

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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In the Matter of the Application of Rocky Mountain Power for an Exemption under Subsection 54-4-31(4) of the Utah Code Annotated	) ) ) ) )	<u>DOCKET NO. 07-035-16</u>  <u>REPORT AND ORDER</u>
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ISSUED: May 10, 2007

SYNOPSIS

No detriment to the public interest appearing, the Commission granted the exemption sought by the Applicant with certain conditions.

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By the Commission:

PROCEDURAL HISTORY

On March 22, 2007, PacifiCorp, doing business as Rocky Mountain Power (“Company”), filed its Application pursuant to *Utah Code Annotated* § 54-4-31(4) seeking exemption from the requirements of *UCA* § 54-4-31(1). This section requires the Company to obtain prior written approval of the Commission in order to issue securities and assume obligations or liabilities as guarantor, endorser, surety, or otherwise, for any security of another person relating to the financing of pollution control revenue bonds. The Company notes the Commission has previously granted such an exemption in Docket Nos. 00-035-16 and 98-2035-02, but that said exemption was effectively terminated in connection with the Commission’s approval the Company’s acquisition by MidAmerican Energy Holdings Company in Docket No. 05-035-04.

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The matter was referred to the Division of Public Utilities (“DPU”), for review and recommendation, and on April 30, 2007, the DPU filed its memorandum recommending approval with the following conditions:

1. The exemption granted shall remain in effect so long as the senior secured debt of the Company has investment grade ratings from at least two nationally recognized rating agencies; except that as to short-term securities of the Company, the exemption shall remain in effect for 60 days after the date one or more nationally recognized rating agencies so rate the senior secured debt of the Company.

2. The Company shall continue to file with the Commission, with copies to the Division of Public Utilities, Quarterly Financing Activity Reports and, to the extent not otherwise an obligation of the Company pursuant to Commitment U10 approved in Docket No. 05-035-54, all credit rating agency reports related to the Company issued during the applicable quarter.

3. The issuance of an exemption by the Commission under this Application does not constitute the determination of any rate-making issues whatsoever, which issues are expressly reserved for decision until they are presented to the Commission in appropriate proceedings.

4. The issuance of an exemption by the Commission under this Application shall not be construed as prior acceptance by the Commission of any expenditures of the Company for any purpose.

5. The issuance of an exemption by the Commission under this Application shall not be construed to obligate the State of Utah to pay or guarantee in any manner whatsoever any

security issued, assumed or guaranteed by the Company.

The DPU notes these conditions are included in the Company's recommended order filed with the Application and are adapted from the conditions the Commission previously placed on the Company in Docket Nos. 00-035-16 and 98-2035-02.

As there appears no opposition to the Application, the Commission hereby determines to proceed informally pursuant to Commission Rule 746-110.

The Commission, having considered the Application and the DPU's recommendation, the information in its files concerning the Company, the applicable law, and being fully advised in the premises, enters the following findings of fact, conclusions of law, and the Order based thereon.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Commission has jurisdiction pursuant to Subsection 54-4-31(4), *Utah Code Annotated*, 1953, as amended, 1997.
2. The Company is an Oregon corporation, having its principal administrative office at Portland, Oregon. It is qualified to do business in the State of Utah with its principal place of business in Salt Lake City.
3. The Company has requested that the Commission exempt the Company from the provisions of Subsection 54-4-31(1) of the *Utah Code Annotated* pursuant to the authority granted to the Commission under Subsection 54-4-31(4). Subsection 54-4-31(4) of the *Utah Code Annotated*, among other things, authorizes the Commission to exempt any electrical corporation from the provisions of Subsection 54-4-31(1) of the *Utah Code Annotated* if the

Commission finds that the application of such provisions, to such electrical corporation, is not required by the public interest. The Commission may grant any such exemption on such terms and conditions as it may prescribe.

4. The application of Subsection 54-4-31(1) of the *Utah Code Annotated* to the Company is not required by the public interest, and events subsequent to the acquisition by MidAmerican Energy Holdings Company have not changed this conclusion. The Commission retains the ability to monitor the securities transactions of the Company and to determine the appropriate regulatory treatment of such transactions in subsequent proceedings. Accordingly, the request of the Company should be granted, subject to conditions as prescribed below. Such conditions will assure that the Commission and its staff shall remain apprised of the financing activities of the Company and that the Company will have access to the capital markets during the term of the exemption.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that:

1. The Company is hereby exempted from the provisions of Subsection 54-4-31(1) of the *Utah Code Annotated*, 1953, as amended, 1997.
2. The exemption granted hereby shall remain in effect so long as the senior secured debt of the Company has investment grade ratings from at least two nationally recognized rating agencies; except that as to short-term securities of the Company, the exemption shall remain in effect for 60 days after the date one or more nationally recognized rating agencies so rate the senior secured debt of the Company.

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3. The Company shall continue to file with the Commission, with copies to the Division of Public Utilities, Quarterly Financing Activity Reports and, to the extent not otherwise an obligation of the Company pursuant to Commitment U10 approved in Docket No. 05-035-54, all credit rating agency reports related to the Company issued during the applicable quarter.

4. The issuance of this Order does not constitute a determination by the Commission of any rate-making issues whatsoever, which issues are expressly reserved for decision until they are presented to the Commission in appropriate proceedings.

5. The issuance of this Order shall not be construed as prior acceptance by the Commission of any expenditures of the Company for any purpose.

6. Nothing in this Order shall be construed to obligate the State of Utah to pay or guarantee in any manner whatsoever any security issued, assumed or guaranteed by the Company.

7. This Order is entered on a tentative form, pursuant to Rule 110. Any person may file a protest hereto within 20 days from the date of issuance, or thereafter be barred from doing so. Should the Commission find such protest to be meritorious, the effective date shall be suspended by subsequent order pending further proceedings.

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DATED at Salt Lake City, Utah, this 10<sup>th</sup> day of May, 2007.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard  
Commission Secretary  
G#53301