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**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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IN THE MATTER OF THE VOLUNTARY  
REQUEST OF ROCKY MOUNTAIN POWER  
FOR APPROVAL OF RESOURCE DECISION  
AND REQUEST FOR ACCOUNTING ORDER

Docket No. 14-035-147

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**SETTLEMENT STIPULATION**

This Settlement Stipulation (“Stipulation”) is entered into in Docket No. 14-035-147 by and among the parties whose signatures appear on the signature pages hereof (collectively referred to herein as the “Parties” and individually as a “Party”).

(1) The Parties have conducted multiple settlement discussions. No intervening party opposes this Stipulation.

(2) The Parties recommend that the Public Service Commission of Utah (“Commission”) approve the Stipulation and all of its terms and conditions as more fully explained and set forth in this Stipulation. The Parties request that the Commission make findings of fact and reach conclusions of law based on the evidence filed in this docket and based upon this Stipulation, and issue an appropriate order thereon not later than May 27, 2015, consistent with the terms herein.

**BACKGROUND**

1. On December 9, 2014, PacifiCorp, doing business as Rocky Mountain Power (“Company”), filed and served a Public Notice of Intent to File Voluntary Request for Approval of Resource Decision pursuant to the provisions of Utah Administrative Code R746-440-1(2).

2. On December 12, 2014, the Commission provided notice of a scheduling conference to be held in this docket on December 18, 2014.

3. On December 15, 2014, the Company filed its Application for Approval of Transaction and for a Deferred Accounting Order (“Application”). The Application requested that the Commission schedule proceedings on the Application and: (1) authorize the Company to defer the costs and apply the accounting treatment as described in the Application to continue with or facilitate future recovery of all costs associated with the closure of the Deer Creek Mine, sale of the Mining Assets, as described in the Application (“Mining Assets”), and entry into the Coal Supply Agreements, as described in the Application (“CSAs”), withdrawal from the 1974 United Mine Workers of America Pension Trust (“1974 Pension Trust”), and settlement of the Retiree Medical Obligation (collectively the “Transaction”); (2) determine that the Company's decision to consummate the Transaction is prudent and in the public interest; (3) approve the Application to close the Deer Creek Mine, sell the Mining Assets and enter into the CSAs as described in the Application on or before May 27, 2015; and (4) grant such other relief as the Commission deems necessary and proper. The Application was supported by the Company's direct testimony.

4. On December 22, 2014, the Commission issued a Scheduling Order setting a schedule for a confidential technical conference, discovery, the filing of further testimony and a hearing.

5. A confidential technical conference was held on January 22, 2015, during which the Company responded to questions submitted by the parties and provided other information regarding the Transaction.

6. The Parties have engaged in extensive discovery.
7. Non-Company Parties filed their direct testimony on March 17, 2015.
8. Certain Parties filed rebuttal testimony on April 7, 2015.
9. The Parties have held a series of settlement conferences. All intervenors in the docket have been invited to participate in these settlement conferences.
10. The Parties have agreed on settlement of the issues in this matter and agree that the following settlement terms are prudent and in the public interest.

### **SETTLEMENT TERMS**

11. The Parties request that the Commission issue an order finding that the Company's decision to enter into the Transaction is prudent and in the public interest. The Parties also request that the Commission find the estimated Transaction costs described and listed in Attachment 1 are based on estimates provided by the Company in its filing. Although the Parties agree the Commission should find that the Transaction is prudent and in the public interest, the Parties agree that a non-Company Party may challenge the prudence of actual costs incurred in implementation of the Transaction in a later proceeding based on the standards for a prudence determination as set forth in Utah Code Ann. § 54-4-4(4). The Parties agree that a challenge to the prudence of actual costs incurred in implementation of the Transaction addresses only recovery in rates of the portion of any actual cost incurred. However, the determination of prudence or not of actual costs later challenged does not affect the Parties' stipulation and agreement that the Transaction itself is prudent and in the public interest.

12. For the specific costs related to union supplemental unemployment and medical, non-union severance, and miscellaneous closure/on-going labor, as further identified on lines 11,

12 and 17 in Attachment 1, the non-Company Parties also reserve the right to challenge the Company's recovery of some or all of these costs on grounds relating to the timing of prior and future rate case proceedings, rate case projections and test periods, and the Company reserves its right to argue that these same costs were necessarily incurred to achieve customer benefits in the context of the overall Transaction, and that the Company should be allowed to recover these costs.

13. The Parties agree that the Commission should enter an order authorizing the Utah-allocated portion of unrecovered investment in the Deer Creek Mine, excluding Construction Work in Progress ("CWIP") and Preliminary Survey and Investigations ("PS&I"), to be transferred to a regulatory asset and to continue to be recovered at an amortization rate equal to the investments' current depreciation rates at least until the rate effective period of the Company's next general rate case, at which time amortization rates may be reconsidered.

- a. Amortization should begin January 1, 2015.
- b. This regulatory asset should be included in rate base in the Company's next general rate case.

14. The Parties agree that the Commission should enter an order authorizing the Utah-allocated portion of the approximate [REDACTED] loss related to the sale of the Cottonwood Preparation Plant ("Prep Plant") (excluding the Prep Plant related CWIP), the Central Warehouse, and the Trail Mountain Mine, all as described in the Application, to be transferred to a regulatory asset and to continue to be recovered at an amortization rate equal to the current depreciation expense beginning January 1, 2015, until the rate effective period of the Company's

next general rate case, at which time amortization rates may be reconsidered. This regulatory asset should be included in rate base in the Company's next general rate case.

15. The Parties agree that the Commission should enter an order authorizing a return on investment calculated using the Company's approved rate of return on rate base ("ROR")<sup>1</sup> on the [REDACTED] "sold" portion of the Mining Assets to be credited against the regulatory asset identified in Paragraph 14 beginning June 1, 2015, until the rate effective period of the Company's next general rate case. [REDACTED]

[REDACTED]

16. The Parties agree that the Commission should enter an order authorizing separate accounts to be established for all joint owner elements related to the Transaction, including but not limited to the following:

- a. the Utah-allocated portion of unrecovered investment in the Deer Creek Mine and the loss on the Mining Assets;
- b. the Utah-allocated portion of Deer Creek closure costs;
- c. the Utah-allocated portion of loss on settlement of the Retiree Medical Obligation;
- d. the Utah-allocated portion of the withdrawal from the 1974 Pension Trust;  
and
- e. the Utah-allocated portion of total Company amount of \$3.8 million of the net Deer Creek Mine related CWIP (including PS&I and salvage).

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<sup>1</sup> For purposes of all ROR references in this Stipulation, the authorized rate of return on a pre-tax basis will be used.

The Company will be responsible for obtaining reimbursement of these costs from joint owners; the Company's utility customers' rates will not be impacted in the event the joint owners do not fully reimburse the Company.

17. The Parties agree that the Commission should enter an order authorizing a one-time, non-precedential exception to be made to the 70/30 Energy Balance Account ("EBA") sharing band for the following items, to be recovered by flowing them through the EBA at 100% without applying the sharing band until the rate effective date of the next general rate case:

- a. unrecovered Deer Creek Mine investment amortization, at the current level of depreciation expense in rates, and the amortization of the loss related to the Mining Assets at the current rate of depreciation as described in the Application; and
- b. actual Utah fueling cost for the Hunter and Huntington plants, including:
  - i. lower replacement coal costs;
  - ii. Prep Plant operational savings;
  - iii. pension timing savings; and
  - iv. savings on Energy West retiree medical benefits as a result of the settlement of the Retiree Medical Obligation.

The Parties agree that the sharing band waiver is non-precedential, and the Company agrees to not request any change or elimination of the EBA sharing band to be effective prior to the end of the EBA pilot.

18. The Parties agree that the carrying costs of EBA-related deferrals should continue to be 6%, as set forth in the EBA tariff, except for the amortization expense associated with the

Deer Creek Mine and loss on Mining Assets, for which the EBA-related carrying costs should be zero during the calendar year in which the Net Power Cost differential is calculated and deferred to the EBA. This condition should exist until the rate effective date of the Company's next general rate case. For the period in which the costs have been deferred and are awaiting review and collection, the normal EBA carrying cost rate should apply.

19. The Parties agree that the Commission should enter an order authorizing the following offsets beginning June 1, 2015 to the regulatory asset described in Paragraph 13 above to be applied until the Company's next general rate case:

- a. ROR on the Fossil Rock coal leases as described in the Application ("Fossil Rock"); and
- b. ROR on fuel inventory savings consistent with the methodology in OCS Exhibit DR-1.

20. The Parties agree that the Commission should enter an order authorizing the Utah-allocated portion of all Deer Creek Mine closure related costs to be recorded as a regulatory asset as those costs are incurred.

- a. The carrying charge for incurred and funded costs should be the Company's authorized cost of debt until the Company's next general rate case.
- b. Closure costs in the regulatory asset should be included in rate base in the Company's next general rate case and should be subject to prudence review with respect to the implementation of the Transaction, and potential challenge as specified in Paragraph 12.

- c. Amortization of the regulatory asset should be amortized to fuel cost starting with the effective date of rates approved in the Company's next general rate case.

21. The Parties agree that the Commission should enter an order authorizing a regulatory asset to be created for a one-time loss on settlement of the Retiree Medical Obligation based on the actual amount booked at the time of the completion of the transaction, with a carrying cost at the Company's authorized ROR. The Company will be required in its next general rate case to demonstrate the prudence of any portion of the loss in excess of [REDACTED]. All prudent costs related to the Retiree Medical Obligation included in the Company's next general rate case should be included in rate base and amortized as determined in that case.

22. The Commission should enter an order authorizing a regulatory asset to be created for the Utah-allocated portion of the withdrawal from the 1974 Pension Trust.

- a. The Company should continue annual \$3.0 million payments to the 1974 Pension Trust.
- b. No carrying charge should be allowed on the regulatory asset until and unless the Company's obligation to the 1974 Pension Trust is satisfied through a prepayment of an annual installment settlement.
- c. The Company's decision to enter into a pre-payment of an annual installment settlement, if any, should be subject to future Commission approval.

23. The Parties agree that the Huntington CSA is prudent, provided, however, that the Company can successfully exercise its termination rights if a new or existing environmental regulation or settlement causes it to become uneconomical to burn coal at Huntington. If the



Company is unable to successfully exercise its termination rights and is required to pay costs or damages related to the Huntington CSA for coal that it is unable to use at Huntington or another facility, then the prudence of such costs or damages should be subject to future review, taking into account the overall benefits to customers. Parties are free to take any position they choose in such future review.

24. The Parties agree that the Commission should enter an order authorizing the Utah-allocated portion of total Company amount of \$3.8 million<sup>2</sup> of the net Deer Creek Mine related CWIP (including PS&I and salvage) to be transferred to a regulatory asset and that any amount in excess of that amount should be the responsibility of the Company and not collected from customers.

- a. The CWIP regulatory asset balance should earn a carrying charge at the Company's authorized cost of debt.
- b. The CWIP regulatory asset balance should be included in rate base and amortized to fuel cost beginning with the effective date of rates in the Company's next general rate case over an amortization period to be determined in that case.

25. The Parties agree that the Commission should enter an order authorizing that any future Fossil Rock royalty revenue, if any, will be deferred and credited to customers in future rate cases.

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<sup>2</sup> CWIP (total company) estimate in the filing of \$5.1m X 75% = \$3.8m as set forth in Attachment 1. Based on this estimate, shareholders would be responsible for 25%, or \$1.3m (total company) and any amount in excess of the \$5.1m estimate.

## **GENERAL TERMS AND CONDITIONS**

26. The Parties agree that no part of this Stipulation or the formula 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 called-out and resolved by this Stipulation.

27. Utah Code Annotated § 54-7-1 authorizes the Commission to approve a settlement so long as the settlement is just and reasonable in result. The Parties agree that this Stipulation as a whole is just and reasonable in result and in the public interest.

28. All negotiations related to this Stipulation are confidential, and no Party shall be bound by any position asserted in negotiations. Except as expressly provided in this Stipulation, and in accordance with Utah Administrative Code R746-100-10.F.5, neither the execution of this Stipulation nor the order adopting it shall be deemed to constitute an admission or acknowledgement by any Party of the validity or invalidity of any principle or practice of regulatory accounting or ratemaking; nor shall they be construed to constitute the basis of an estoppel or waiver by any Party; nor shall they be introduced or used as evidence for any other purpose in a future proceeding by any Party except in a proceeding to enforce this Stipulation.

29. The Company, the Division and the Office each will, and any other Party that has intervened in these proceedings may, make one or more witnesses available to explain and offer further support for this Stipulation at the hearing scheduled by the Commission to consider this Stipulation. As applied to the Division and the Office, the explanation and support shall be consistent with their statutory authority and responsibility.

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.

#### **REQUEST FOR RELIEF**

31. The Parties request that the Commission consider this Stipulation at the hearing scheduled in this docket.

32. The Parties request that the testimony filed in this docket be received into evidence in support of this Stipulation.

33. The Parties request that the Commission approve this Stipulation and all of its terms and conditions. The Parties request that the Commission make findings of fact and reach conclusions of law based on the evidence and on this Stipulation and issue an appropriate order thereon before May 27, 2015.

DATED this \_\_\_\_ day of April, 2015.

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