

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application of Utah Power & Light Company for an Order Approving Amendment No. 3 to the Electric Service Agreement between PacifiCorp and Nucor Corporation )

DOCKET NO. 99-035-13

ORDER

ISSUED: December 4, 2000

By The Commission:

On December 23, 1999, PacifiCorp filed an application requesting Commission approval of Amendment No. 3 of its contract with Nucor Corporation (Nucor). The Commission requested that the Division of Public Utilities (Division) analyze the proposed amendment and submit its recommendation. After receiving additional information from PacifiCorp and Nucor to further its analysis, the Division submitted its Memorandum and Recommendation on August 23, 2000, generally supporting approval of the proposed amendment. Thereafter, the Committee of Consumer Services (CCS) submitted a Memorandum and Recommendations on October 13, 2000. The CCS is more circumspect in its recommendation, suggesting that the Commission delay its approval consideration until additional analysis is performed. The October CCS Memorandum and Recommendation prompted an October 17, 2000 letter response from Nucor and an October 26, 2000 letter from PacifiCorp. Both letters urge the Commission to approve the proposed amendment without further delay for the additional analysis suggested by the CCS. PacifiCorp and Nucor reiterate their view that the proposed amendment is in the public interest.

The proposed amendment amends Amendment No. 2, filed in Docket No. 97-035-06, and approved by the Commission on August 18, 1997. The August 1997 approval of Amendment No. 2, included conditions that required any repricing or extension of the contract to be approved by the Commission and explicitly stated that the Commission reserved the ability to prospectively modify the contract rates and to impute revenues to protect other customers from past under recovery of costs if circumstances changed from those submitted in support of the amendment. In its August 2000 Memorandum and Recommendation, the Division recommends approval of Amendment No. 3 through its initial term, through December 31, 2002, and again recommends that any repricing or extension require prior Commission approval. The Division's analysis supports the conclusion that the proposed Amendment No. 3 is in the public interest based upon the criteria utilized by the Division. The Division notes that changes in assumptions and cost inputs can create a situation where continued service under the proposed Amendment No. 3 would no longer provide the results and benefits relied upon for approval of the proposed amendment. The Division recommends that should this situation occur, the Commission must prospectively modify the Nucor service contract terms to permit future beneficial service. The Division further recommends that the value to other customers derived from interruptible service to a particular customer, such as the service offered to Nucor, be clearly presented in future applications, if interruptibility is relied upon to justify the proposed service terms.

The CCS's recommendation is based upon its analysis which concludes that changes, that have already occurred since the application was filed and which the CCS views as not adequately captured in the Division's analysis, cause the perceived benefits arising from service under proposed Amendment No. 3 to be more tentative or non-existent. The CCS argues that some of the analytical methods currently used may not appropriately evaluate the costs of serving special contracts, like Nucor's, and could lead to incorrect conclusions that there are benefits when the service would actually be detrimental overall. This is why the CCS recommends delaying approval until further analysis can be done, after development of new techniques. The CCS also recommends that until a detailed examination of the claimed benefits of interruptible load is made, reliance upon unquantified benefits of interruption of the Nucor service should not be relied upon in approving the proposed Amendment No. 3.

We agree that a more detailed examination of interruptible service would assist us in considering future claims of system and customer benefit. Although there is an intuitive view that interruptible service is beneficial to system operations, this intuition is based only on past experience. More recent electricity market events and developments show that what may have held for our understanding of the electricity industry and markets may no longer be applicable or should be significantly modified. We also believe that future analysis is needed to assist us in reaching conclusions that a proposed service contract has total benefits which are greater than its total costs. Additional quantification efforts will help us reach better founded conclusions that these service arrangements are compensatory, considering overall values attributable to the service contract. We will institute a separate proceeding for this examination. Appropriate notice to interested persons will be forthcoming from the Commission and we will work with interested parties to develop the analytical tools we may apply in our future considerations of interruptible service contracts.

We conclude that we need not delay approval of proposed Amendment No. 3 until after that work is done, or until the additional analysis suggested by the CCS is complete. The proposed amendment does not diminish our ability to make future modifications to the terms of the Nucor service. As clearly acknowledged and accepted by PacifiCorp and Nucor, should we subsequently find that continued service under the terms of Amendment No. 3 no longer support a public interest or system benefit conclusion, we may, and will, modify the terms and conditions of the contract. We acknowledge the concerns underlying the CCS's position for additional analysis beyond the interruptibility matter. We must also acknowledge that all analysis is difficult because changing circumstances frustrate desired precision. Because of our ability to modify the contract, when we become aware that changed circumstances warrant such changes, we believe that we can protect other customers from bearing future non-compensatory outcomes when they are established. We believe that existing regulatory tools and processes are available to protect other customers where past and future non-compensatory circumstances arise, without having to delay approval of the proposed amendment for further analyses.

NOW, THEREFORE, IT IS HEREBY ORDERED, that:

- Amendment No. 3 to PacifiCorp's service contract with Nucor is approved for its initial term through December, 2002.
- Any extension beyond that term or repricing during the service term shall be approved by the Commission prior to effect.
- Should we find that the terms and conditions of Amendment No. 3, or elsewhere contained in the service contract, no longer support a conclusion that the contract is beneficial, we will take appropriate measures to protect other PacifiCorp customers from detrimental outcomes arising from service rendered pursuant to the contract. These measures may include, but are not limited to, requiring modification of the contract terms and conditions.

Dated at Salt Lake City, Utah, this 4th day of December, 2000.

/s/ Stephen F. Mecham, Chairman

/s/ Constance B. White, Commissioner

/s/ Clark D. Jones, Commissioner

Attest:

/s/ Julie Orchard

Commission Secretary