mr. Hedrick also updated the rate base amount  
22 shown on schedule A – 1.0 to account for rate base additions as of December 31, 2006.  
23 The revised return shown on the updated schedule A – 1.0 is 6.53%.

24 **Q. WHAT IS THE CAUSE OF THE MISSTATEMENT ON SCHEDULE A – 1.0 OF**  
25 **THE COMPANY’S ORIGINAL COST OF SERVICE STUDY?**

26 A. Mr. Hedrick states in his testimony that operating and interest expense adjustments were  
27 not included because “...the intent was not to support a general rate increase.”<sup>1</sup> Mr.

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<sup>1</sup> Hedrick Direct p. 6.

1 Hedrick goes on to state that the Company "...did not believe it necessary to go to the  
2 expense of preparing all of the standard expense and interest adjustments in support of a  
3 request for a pass-through of a power cost increase, especially since the company was just  
4 granted approval of new rates in June 2006."<sup>2</sup>

5 **Q. DO YOU AGREE WITH MR. HEDRICK?**

6 A. No. I believe that it is the Company's burden in the context of a pass-on proceeding to  
7 demonstrate compliance with the provisions of section 249 (c)(ii) of the Commission's  
8 rules, and all other sections of the Commission's rules that apply to pass-on proceedings.  
9 Had the Company provided accurate financial information in the cost of service study  
10 originally submitted in this proceeding it is likely that the application would have been  
11 docketed as a pass-on proceeding.

12 **Q. HAS THE COMPANY PROVIDED INFORMATION CORRECTING THE**  
13 **MISMATCH OF OPERATING EXPENSES AND REVENUES IN THIS**  
14 **PROCEEDING?**

15 A. Yes, in data responses received by the OCA the Company has demonstrated that when  
16 operating revenues and expenses are properly matched, the Company's financial  
17 parameters are below those authorized by the Commission in Docket Number 10016-44-  
18 CR-06. The table below compares the relevant financial parameters approved as a result  
19 of the Commission's decision in Docket Number 10016-44-CR-06 to those at December  
20 31, 2006, immediately prior to the effective date of the interim rates approved in this  
21 proceeding:

Category	Adjusted Test Year with Rate Change	Actual Results Year Ending 12/21/06	RUS Minimums
Operating TIER	1.89	1.73	1.10
Net TIER	2.99	2.97	1.25

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<sup>2</sup> Ibid.

CFC DSC	1.37	1.35	1.35
Rate of Return	7.46%	6.53%	

1

2 **Q. ARE YOU SATISFIED NOW THAT THE COMPANY IS REQUESTING A PASS-**  
3 **ON INCREASE?**

4 A. Yes. After a full investigation of the Company’s application, it is clear to me that the  
5 Company is not seeking to recover anything other than the increased cost of power that it  
6 purchases from Tri-State G&T. In addition, based on the information provided to the  
7 OCA, I am satisfied that the Company is in compliance with section 249 (c) (ii) of the  
8 Commission’s rules, and that it is not now, nor would the granting of the request cause  
9 the Company to exceed its authorized level of earnings.

10 However, many of the issues raised by the OCA in its intervention in this matter were  
11 raised in the context of a general rate case proceeding. Therefore, as described more  
12 fully later in my testimony, should the Commission choose to treat the instant application  
13 as a pass-on, these issues should still be considered important public interest issues that  
14 must be resolved.

15 **RATE DESIGN**

16 **Q. DO YOU AGREE WITH THE COMPANY’S PROPOSED RATE DESIGN IN**  
17 **THIS PROCEEDING?**

18 A. WYRULEC’s rate design, from a class cost of service perspective, has been an area of  
19 concern for some time, both to the OCA and to the Commission. In the Commission’s  
20 order in Docket Number 10016-44-CR-06 the Commission found:

21 Although Commission technical staff has raised legitimate concerns  
22 regarding the Company’s proposed rate increase of 2% to its contract  
23 customers, specifically Platte Pipeline-Yoder and Guernsey Stone, a  
24 majority of the Commission finds Wyrulec’s arguments in support of its  
25 position on this issue to be persuasive.....a majority of the Commission

1 believes this issue can be further reviewed and addressed at the time of the  
2 next filing.<sup>3</sup>

3 Commissioner Mary Byrnes entered her partial concurrence and dissent in that  
4 proceeding stating that:

5 More particularly, I respectfully dissent from the majority's decision to  
6 grant Wyrulec's application to increase its retail rates in this docket, but  
7 only as it relates to its contracts with Platte Pipeline-Yoder and Guernsey  
8 Stone. No evidence was presented in the application or during the open  
9 meeting to support increasing these contracts. It appears the increase  
10 requested for them is not supported by a cost of service study and, in fact,  
11 leads to excessive rates of return of 37.435% from Platte Pipeline and  
12 13.162% from Guernsey Stone. It is my opinion that the rate increases  
13 for these two contracts are arbitrary. They do not conform to good rate  
14 making policy, nor are they consistent with Commission past practice.  
15 The nominal amount of \$5,064 gained by Wyrulec in assessing these  
16 contracts, a 2% increase, was considered minimal in its impact on the  
17 Company's overall financial condition and revenue requirement and  
18 seemed not to be at issue during the discussion in the open meeting. The  
19 Company's point was philosophical in nature and not backed by evidence  
20 of cost incurrence.<sup>4</sup>

21 The OCA continues to believe that the Company's rate design, as approved in the last  
22 general rate case proceeding, is not consistent with the costs reflected in its own cost of  
23 service study. According to information filed by the Company in response to OCA data  
24 requests in this proceeding, existing class rates of return range from a high of 67.07% for  
25 Platte Pipeline-Yoder to a negative return of 2.29% for the single phase irrigation class.

26 Commission Rule, section 249(e) requires that pass-on amounts be equal and  
27 proportionate, to wit:

28 The pass-on shall be allocated to all retail rate classes and contract  
29 customers on an equal or proportionate basis. The Commission may  
30 consider special circumstances related to the allocation of costs to contract  
31 customers. Exceptions to the equal or proportionate class allocation may  
32 be permitted if specifically requested and justified and found by the  
33 Commission to be in the public interest.  
34

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<sup>3</sup> Final Order in Docket Number 10016-44-CR-06

<sup>4</sup> Ibid.

1           However, the Company's request to pass-on the increased cost of purchased power in this  
2           proceeding does not materially alter the contribution levels of individual classes. The  
3           table provided on pages nine and ten of Mr. Hedrick's testimony details each class'  
4           respective return and margin both under existing rates and assuming the proposed pass-  
5           on is approved. The difference between the two is not material and can be attributed to  
6           the operation of the new Tri-State rate design as it relates to the typical usage patterns for  
7           each customer class. Generally speaking, the Company's existing rate design, when  
8           applied to the proposed pass-on amount, results in immaterial but positive changes to  
9           each class' contribution level.

10           Accordingly, given the large variance in class contribution levels, the OCA does not  
11           necessarily agree with the Company's existing rate design, but, in light of our belief that  
12           this case should be considered a pass-on, and acknowledging that there is no material  
13           change to class contribution levels as a result of the pass-on, we are willing to defer a  
14           discussion of this issue until the time of the Company's next general rate case  
15           application. In my view a general rate case proceeding, ostensibly accompanied by an  
16           updated cost of service study, would be a more appropriate forum in which to discuss  
17           class cost of service and rate design. I will discuss my recommendation in this regard  
18           later in my testimony.

19           **TOWN OF TORRINGTON**

20           **Q.    HAS THE COMPANY PROVIDED ANY INFORMATION IN THIS**  
21           **PROCEEDING REGARDING THE LOSS OF ITS CONTRACT WITH THE**  
22           **TOWN OF TORRINGTON ON DECEMBER 31, 2007?**

23           A.    No. Although Commission's majority opinion in Docket Number 10016-44-CR-06 did  
24           not require the Company to provide information regarding the impact of the loss of this  
25           contract, again the partial concurrence and dissent of Commissioner Byrnes is instructive:

26                   The loss of the Company's contract with the City of Torrington will have  
27                   a substantial impact on the revenues of the Company. I do not expect the  
28                   cash requirements of the Company to decrease in proportion to the  
29                   revenues it receives under this contract. Therefore, I encourage Wyrulec  
30                   to file a cost of service study with its next general rate case illustrating the

1 cost of service for each customer class [a] including the effect of the City  
2 of Torrington contract and [b] without the City of Torrington contract.  
3 The Company should consider and address in its application the  
4 magnitude of the changes in rates for each class of customer that would  
5 occur when the City of Torrington contract expires, comparing them to the  
6 then current rates and the rates proposed in the next general rate case.

7 The operative language in this paragraph relates to certain information to be filed in the  
8 Company's next general rate case filing. As I have indicated in my testimony I do not  
9 believe that this is the next general rate case proceeding contemplated in Commissioner  
10 Byrnes' dissent.

11 **Q. WHEN DO YOU EXPECT THE COMPANY TO FILE ITS NEXT GENERAL**  
12 **RATE CASE PROCEEDING?**

13 A. The Company has not committed to making a rate case filing on a date certain, in spite of  
14 OCA's attempts encouraging it to do so during the pendency of this proceeding.  
15 Although the issues surrounding the Company's rate design and the imminent loss of its  
16 wholesale contract with the Town of Torrington remain important and high priority  
17 issues, both for the Commission and the OCA, the Company has no explicit plan to  
18 address these issues in the foreseeable future. Neither of these issues will be addressed  
19 by allowing the interim rates approved in this docket to become permanent.

20 **Q. HOW DO YOU RECOMMEND THAT THE COMMISSION ADDRESS THESE**  
21 **ISSUES IN THE ABSENCE OF ANY ACTION ON THE PART OF THE**  
22 **COMPANY?**

23 A. My recommendation is that the Commission initiate an investigation on its own motion  
24 and that it direct the Company to file a general rate case application supporting its current  
25 rates in absolute terms, and the method by which those rates are used to recover revenues  
26 from customers on a class cost of service basis. Such a filing should include an updated  
27 class cost of service study that incorporates the anticipated impact of the loss of the  
28 Torrington contract as well as a proposed rate design that more closely comports with the  
29 class cost of service study.

30 **Q. WHEN DO YOU RECOMMEND THAT SUCH AN INVESTIGATION BE**

1           **OPENED?**

2    A.    My recommendation is that the investigation be opened immediately and that it be  
3           processed on an expedited basis. The issues surrounding the Company’s cost of service  
4           and rate design practices are perennial issues that have been questioned by the OCA and  
5           the Commission in numerous proceedings. Likewise, the Commission has been  
6           contemplating the loss of the Torrington contract for well over a year without any  
7           affirmative action by the Company to address those concerns. It is not in the best interest  
8           of the Company or its customers for these issues to remain outstanding. Rather, in light  
9           of the history of the rate increases that have taken place over the last eighteen months,  
10          and with the prospect of further rate increases looming, it is in the overall public interest  
11          for the Commission to resolve these issues as quickly as possible, and in no event later  
12          than the end of this calendar year.

13    **DEMAND RESPONSE**

14    **Q.    WHAT DO YOU RECOMMEND REGARDING DEMAND RESPONSE?**

15    A.    I recommend that the Company be directed to prepare and submit a report by September  
16           1, 2007, describing in detail its efforts to mitigate the impact of the new Tri-State peak  
17           billing methodology on its customers, particularly the three larger customers that will be  
18           most impacted by the change. This report will be similar in nature to that required of the  
19           other Tri-State member systems that were required to file such a report as a condition of  
20           passing-on the Tri-State increase which was effective on January 1, 2007. In those  
21           proceedings the Commission directed the applicants “to work with the Commission  
22           advisory staff and the Office of Consumer Advocate to prepare and file a report on  
23           demand side management and conservation issues...”<sup>5</sup>

24    **Q.    WHY DOES THE COMPANY’S TESTIMONY IN THIS REGARD NOT SATISFY**  
25           **THE REQUIREMENT IMPOSED ON THE OTHER COOPERATIVE**  
26           **DISTRIBUTION SYSTEMS AS A CONDITION OF APPROVING THE PASS-ON**  
27           **REQUESTS?**

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<sup>5</sup> DOCKET NO. 10005-37-CP-06, Notice & Order issued February 8, 2007.

1 A. Although the testimony of both Mr. Miller and Mr. Hedrick briefly describe the historic  
2 activities of WYRULEC in the areas of energy efficiency and demand response, these  
3 efforts have been primarily focused on energy efficiency and not on load control. While  
4 the OCA remains keenly interested in energy efficiency measures as means of reducing  
5 customers' usage and bills, in the context of the new Tri-State rate in this proceeding we  
6 are more interested in exploring new options and technologies that might be useful in  
7 mitigating the impact of the new Tri-State billing methodology. The Company should be  
8 directed to investigate all options that are practically and economically available to assist  
9 its members, especially the demand metered members, in reducing the impact of the A 33  
10 rate. Those options include, but are not limited to, new and innovative rate designs,  
11 technology investments that better enable the Company to monitor its system and  
12 communicate with its members on a real time basis, and peak shaving and load shifting  
13 strategies that may reduce the impact of the new Tri-State peak billing methodology.

14 **AVOIDED COST TARIFF**

15 **Q. WHAT DO YOU RECOMMEND WITH REGARD TO THE AVOIDED COST**  
16 **TARIFF FILED BY THE COMPANY AS A SUPPLEMENT IN THIS**  
17 **PROCEEDING?**

18 A. The OCA recommends that the Commission reject the Company's Avoided Cost tariff  
19 contained on Original Sheet No. 13 of the Company's Wyoming PSC Tariff No. 7 and  
20 direct it to file a tariff that is less confusing and complies with Wyoming Statute.

21 The Company's current Avoided Cost Tariff which was effective on January 1, 2007, on  
22 an interim basis, is meant to comply with the requirements for net metering contained in  
23 W.S. §§ 37-16-101 through 104. This statute generally requires electric utilities, both  
24 private and cooperatively owned distribution companies, to offer a net metering device to  
25 all eligible customers that is capable of measuring power produced and delivered to the  
26 utility by the customer owned generation resource in excess of the customer's  
27 requirements as well as power provided by the utility to the customer when the customer-  
28 owned generation does not meet all of the customer's energy needs. Eligibility for the  
29 Avoided Cost rate is defined in W.S. § 37-16-101 and, among other things, limits the size

1 of customer owned generation resources to 25 kilowatts or less.

2 W.S. § 37-16-103 specifies the manner in which the net energy measurement will be  
3 calculated and requires that customer generators that have net energy consumption shall  
4 be billed according to the rate schedule that would apply for all other customers in the  
5 class. Customers that have surplus production are to be compensated for the excess  
6 energy through a credit on the following month's bill. Importantly, W.S. § 37-16-102 (a)  
7 (iii) prohibits an electric company from charging a customer-generator any fee or charge  
8 that would increase the customer-generator's minimum monthly charge to an amount  
9 greater than that of other customers of the electric utility in the same rate class as the  
10 customer-generator.

11 The Company's currently effective tariff does not clearly state what the charges for net  
12 energy usage will be and it does not state what compensation will be paid for excess  
13 energy production. Further, the power factor language contained in the tariff is  
14 inconsistent with the provision of the statute prohibiting the Company from imposing  
15 charges that would increase the customer generator's monthly minimum charge to an  
16 amount greater than that of other customers of the electric utility in the same rate class as  
17 the customer generator.

18 The Company's existing interim tariff clearly does not comply with the relevant statutory  
19 provisions and should be replaced with a tariff that is in compliance with the statute. The  
20 Commission should require the Company to make such a filing with ten (10) days of the  
21 issuance of the written order in this proceeding.

22 **CONCLUSIONS AND RECOMMENDATIONS**

23 **Q. PLEASE BRIEFLY SUMMARIZE YOUR CONCLUSIONS AND**  
24 **RECOMMENDATIONS IN THIS PROCEEDING.**

25 A. My investigation and analysis in this proceeding has satisfied me that the Company, in  
26 filing its application and cost of service study in this matter, sought only to recover the  
27 increased cost associated with an increase in its wholesale cost of power from its  
28 wholesale power supplier, Tri-State Generation and Transmission. I have concluded,

1 based on my investigation, that WYRULEC was not exceeding its authorized financial  
2 parameters when it sought to recover the increased power costs and that granting  
3 recovery of those costs on a permanent basis will not cause the Company to exceed its  
4 authorized financial parameters in the future.

5 However, several important issues raised by the Commission in its order approving  
6 WYRULEC's last general rate increase remain unresolved. Specifically, the efficacy of  
7 the Company's rate design and the impending loss of its wholesale power contract with  
8 the Town of Torrington are important public interest issues that must be resolved quickly  
9 by the Commission. My recommendation is that the Commission initiate an investigation  
10 and direct the Company to file an application, including an updated cost of service study,  
11 that supports the level of its current rates and the amount of revenue collected from each  
12 class of customer. The updated cost of service study should also incorporate the impact  
13 of the loss of the Torrington contract. I recommend that such a study be initiated  
14 immediately and that it be concluded by the end of the current calendar year.

15 Additionally, I recommend that the Company be directed to conduct a study and file a  
16 report describing in detail its efforts to mitigate the impact of the new Tri-State peak  
17 billing methodology on its customers, particularly the three larger customers that will be  
18 most impacted by the change. This report should be similar in nature to that required of  
19 the other Tri-State member systems that were required to file such a report as a condition  
20 of passing-on the Tri-State increase which was effective on January 1, 2007 and should  
21 be filed no later than September 1, 2007.

22 Finally, I recommend that the Commission reject the Company's Avoided Cost tariff,  
23 which was approved on an interim basis on January 1, 2007, and direct the Company to  
24 file a tariff that complies with the provisions of W.S. §§ 37-16-101 through 104. The  
25 Company's Avoided Cost tariff clearly does not comply with the relevant statutory  
26 provisions and should be rejected on that basis. The Commission should require the  
27 Company to file a compliant tariff within ten (10) days of the issuance of the written  
28 order in this proceeding.

29 **Q. DOES THAT CONCLUDE YOUR TESTIMONY IN THIS PROCEEDING?**

1 A. Yes, it does.