



1 UNS Electric's proposed amendment will advance the Company's ability to acquire BMGS in a  
2 timely and effective manner.

3 **II. DECISION NO. 71914 ALREADY PROVIDES APPROVAL FOR BMGS TO BE IN**  
4 **RATE BASE.**

5 In Decision No. 71914, the Commission ordered that:

6 UNS Electric, Inc. shall be allowed rate base treatment of the Black Mountain  
7 Generating Station and the rate reclassification, with such treatment and  
8 reclassification effective only upon the following steps: 1) Staff shall complete its  
9 evaluation of Black Mountain Generating Station and file its recommendation in  
10 this docket as a compliance item within 90 days of the date of this Decision; 2)  
11 Commission determination confirming that Black Mountain Generating Station  
12 should be included in rate base; 3) UNS Electric, Inc. shall, with the assistance of  
13 Staff and RUCO, prepare and file in this docket as a compliance item within 60  
14 days of the date of this Decision, schedules showing the inclusion of Black  
15 Mountain Generating Station in rate base, with the appropriate operating  
16 adjustments, together with a proof of revenues demonstrating that the reclassified  
17 rates will produce the same revenue as authorized herein; 4) FERC approval of  
18 UNS Electric, Inc.'s acquisition of Black Mountain Generating Station; 5)  
19 Completion of UNS Electric, Inc.'s acquisition of Black Mountain Generating  
20 Station; and 6) Customer notice of the revenue neutral reclassification in a manner  
21 acceptable to Staff.

22 Decision No. 71914 at 78:3-15.

23 The first step required Staff to "complete its evaluation of Black Mountain Generating  
24 Station and file its recommendation in this docket as a compliance item." Id. at 78:5-7. As noted  
25 in the Decision, the Commission stated that Staff "should conclude its evaluation of BMGS prior  
26 to UNSE's purchase of BMGS, especially in light of the warranty repair being made to one of the  
27 turbines at the time of the hearing." Id. at 13:1-2. Step 1 requires Staff to file its evaluation as a  
compliance item.

Step 2 requires "Commission determination confirming that BMGS should be included in  
rate base." This step follows directly upon the Staff's review and compliance filing. It addresses  
the Commission's only stated concern about BMGS, the operational integrity of the power plant.  
On December 21, 2010, Staff filed its report concerning the operations of BMGS.<sup>1</sup> In that report,  
Staff's expert concluded that BMGS is a well operating and cost effective asset. Further, the Staff  
Report did not identify any concerns with BMGS. Based upon the Staff Report, the Commission

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<sup>1</sup> On December 22, 2011, Staff filed an amended report.

1 should find that BMGS is in sound operating condition. Therefore, in its order, the Commission  
2 should confirm that Steps 1 and 2 have been met and that BMGS should be included in rate base,  
3 subject to UNS Electric making the requisite compliance filings.

4 The remaining four steps are effectively ministerial from the Commission's point of view  
5 and do not require any further order of the Commission. Step 3 – the filing of schedules showing  
6 the inclusion of BMGS in rate base – has been completed. Steps 4 through 6 – FERC approval,  
7 acquisition of BMGS and customer notice – will take place upon confirmation by the Commission  
8 that BMGS should be included in rate base. As set forth in Decision No. 71914, the rate base  
9 treatment of BMGS and the rate reclassification will be effective only upon completion of Steps 4-  
10 6. By confirming the ratebase treatment of BMGS, no further orders from the Commission are  
11 necessary and no further orders are contemplated by Decision No. 71914.

### 12 **III. THE PROPOSED ORDER HAS UNINTENDED CONSEQUENCES.**

13 As noted previously, Staff's Proposed Order would require UNS Electric to re-file a  
14 request for Commission approval to include BMGS in rate base. This would take place after the  
15 Company obtains FERC approval, completes the acquisition of BMGS, and provides customer  
16 notice.

17 However, it is unlikely that FERC would approve the transfer of BMGS if it appears that  
18 the Commission has not reached a final rate base determination regarding its treatment of the  
19 plant. Also, without rate base treatment certainty, it is extremely doubtful that UNS Electric will  
20 be able to obtain financing to acquire BMGS. Thus, the Proposed Order would cast greater doubt  
21 on the ability of UNS Electric to acquire BMGS rather than implement the Commission's order to  
22 finalize the transaction. UNS Electric does not believe that these consequences were intended by  
23 the Commission or Staff.

24 For all the foregoing reasons, UNS Electric respectfully requests that the Commission  
25 adopt the Proposed Order consistent with these exceptions, which include an amendment that will  
26 facilitate the acquisition of BMGS without a requirement to re-file a request that BMGS be  
27 included in rate base for rate making purposes.

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RESPECTFULLY SUBMITTED this 10<sup>th</sup> day of February 2011

UNS Electric, Inc.

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Original and thirteen copies of the foregoing  
filed this 10<sup>th</sup> day of February 2011:

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Copy of the foregoing hand-delivered  
this 10<sup>th</sup> day of February 2011, to:

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By Mary Appolito

1 **PROPOSED AMENDMENT LANGUAGE**

2 **Page 3, line 17**

3 **INSERT**

4 "12. In its exceptions, UNSE stated that the ordering paragraphs would have the  
5 unintended consequences of raising concerns about the Commission's willingness to include  
6 BMGS in rate base. These concerns would: (i) jeopardize FERC's approval of the transfer of  
7 BMGS from UED to UNS Electric; (ii) interfere with UNSE's ability to finance its acquisition of  
8 BMGS; and (iii) preclude UNS Electric from being able to acquire BMGS. The Company also  
9 stated that the Commission has already decided to include BMGS in rate base upon completion of  
10 six prerequisites, but those prerequisites did not require the Commission to issue another order  
11 after FERC approval of the transfer of BMGS to UNS Electric, UNS Electric's acquisition of  
12 BMGS and completion of customer notice of the revenue neutral reclassification.

13 13. Based on the Staff's evaluation of BMGS, we confirm that BMGS should be  
14 included in UNS Electric's rate base. The rate base treatment of BMGS and the related rate  
15 reclassification shall be effective upon UNS Electric filing notice of: 1) FERC's approval of UNS  
16 Electric's acquisition of BMGS from UED; 2) confirmation of the completion of UNS Electric's  
17 acquisition of BMGS from UED, including the date of the closing of the transaction; and 3)  
18 completion of customer notice of the revenue neutral reclassification in a manner acceptable to  
19 Commission Staff."

20 **Page 3, line 25**

21 **DELETE** Ordering Paragraph on page 3, line 25 through page 4, line 3 and **INSERT** the  
22 following:

23 "IT IS ORDERED confirming that Black Mountain Generating Station should be included  
24 in UNS Electric's rate base.

25 IT IS FURTHER ORDERED that the rate base treatment of Black Mountain Generating  
26 Station and the related rate reclassification shall be effective upon UNS Electric filing notice of:  
27 1) FERC's approval of UNS Electric's acquisition of Black Mountain Generating Station from  
UED; 2) confirmation of the completion of UNS Electric's acquisition of Black Mountain  
Generating Station from UED, including the date of the closing of the transaction; and 3)  
completion of customer notice of the revenue neutral reclassification in a manner acceptable to  
Commission Staff."