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ACTION REQUEST RESPONSE

PUBLIC

To: Utah Public Service Commission

From: Division of Public Utilities

Chris Parker, Director

Artie Powell, Manager, Energy Section

Charles Peterson, Technical Consultant

Doug Wheelwright, Utility Analyst

Subject: In the Matter of Rocky Mountain Power for Approval of Electric Service Agreement
between PacifiCorp and Kennecott Utah Copper LLC Docket No. 11-035-181

Date: November 7, 2011

RECOMMENDATION: (Approval)

The Division recommends that the Commission approve the Electric Service Agreement between PacifiCorp and Kennecott Utah Copper LLC. The Division further recommends that any future contracts omit scalar factors such as found in Section 4.10 of the contract.

BACKGROUND

On October 21, 2011, Rocky Mountain Power (RMP, or Company), a division of PacifiCorp, filed an application for approval of an Electric Service Agreement (ESA) with Kennecott Utah

Copper LLC (Kennecott). The effective date of this agreement is January 1, 2012 and will replace an existing contract that will expire December 31, 2012.

The Commission issued an action request to the Division on October 21, 2011. This memo, outlining the Division's investigation and conclusions, is in response to the aforementioned Commission request.

ANALYSIS

The proposed contract between PacifiCorp and Kennecott outlines the terms, pricing, and conditions under which PacifiCorp would continue to provide backup, maintenance, and supplementary power to the Kennecott facilities. The proposed contract term is one year beginning January 1, 2012 and ending December 31, 2012.

Kennecott has entered into this contract to receive back-up, maintenance, and supplementary power from RMP for up to [REDACTED] Power in excess of [REDACTED] may be requested by Kennecott; however, PacifiCorp is not obligated to supply the requested excess power. The terms and pricing are based upon RMP's Schedules 9 and 31. Section 4 of the contract, in conjunction with Exhibit 1, sets forth contract rates and adjustments. Exhibit 1 of the contract sets forth pricing terms that are identical to pricing found on Schedules 9 and 31.

However, section 4.10 of the contract contains a table of monthly adjustments to electric energy charges (demand charges are unaffected). These monthly electric energy price adjustments were negotiated by the parties to account for the peak load contributions of Kennecott's monthly load. The pattern of Kennecott's peak load contribution differs noticeably from the peak load contribution of the average Schedule 9 customer. Mr. Clements' Exhibit 1 explains these adjustments. This adjustment and the adjustment factors are identical to the adjustment factors agreed to by the Company and Kennecott in the current contract. Last year Mr. Clements explained these adjustment factors as follows.

The Company believes Kennecott, like all customers, should be required to pay its fair share of costs incurred by the Company in order to provide service of electric power and energy on its behalf. The initial rates in the Agreement are set to the now current Utah Schedule No. 31 rates (with the exception of the Schedule 193 surcharge, which is addressed in Section 4.6 of the Agreement). Schedule 31 is the Back-Up, Maintenance, and Supplementary Power tariff under which customers with generation behind the meter that is used to offset their own retail load can purchase back-up service in the event their generation is not operating. Under Schedule 31, a customer can elect to have no back up service in place if it does not intend to run its generation, and the rates for service become identical to the Schedule 9 rates.

While the Schedule 31 and Schedule 9 rates include rate designs that incorporate the different cost characteristics of on peak and off peak usage as well as summer and winter usage, Kennecott desires that this one-year Agreement include assurance that rate changes allocated to Kennecott in 2011 adequately take into account Kennecott's unique load characteristics. In particular, Kennecott desires that energy related charges be allocated in a manner that reflects Kennecott's unique seasonal usage pattern and its flatter-than-tariff-class load profile.

The proposed rate adjustment mechanism in the Agreement is intended to be a short term arrangement, put in place in this one year contract primarily to address the current uncertainty around the Company's ECAM design. The mechanism is not intended to be a long term solution. However, for this one year contract, the parties agreed some adjustment mechanism is reasonable on a short term basis while current Utah regulatory proceedings are resolved.

The rate adjustment mechanism in the Agreement is contained in Sections 4.1, 4.8 and 4.10. At a high level, the rates in the Agreement change coincident with any changes to Schedules 9 and 31. There is no lag in the implementation of the changes. The changes to Schedules 9 and 31 are applicable to Kennecott but are subject to the ratios contained in the table in Section 4.10 of the Agreement. The changes for all kW (demand) related billing components are equal to the changes for the applicable kW related billing components for Schedules 9 and 31 because the ratios for "kW" in the table in Section 4.10 are 100%. The changes for all kWh (energy) related billing components are based on the changes for the applicable kWh related billing components for Schedules 9 and 31 but are subject to the ratios found in the "kWh" section of the table in Section 4.10. Below is the table in Section 4.10 of the Agreement:

	KWh		KW
	On-Peak Ratio	Off-Peak Ratio	KW Ratio
January 2011	92.10%	106.86%	100.00%
February	94.68%	104.74%	100.00%
March	84.00%	114.85%	100.00%
April	86.98%	113.20%	100.00%
May	44.04%	139.47%	100.00%
June	51.15%	115.38%	100.00%
July	76.64%	107.45%	100.00%
August	85.56%	104.47%	100.00%
September	78.95%	106.60%	100.00%
October	131.05%	84.66%	100.00%
November	90.11%	109.26%	100.00%
December 2011	97.19%	102.53%	100.00%

The “kWh” ratios in Section 4.10 were developed using the test period data July 2009 through June 2010. The On-Peak Ratio represents Kennecott’s on peak usage as a percentage of its total usage in relation to Schedule 9’s on-peak usage as a percentage of Schedule 9’s total usage. The Off-Peak Ratio represents Kennecott’s off-peak usage as a percentage of its total usage in relation to Schedule 9’s off-peak usage as a percentage of Schedule 9’s total usage... For any kWh related billing component change to Schedules 9 and 31, the rate change for Kennecott under the Agreement will be the applicable change to Schedules 9 and 31 multiplied by the applicable ratio in the table in Section 4.10. For example, if the January on peak energy (kWh) charge for Schedule 9 increased by \$.005 per kWh, Kennecott’s rate would increase by \$.004605 per kWh (\$.005 per kWh x 92.10%). As a second example, if the January off peak energy (kWh) charge for Schedule 9 increased by \$.005 per kWh, Kennecott’s rate would increase by \$.005343 per kWh (\$.005 per kWh x 106.86%).

For demand (kW) related billing components, the ratio is 100%, so the changes to charges in Schedules 9 and 31 would be applicable at 100%.

The ratios apply only to the incremental change in rates and not to the base rates. The changes are effective at the same time as the effective dates for Schedules 9 and 31.

The Company prepared an example of how the rate adjustment mechanism in the Agreement impacts Kennecott’s rates. The Company used the example ECAM calculation explained by Company witness William R. Griffith in his rebuttal testimony in Docket No. 09-035-15 as an example

of a rate change. Mr. Griffith's rebuttal testimony and the corresponding exhibits are included as Attachment 2. Mr. Griffith's ECAM testimony includes an example that calculates example rate increases for Schedule 9 customers as a result of an ECAM. The Company prepared an analysis that shows how those example Schedule 9 rate increases apply to Kennecott's rates in the Agreement. The analysis also compares the rate increases that would apply to Kennecott in the Agreement to the rate increases that would apply to Kennecott if it were a regular Schedule 9 tariff customer. This analysis is included as Attachment 3. The analysis shows that, using the ECAM example in Mr. Griffith's testimony, the difference between the rate change for Kennecott under the Agreement and the Schedule 9 rate change is .7%, meaning Kennecott's rate change would be .7% higher under the Agreement than under Schedule 9. While this difference is very small based on the test period data and assumptions, it could change based on the customer's actual usage characteristics or Commission-ordered rate changes.

The Division has discussed this adjustment mechanism with the Company. The Company subsequently updated its example that covers the most recent 12 month period. Subsequently, on November 4, 2011 the Company responded to an Office data request that further confirmed the non-materiality of the scalar mechanism. If anything, the scalars appear to be slightly unfavorable to Kennecott. The Division believes that there is no material difference between the overall effect of using last year's adjustment factors versus the updated factors recently supplied by the Company. The Division believes that it is likely that there will be minimal difference between the annual total revenues collected by the Company under this contract with the adjustments and under the strict application of Schedules 9 and 31. The Division is unaware that these adjustment factors had a material impact on other customers in the recently concluded rate case; Docket No. 10-035-124.

However, based upon the series of calculations provided by PacifiCorp, the Division sees no practical justification for these adjustment factors, which may in the future become an issue for other ratepayers. The Company expects that the use of these adjustment factors will be short term. The Division recommends that these scalar adjustment factors be dropped in future contracts.

The proposed contract removes another concern the Division previously held. That concern related to the delay between the updating of the Company's tariffs through rate increases and the adjustment of Kennecott's rates. With this proposed contract, Kennecott's rates adjust when Schedule 9 and 31 rates change.

This ESA implicitly has a new feature that previous contracts did not. Previously, the oxygen plant operated by Praxair on Kennecott's property had its own separate ESA. Praxair's energy needs are now subsumed within Kennecott's contract, as Praxair will now be considered a tenant of Kennecott.¹ The current Praxair ESA (which expires December 31, 2011) was for maximum load capacity of 45 MW. It is possible that the Praxair ESA benefitted RMP ratepayers by providing revenue and contributing to RMP's profit's in support of RMP's system. In the future this support may not be available through the Kennecott ESA. The Office of Consumer Services has previously raised the concern that hat Praxair should simply be a Schedule 9 customer because there was no real justification that it should have its own ESA. The Office's concern now appears to be moot.

Finally, the Division notes that the ESA with Kennecott creates benefits for RMP and its customers generally by the fact that Kennecott usually supplies its own power during the peak summer months, which effectively means that RMP does not incur the costs to acquire what otherwise would be a significant amount of additional peak power. During the relatively low load months of November through February when Kennecott does not operate its coal plant, RMP can supply power relatively easily to Kennecott.

CONCLUSIONS AND RECOMMENDATIONS

¹ Direct Testimony of Paul H. Clements, Docket No. 11-035-181, October 13, 2011, lines 35-47.

Based upon the above outlined analysis, the Division recommends Commission approval of the proposed contract between Kennecott and PacifiCorp. Kennecott's ESA contract has moved it a long way toward full Schedule 9 and 31 pricing compared to where it was four years ago, to the benefit of the Company and other ratepayers. This incremental improvement in the pricing structure is consistent with the principle of gradualism and recognized by the Division. With the caveats presented regarding the adjustment factors, the contract terms and pricing appear to be just, reasonable, and in the public interest.

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