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Date: December 7, 2015

Subject: Application of Rocky Mountain Power for Approval of Electric Service Agreement
Between PacifiCorp and Nucor Corporation – Docket 15-035-81

1. Background

On November 4, 2015, Rocky Mountain Power (Company) filed with the Public Service Commission of Utah an Application requesting approval of an Electric Service Agreement (ESA) between PacifiCorp and Nucor Corporation (parties).¹ The current ESA ends on December 31, 2015 and with Commission approval the new ESA is to be effective on January 1, 2016 and will expire on December 31, 2018.

Although the Application was filed as a non-confidential document the Company considers the ESA in its entirety to be confidential.

2. Discussion

Timing of Request

As indicated above the Company filed the Application on November 4, 2015. In an effort to avoid a situation where there is a lapse between approved ESAs the parties request that the ESA be approved by the Commission on or before December 31, 2015.

¹ The Office was not initially served the filing and after receiving the Application from the Commission requested from the Company a copy of the confidential ESA which was received on November 9, 2015.

Essentially the Company is requesting expedited analysis and evaluation of the ESA by regulatory agencies and a ruling by the Commission in order to prevent a lapse in an agreement between Nucor and the Company. The Office of Consumer Services (Office) agreed to an expedited schedule and within the time and information limitations has attempted to determine if it is reasonable to recommend that the Commission approve the ESA.

The Office and Division of Public Utilities (Division) have both previously stated that regulatory agencies should be allowed adequate time to evaluate special contracts and have expressed concern that requests for expedited treatment do not provide sufficient time for a thorough examination. The Office asserts that it is the responsibility of the contracting parties to begin and conclude contract discussions and requests for approval in a timely manner so that the regulatory agencies are not deprived of necessary time to evaluate the appropriateness of a contract.

Filing Deficiency

From the Office's perspective there are two important deficiencies in the Application.

First is the lack of any explanation or rationale as to why Nucor should be served through an ESA rather than under tariff Schedule 9².

Second, there is no analysis regarding the rates and charges contained in the ESA. At page 2 of the Application the Company asserts that the negotiated rates are consistent with rates applicable to other large industrial customers. However, no evidence is provided and the Office views Nucor's cost of service study as an important element for determining appropriate rates and charges. Otherwise the Office looks to Schedule 9 rates as the appropriate alternative. Additionally no analysis is provided to justify the value assigned to the Curtailment Credit offered as part of the ESA other than it is a negotiated rate.

The Office cautions the Company that without adequate support it is difficult to recommend approval of a contract. Further we believe that it is the responsibility of the applicants to explain and defend their request rather than the responsibility of the regulatory agencies to try to ferret out why a contract may be in the public interest.

Surcharges

Under both the current and the proposed ESA Nucor is subject to the Energy Balancing Account (EBA), REC Balancing Account (RBA) and Solar Incentive Surcharge (SIS). However, under the proposed ESA Nucor will also be subject to any new surcharge rates if so ordered by the Commission.

The Office notes that while the [BEGIN CONFIDENTIAL] 

² The Application does indicate that Nucor will provide PacifiCorp with certain interruptible products.

[REDACTED]

[END CONFIDENTIAL]

The Office found no reason why Nucor would be exempt from paying Schedule 91 Surcharge to Fund Low Income Residential Lifeline Program and recommends that the Commission require that Nucor be subject to Schedule 91 as a condition of approval of the ESA.³ The Office also recommends that the Commission specifically require that any new surcharge approved by the Commission be applicable and charged or credited to Nucor at the same time as other customers thus eliminating the argument that it cannot be applied until a new ESA is requested and approved.⁴

Nucor Service Rates and Charges

The Company performs a cost of service study for Nucor as a separate customer class. Currently Nucor rates are below its cost of service.⁵ Subsequent to the establishment of new rates Nucor will incur on January 1, 2016 if the ESA is approved Nucor will [BEGIN CONFIDENTIAL]

[REDACTED]

[REDACTED]

[REDACTED] [END CONFIDENTIAL]

Potential Changes to Nucor Rates, Charges and Curtailment Credit During the Term of the ESA

Currently Nucor is subject to any general rate increases, including monthly fixed charge, customer charge, measured demand charges, and energy charges. This contract element remains intact under the proposed ESA.

³ In a prior docket the Office recommended that a similarly situated customer should be subject to the low-income surcharge and the Commission accepted the Office's recommendation.

⁴ The Application states Nucor will be subject to any new surcharges rates ordered by the Commission, [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL]

⁵ The Office recognizes that Schedule 9 and other customer classes are not precisely at cost of service however the degree of deviation should be minimal.

Through the term of the ESA Nucor's rates and charges will be adjusted by the average percent change for total Utah retail customers concurrently with general rate changes and/or major plant addition cases. This approach will also be applied to surcharge adjustments. Further, changes in general rates and charges will trigger an adjustment to Nucor's Curtailment Credit using the same procedure. A new provision in the proposed ESA is that if the Company does not file a general rate case or major plant addition case in 2016, Nucor's base rate charges as well as the Curtailment Credit will increase by 1.00% on January 1, 2017. The Office understands that the intent of this provision is to bring Nucor's base rates closer to cost of service.

The Office supports provisions that require Nucor's rates and charges to change concurrently with rate changes experienced by other customers. However because proposed ESA rates for Nucor are below cost of service the Office asserts that rate adjustments based on the average percent change for total Utah retail customers will likely be inadequate to move Nucor closer to cost of service and may in fact have the opposite effect.

Curtailment and Interruption

Confidential Appendix B (Curtailment Credit) describes the requirements associated with curtailment and interruption.⁶ Both the terms and pricing are modified from the current ESA.

Currently the Company can interrupt Nucor [BEGIN CONFIDENTIAL] [REDACTED]

[REDACTED]

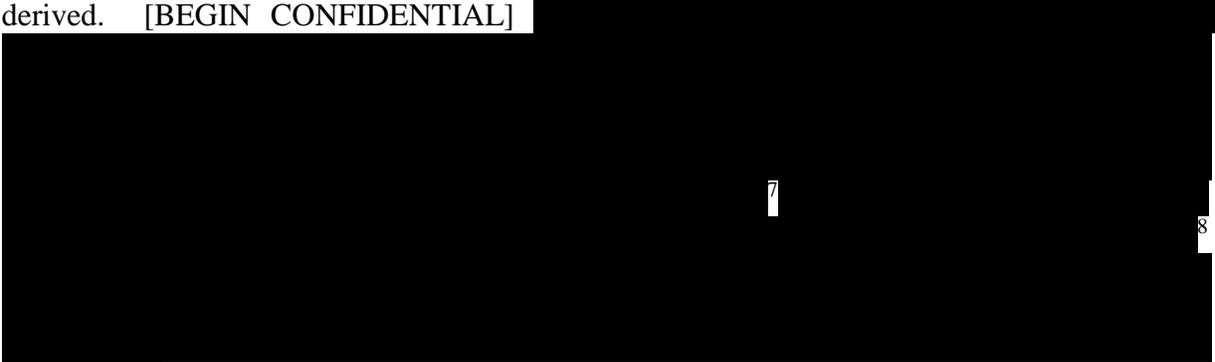
[REDACTED] [END

CONFIDENTIAL]

⁶ The Office notes that as with the prior ESA no Appendix A was provided.

Future Determination of Curtailment Credit Value

The Office has previously commented that we recognize that having the ability to interrupt or curtail service can provide benefits for the Company. We also stated our concern with paying for a potential benefit that is never utilized or paying a price that exceeds the benefits to be derived. [BEGIN CONFIDENTIAL]



[END CONFIDENTIAL]

In our comments related to the curtailment credit in the current ESA the Office stated, "...at some point it may be important for the Company to conduct a study to determine the value of curtailment and interruptibility in order to determine an appropriate pricing scheme."⁹ The Office asserts that it would be appropriate for the Company to conduct such a study before entering into additional curtailment contracts, particularly with the new curtailment provision contained in this ESA.

3. Final Comments

The Company states that this ESA is materially a two-year extension of the existing agreement with certain minor modifications to the interruptibility provisions. The Office generally concurs with the Company's characterization but views the interruptibility provisions as somewhat more than minor and believes that the value of curtailment and interruption deserves study before other curtailment contracts are entered into.

The Office asserts that the cost of service study is an important element for judging how Nucor performs under its ESA in relation to other customers. The Office contends that the Company should continue to try to bring Nucor rates in line with its cost of service or if appropriate move Nucor to an existing schedule¹⁰. Additionally, it may be appropriate in the future for the Company to consider entering into a stand-alone agreement with Nucor for the provision of curtailment products.

⁷ Although the response included a request for special handling the Office is not aware of a special handling request being made to or approved by the Commission.

⁸ The Office will be prepared to provide more detail at hearing if the Commission wants more information.

⁹ Comments of the Office of Consumer Services, Docket 13-035-169. November 22, 2013.

¹⁰ If the Company asserts there are reasons for Nucor not to be at cost of service those reasons with accompanying evidence should be provided in any future ESA requests.

Finally the Office asserts that the Company has not provided adequate evidence of the reasonableness of Nucor's proposed rates and charges as well as the Curtailment Credit amount to enable us to ascertain that the ESA is in the public interest. Therefore we are unable to recommend that the Commission approve the ESA.

4. Office Recommendations

The Office recommends that if the Commission approves the proposed ESA between PacifiCorp and Nucor the following conditions must be applied in order to meet the public interest standard.

- 1) Nucor must be subject to Schedule 91 Surcharge to Fund Low Income Residential Lifeline Program; and
- 2) It must be clarified that Nucor is subject to any new surcharge approved by the Commission concurrent with other customers.

The Office further recommends that the Commission require the Company to conduct a study to determine the value of curtailment and interruptibility in order to determine an appropriate pricing scheme.