

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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In the Matter of the Application of Rocky Mountain Power for Approval of an Electric Service Agreement between Rocky Mountain Power and Praxair, Inc.	)	<u>DOCKET NO. 09-035-101</u>
	)	<u>ORDER APPROVING ELECTRIC SERVICE AGREEMENT</u>

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ISSUED: December 10, 2009

By The Commission:

This matter is before the Commission on the Application of Rocky Mountain Power (Company) for Approval of an Electric Service Agreement (Agreement or ESA) between Rocky Mountain Power and Praxair, Inc. (Praxair). The Administrative Law Judge of the Commission held a duly-noticed scheduling conference on Wednesday, November 18, 2009. Daniel Solander was counsel for the Company. Paul Clements testified on behalf of the company. Robert Reeder was counsel for Praxair. Michael Ginsberg, assistant attorney general, was counsel for the Division of Public Utilities (Division). Paul Proctor, assistant attorney general, was counsel for the Office of Consumer Services (OCS).

The Company submitted its Application on October 22, 2009. The underlying Agreement was filed under a protective order in this docket, as it is a confidential document. The Division filed its recommendation on October 29, 2009. The OCS also submitted its recommendation November 10, 2009.

The Agreement is a modification of an existing ESA expiring December 31, 2009. The Commission approved the existing ESA in Docket No. 05-035-23. The Agreement details the terms, pricing, and conditions under which the Company will provide

power to the Praxair facilities. The specifics of the Agreement are detailed in the Application, attached Agreement, and summarized in the Division's and OCS's Recommendations.

The Division recommended approval of the Agreement with conditions on future Agreements. The Division recommended the Commission direct the Company and Praxair to shorten the time between the approved changes in the pricing terms of Schedule 9, and changes in the pricing terms of future ESAs to no more than 90 days. It also recommended that the Commission require the Company ensure that future ESAs contain provisions for changes that may result from one-item rate cases.

The OCS recommended the Commission not approve the Agreement. In the alternative, it stated that if the Commission were to approve the Agreement, that the Commission require:

- 1) the contract to be automatically increased when general rates are increased;
- 2) the ESA be modified to include a provision specifying that Praxair will be subject to any costs attributed to major plant additions as determined by the Commission in those cases;
- 3) and that the Company include similar language regarding ECAM, DSM costs, greenhouse gas related costs and major plant additions in future ESAs.

*OCS Recommendation, p. 3.*

The Company witness opined that the Company and Praxair would implement the first and second of the OCS's recommendations if ordered by the Commission, but that they would likely forego submitting the Agreement in its current form, and want to renegotiate the Agreement as adopting the first and second of the OCS's recommendations would significantly alter the terms of the Agreement.

ORDER

Based on the Application, Agreement submitted by the Company, the Recommendation of the Division and OCS testimony presented by the parties at the hearing, the Commission finds the approval of the Application to be just and reasonable and in the public interest. It therefore approves the Agreement between the Company and Praxair.

The Company and Praxair shall ensure that for future ESAs, the interval between the approved changes in the pricing terms of the Schedule 9, and the changes in the pricing terms of future ESAs shall be no more than 90 days apart.

The Company shall also ensure that future ESAs contain provisions for changes that may result from one-item rate cases.

The Commission declines to order that the Company and Praxair implement the OSC's first two recommendations, which would materially alter the terms and conditions of the Agreement. The concerns raised by the first two recommendations could be addressed previous to or during negotiations for future agreements, or possibly at the time of filling of an application for approval of an electric service agreement.

As to the OSC's third recommendation, the Company shall ensure that future electric service agreements shall consider and implement language regarding "ECAM, DSM costs, greenhouse gas related costs, and major plant additions."

Pursuant to Sections 63G-4-301 and 54-7-15 of the Utah Code, an aggrieved party may request agency review or rehearing of this Order by filing a written request with the Commission within 30 days after the issuance of this Order. Responses to a request for agency

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review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission does not grant a request for review or rehearing within 20 days after the filing of the request, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a petition for review with the Utah Supreme Court within 30 days after final agency action. Any petition for review must comply with the requirements of Sections 63G-4-401 and 63G-4-403 of the Utah Code and the Utah Rules of Appellate Procedure.

DATED at Salt Lake City, Utah this 10<sup>th</sup> day of December, 2009.

/s/ Ruben H. Arredondo  
Administrative Law Judge

Approved and confirmed this 10<sup>th</sup> day of December, 2009 as the Order Approving Electric Service Agreement of the Public Service Commission of Utah.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard  
Commission Secretary  
G#64533