

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of Application of Rocky Mountain Power for a Certificate of Public Convenience and Necessity Authorizing Construction of the Sigurd – Red Butte No. 2 345 kV Transmission Line)
)
)
)
)
)
)
)

DOCKET NO. 12-035-97

REPORT AND ORDER

ISSUED: March 15, 2013

SYNOPSIS

The Commission approves an uncontested settlement stipulation and issues a certificate of public convenience and necessity authorizing construction of the Sigurd – Red Butte No. 2, 345 kV Transmission Line.

APPEARANCES..... iii

I. PROCEDURAL HISTORY 1

II. SETTLEMENT STIPULATION SUMMARY 2

III. PARTIES' POSITIONS 3

IV. DISCUSSION, FINDINGS, AND CONCLUSIONS 5

V. ORDER 6

SETTLEMENT STIPULATION 9

DOCKET NO. 12-035-97

-iii-

APPEARANCES

Jeff Richards, Esq.
Rocky Mountain Power

For PacifiCorp, dba Rocky Mountain Power

Patricia E. Schmid, Esq.
Utah Attorney General's Office

" Division of Public Utilities

Jerrold S. Jensen, Esq.
Utah Attorney General's Office

" Office of Consumer Services

I. PROCEDURAL HISTORY

This matter is before the Public Service Commission of Utah (“Commission”) upon the September 17, 2012, application of PacifiCorp, a public utility doing business in Utah as Rocky Mountain Power (“Company”), seeking a certificate of public convenience and necessity (“CPCN”) for the construction of the Sigurd – Red Butte No. 2, 345 kV Transmission Line (“Project”). The application is pursuant to Utah Administrative Code (“UAC”) Ann. § 54-4-25. The Project is to be built between the existing Sigurd substation, located in Sevier County, Utah, and the existing Red Butte substation in Washington County, Utah. On October 22, 2012, the Company filed an errata application (“Application”).

The statutory parties to this case include the Utah Division of Public Utilities (“Division”), and the Utah Office of Consumer Services (“Office”). In addition, the Commission granted the following parties leave to intervene: Holcim, Inc., Kennecott Utah Copper LLC, Kimberly-Clark Corp., Malt-O-Meal, Praxair, Inc., Proctor & Gamble, Inc., Tesoro Refining and Marketing Co., and Western Zirconium (collectively “Utah Industrial Energy Consumers” or “UIEC”), Utah Association of Energy Users (“UAE”), and Utah Associated Municipal Power Systems (“UAMPS”).

On October 3, 2012, the Division requested the Commission conduct a scheduling conference to set a schedule and to clarify the scope of the proceedings in its scheduling order. On October 15, 2012, a duly noticed scheduling conference was held and on October 18, 2012, the Commission issued a Scheduling Order and Notice of Hearing (“Scheduling Order”) for this proceeding.

On December 21, 2012, the Division and the Office filed direct testimony in this docket. On January 16, 2013, the Division filed supplemental direct testimony. On January 18, 2013, the Company filed rebuttal testimony. On January 22, 2013, UAMPS filed rebuttal testimony. No other parties filed testimony in this docket. On February 14, 2013, the Company, the Division, and the Office, signed and filed a settlement stipulation in this proceeding (“Stipulation”). On March 5, 2013, the Commission held a duly noticed hearing to consider approval of the Stipulation.

II. SETTLEMENT STIPULATION SUMMARY

A copy of the Stipulation is attached to, and incorporated in, this order. For convenience, a summary of some of the terms in the Stipulation is provided below. This summary, and other discussion of the terms in this order, is not intended to modify the terms of the Stipulation, and the language in the Stipulation controls. The Company, the Division, and the Office, signed the Stipulation and are collectively referred to as the “Parties.”

In the Stipulation, the Parties agree to the following:

1. The Company has obtained, or will obtain during the ordinary course of construction, all of the required conditional use permits, franchises, and authorizations from each of the local governmental entities having jurisdiction over the Project.
2. The Company has sufficient capital to finance the Project and a capital structure that renders the Company financially stable.

3. The Parties agree that the approval of the CPCN is limited to a determination of the public convenience and necessity of the Project and that cost allocation and rate recovery will be addressed through a future regulatory process at the appropriate time.
4. The Parties agree that the present or future public convenience or necessity does, or will, require construction of the Project and accordingly request the Commission issue an order approving the application for the certificate of public convenience and necessity.

III. PARTIES' POSITIONS

The Company, Division and Office provided witnesses at hearing to support the Stipulation. No intervening party provided testimony opposing approval of the Stipulation.

The Company testifies in support of the Stipulation and believes it is in the public interest and it was negotiated in good faith by the Parties. The Project is one component of the Company's larger Energy Gateway Transmission Expansion project, along with the now-completed Populus to Terminal transmission project¹ and the Mona to Oquirrh transmission project.² The Company states these coordinated transmission projects are part of the Company's modeled topology for the purpose of selecting its preferred resource portfolio. The Company argues these projects represent crucial components of the Company's comprehensive, long-term

¹ See *In the Matter of the Application of Rocky Mountain Power for a Certificate of Public Convenience and Necessity Authorizing Construction of the Populus-to-Terminal 345 kV Transmission Line Project*, Docket No. 08-035-42, Report and Order, issued September 4, 2008.

² See *In the Matter of the Application of Rocky Mountain Power for a Certificate of Public Convenience and Necessity Authorizing Construction of the Mona-Oquirrh 500/345 kV Transmission Line*, Docket No. 09-035-54, Report and Order, issued June 16, 2010.

plan to deliver network resources to loads, support renewable generation development and retail load growth, and improve reliability of the regional power grid.

The Company also testifies the Project directly addresses its need to meet electric service obligations to customers by adding additional transmission facilities to its system, improving reliability of the interconnected transmission system and increasing transmission capacity required to serve the growing electric demand in southwest Utah. The Project also addresses Federal Energy Regulatory Commission, Western Electric Coordinating Council (“WECC”) and the North American Electric Reliability Corporation (“NERC”), reliability standards and criteria. The Project provides access to renewable and other generation sources, and provides increased capacity to import/export energy to/from the State. Because of the interconnected nature of the transmission system, the Project will benefit the Company’s system on a regional basis.

The Division supports the Stipulation and recommends the Commission approve the Stipulation and grant the CPCN. The Division testifies the construction of the Project, and its associated facilities, is required for public convenience and necessity and is in the public interest. The Company’s requirement to serve its current and future network customers, coupled with its requirement to meet stringent reliability standards for the electric transmission grid, supports the construction of the Project. The Division concludes the Project is needed to resolve system redundancy for loads in southwest Utah and to maintain compliance with NERC and WECC reliability and performance standards.

The Office testifies it supports the Stipulation because the Company has demonstrated present and future public convenience and necessity does, or will, require the construction of the Project. The Office testifies the Stipulation is in the best interest of ratepayers and recommends it be approved by the Commission. The Office also emphasizes the Stipulation explicitly acknowledges cost allocation and cost recovery will be addressed in an appropriate future proceeding.

IV. DISCUSSION, FINDINGS, AND CONCLUSIONS

The parties signing the Stipulation represent a diversity of interests. These parties agree the Stipulation is in the public interest and present or future public convenience and necessity does, or will, require construction of the Project. In the Stipulation cover letter, the Company represents the other parties to this case were made aware of the Stipulation and though they did not sign, they did not oppose the Stipulation. The signing parties indicate the Company has complied with its statutory requirements but that the Company is still in the process of obtaining some required consents, franchises, or permits issued by appropriate local authorities.

As we have noted in previous orders, settlements of matters before the Commission are, by statute, encouraged at any stage of our proceedings.³ The Commission may approve a stipulation or settlement after considering the interests of the public and other affected persons, if it finds the stipulation or settlement “is just and reasonable in result.”⁴ Our consideration of the Stipulation is guided by Utah statutory provisions in UCA § 54-7-1, et seq.,

³ See Utah Code Ann. § 54-7-1. See also, *In the Matter of the Application of Questar Gas Company to Adjust Rates for Natural Gas Service in Utah, et al.*, Docket Nos. 04-057-04, 04-057-11, 04-057-13, 04-057-09, 05-057-01, Report and Order issued January 6, 2006, at 26.

⁴ See Utah Code Ann. § 54-7-1(3) (d).

encouraging informal resolution of matters brought before the Commission. Based on our consideration of the evidence before us, the Application of the Company, the testimony and recommendations of the parties, and the applicable legal standards, we find the Stipulation, and all of its terms and conditions, is just and reasonable in result and in the public interest. Based upon the foregoing, the Commission approves the Stipulation, but conditions this approval pursuant to UCA § 54-4-25 (4)(a)(ii), which requires, in part, the Company file evidence of the receipt of such consent, franchises, or permits necessary from local entities.

V. ORDER

Wherefore, pursuant to the foregoing discussion findings and conclusions made herein, we order:

1. The terms and conditions of the Settlement Stipulation filed in this matter on February 14, 23013, are hereby approved.
2. A certificate of public convenience and necessity authorizing the construction of the Sigurd – Red Butte No. 2, 345 kV transmission line is approved subject to item 3 below.
3. The Company shall file documentation it has obtained any remaining consents, authorizations and permits from the local governmental entities having jurisdiction over the Project, which were still pending at the time of the March 5, 2013, hearing in this matter. The Company shall file this documentation as soon as practicable after obtaining such consents.

DOCKET NO. 12-035-97

-7-

DATED at Salt Lake City, Utah, this 15th day of March, 2013.

/s/ Ron Allen, Chairman

/s/ David R. Clark, Commissioner

/s/ Thad LeVar, Commissioner

Attest:

/s/ Gary L. Widerburg
Commission Secretary
D#242582

Notice of Opportunity for Agency Review or Rehearing

Pursuant to §§ 63G-4-301 and 54-7-15 of the Utah Code, an aggrieved party may request agency review or rehearing of this Order by filing a written request with the Commission within 30 days after the issuance of this Order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission does not grant a request for review or rehearing within 20 days after the filing of the request, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a petition for review with the Utah Supreme Court within 30 days after final agency action. Any petition for review must comply with the requirements of §§ 63G-4-401 and 63G-4-403 of the Utah Code and Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 15th day of March, 2013, a true and correct copy of the foregoing Report and Order was served upon the following as indicated below:

By Electronic-Mail:

R. Jeff Richards (jeff.richards@pacificorp.com)
Todd Jensen (todd.jensen@pacificorp.com)
David L. Taylor (dave.taylor@pacificorp.com)
Rocky Mountain Power

Data Request Response Center (datarequest@pacificorp.com)
PacifiCorp

Robert F. Reeder (bobreeder@parsonsbehle.com)
William J. Evans (bevans@parsonsbehle.com)
Vicki M. Baldwin (vbaldwin@parsonsbehle.com)
Elizabeth L. Silvestrini (esilvestrini@parsonsbehle.com)
Parsons Behle & Latimer

Gary A. Dodge (gdodge@hjdllaw.com)
Hatch, James & Dodge

Kevin Higgins (khiggins@energystrat.com)
Neal Townsend (ntownsend@energystrat.com)
Energy Strategies

Mason Baker (mason@uamps.com)
Marshall Empey (marshall@uamps.com)
Utah Associated Municipal Power Systems

By Hand-Delivery:

Division of Public Utilities
160 East 300 South, 4th Floor
Salt Lake City, Utah 84111

Office of Consumer Services
160 East 300 South, 2nd Floor
Salt Lake City, Utah 84111

Administrative Assistant

DOCKET NO. 12-035-97

-9-

SETTLEMENT STIPULATION

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Pending Application of Rocky Mountain Power for a Certificate of Public Convenience and Necessity Authorizing Construction of the Sigurd – Red Butte No. 2 345 kV Transmission Line	Docket No. 12-035-97 SETTLEMENT STIPULATION
--	---

This Settlement Stipulation (“Stipulation”) is entered into in Docket No. 12-035-97 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”).

BACKGROUND

1. On September 17, 2012, Rocky Mountain Power filed an application in accordance with Utah Code Ann, § 54-4-25 with the Public Service Commission of Utah (“Commission”) seeking a certificate of public convenience and necessity (“CPCN”) for the construction of a new 345 kV transmission line (the “Project”) to be built between the existing Sigurd substation located in Sevier County approximately 6 miles northeast of the town of Richfield, Utah, the existing Red Butte substation located west of State Route 18 and the town of Central in Washington County, Utah. The application was followed by an errata filing on October 22, 2012.

2. On October 18, 2012, the Commission issued a Scheduling Order setting a procedural schedule. A technical conference was held October 25, 2012. A hearing on this matter is scheduled for March 5 and 6, 2013.

3. Five Parties participated in this matter – The Division of Public Utilities (the “Division”), the Office of Consumer Services (“OCS”), Utah Industrial Energy Consumers (“UIEC”), Utah Association of Energy Users (“UAE”) and Utah Associated Municipal Power Systems (“UAMPS”). The Division and UAMPS each filed testimony in support of and the OCS

did not oppose the issuance of a CPCN for the Project. The Division testified that the Project will serve the present and future public convenience and necessity and recommended that the Commission approve the Application. UAMPS testified that the planning group consisting of PacifiCorp, UAMPS and Deseret concluded that construction of the Project was needed to reliably serve the loads in the area. UAMPS further stated that cost allocation and cost recovery are not at issue in this proceeding. The OCS did not oppose the issuance of a CPCN but expressed concern regarding the timing for the Project based on projected load growth in southwest Utah. The OCS did not challenge the need for the Project based on the need for redundancy for Sigurd to Red Butte Line No. 1. The OCS also emphasized that cost allocation and cost recovery would be addressed in future proceedings.

SETTLEMENT TERMS

4. The Parties now recommend that the Public Service Commission of Utah (“Commission”) approve the Stipulation and all of its terms and conditions as set forth herein and as agreed upon by the Parties.

3. The Company has obtained all of the required conditional use permits, franchises, and authorizations from each of the local governmental entities having jurisdiction over the Project. Any other required consents, authorizations and permits from other public authorities required for the construction of the Project have been obtained or will be obtained during the ordinary course of construction of the Project.

4. The Company has sufficient capital to finance the Project and a capital structure that renders the Company financially stable.

5. The Parties agree that the approval of the CPCN is limited to a determination of the public convenience and necessity of the Project and that cost allocation and rate recovery are

not within the scope of the application. Cost allocation and rate recovery will be addressed through a future regulatory process at the appropriate time.

6. The Parties agree that the present or future public convenience or necessity does or will require construction of the Project and accordingly request the Commission issue an order approving the application for the certificate of public convenience and necessity.

7. If a hearing is necessary to approve this stipulation the Parties ask that it is considered at the hearing scheduled in this docket for March 5, 2013. If a hearing is held, the Division, OCS, and the Company each will make one or more witnesses available to explain and offer further support for this Stipulation. The other Parties may also make witnesses available to explain their respective positions in this matter. As applied to the Division and OCS, the explanation and support shall be consistent with their statutory authority and responsibility.

GENERAL TERMS AND CONDITIONS

8. 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.

9. The Parties agree that if any person challenges the approval of this Stipulation or requests rehearing or reconsideration of any order of the Commission approving this Stipulation, each Party will use its best efforts to support the terms and conditions of this

Stipulation. As applied to the Division and the OCS, the phrase “use its best efforts” means that they shall do so in a manner consistent with their statutory authority and responsibility. In the event any person seeks judicial review of a Commission order approving this Stipulation, no Party shall take a position in that judicial review proceeding in opposition to the Stipulation.

10. This Stipulation shall not be final and binding on the Parties until it has been approved without material change or condition by the Commission.

11. This Stipulation is an integrated whole, and any Party may withdraw from it if it is not approved without material change or condition by the Commission or if the Commission’s approval is rejected or materially conditioned by a reviewing court. If the Commission rejects any part of this Stipulation or imposes any material change or condition on approval of this Stipulation or if the Commission’s approval of this Stipulation is rejected or materially conditioned by a reviewing court, the Parties agree to meet and discuss the applicable Commission or court order within five business days of its issuance and to attempt in good faith to determine if they are willing to modify the Stipulation consistent with the order. No Party shall withdraw from the Stipulation prior to complying with the foregoing sentence. If any Party withdraws from the Stipulation, any Party retains the right to seek additional procedures before the Commission, including presentation of testimony and cross-examination of witnesses, with respect to issues resolved by the Stipulation, and no party shall be bound or prejudiced by the terms and conditions of the Stipulation.

12. 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.

DATED this 14th day of February 2013.

<p>UTAH OFFICE OF CONSUMER SERVICES</p> <p><u>/s/ Michele Beck</u> Michele Beck Director Office of Consumer Services 160 East 300 South, 2nd Floor Salt Lake City, UT 84114</p>	<p>ROCKY MOUNTAIN POWER</p> <p><u>/s/ R. Jeff Richards</u> R. Jeff Richards Assistant General Counsel Rocky Mountain Power 201 S. Main St., Suite 2300 Salt Lake City, UT 84111</p>
<p>UTAH DIVISION OF PUBLIC UTILITIES</p> <p><u>/s/ Chris Parker</u> Chris Parker Utah Division of Public Utilities 160 East 300 South, 4th Floor Salt Lake City, UT 84114</p>	