

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application  
of Rocky Mountain Power for  
Approval of Electric Service  
Agreement Between PacifiCorp and  
Nucor Corporation

Docket No. 13-035-169

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HEARING PROCEEDINGS  
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TAKEN AT: Public Service Commission  
Hearing Room 451  
160 East 300 South  
Salt Lake City, Utah

DATE: Thursday, December 12, 2013

TIME: 2:00 p.m.

REPORTED BY: Scott M. Knight, RPR

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APPEARANCES

HEARING OFFICER: JORDAN A. WHITE

FOR DIVISION OF PUBLIC UTILITIES:

JUSTIN C. JETTER, ESQ.,

ASSISTANT ATTORNEY GENERAL

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FOR ROCKY MOUNTAIN POWER:

DANIEL E. SOLANDER, ESQ.,

ROCKY MOUNTAIN POWER

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FOR NUCOR CORPORATION:  
PETER J. MATTHEIS, ESQ.,  
(Appearing Telephonically)  
ERIC J. LACEY, ESQ.,  
(Appearing Telephonically)  
BRICKFIELD, BURCHETTE, RITTS & STONE  
1025 Thomas Jefferson Street NW  
Eighth Floor, West Tower  
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Hearing Proceedings

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## PROCEEDINGS

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THE HEARING OFFICER: So, we're on the record.

5

Good afternoon. This is the time and place duly noticed for

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Commission consideration of Rocky Mountain Power's

7

application for approval of an electric service agreement

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between PacifiCorp and Nucor Corporation in Docket No.

9

13-35-169. My name is Jordan White. I have been asked by

10

the commissioners to act as a presiding officer for this hearing.

11

Let's go ahead and take appearances. Let's start

12

over on the left side of the room here with Rocky Mountain

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Power.

14

MR. SOLANDER: Good afternoon. Daniel Solander

15

on behalf of Rocky Mountain Power. And I have with me at

16

counsel table David Taylor, Utah regulatory affairs manager,

17

and Paul Clements, senior marketer originator for PacifiCorp.

18

THE HEARING OFFICER: Mr. Jetter.

19

MR. JETTER: Thank you. Justin Jetter present for

20

the Public Service Commission. And with me is Charles

21

Peterson.

22

THE HEARING OFFICER: Okay.

23

MR. COLEMAN: Brent Coleman with the Attorney

24

General's Office on behalf of the Office of Consumer Services.

25

And with me is Ms. Cheryl Murray.

1 THE HEARING OFFICER: And on the phone, I  
2 know you already mentioned who was on the call, Mr. Mattheis,  
3 but if you wouldn't mind--I don't know if we were on the record  
4 at that point--  
5 if you want to go ahead and make an appearance, that would be  
6 great.

7 MR. MATTHEIS: This is Peter Mattheis and Eric  
8 Lacey of Brickfield, Burchette, Ritts & Stone on behalf of Nucor.

9 THE HEARING OFFICER: Okay. Thank you.  
10 Anyone else here today that's going to make an  
11 appearance?

12 Okay. Since this is PacifiCorp's application, I'll ask  
13 Mr. Solander to go ahead and proceed first.

14 MR. SOLANDER: Yes. As you're aware, we are  
15 here in support of the electric service agreement between  
16 PacifiCorp and Nucor Corporation, filed in Docket 13-035-169.  
17 In support of the application, I have Dave Taylor, who's  
18 prepared to offer testimony in support.

19 THE HEARING OFFICER: Great. Go ahead--do  
20 you want to go ahead and be sworn in, Mr. Taylor? Go ahead  
21 and raise--do you solemnly swear to tell the whole truth and  
22 nothing but the truth?

23 MR. TAYLOR: I do.

24 THE HEARING OFFICER: Be seated.

25 DAVID L. TAYLOR, being first duly sworn, was examined and

1 testified as follows:

2 DIRECT EXAMINATION

3 BY-MR.SOLANDER:

4 Q. Could you please state your name and your position  
5 with Rocky Mountain Power?

6 A. My name is David L. Taylor. I'm employed by  
7 Rocky Mountain Power as the manager of regulatory affairs for  
8 the State of Utah. My business address is 201 South Main,  
9 Suite 2300, Salt Lake City, Utah 84111.

10 Q. And what is the purpose of your testimony here  
11 today?

12 A. I'll briefly review the key elements of the new  
13 electric service agreement between PacifiCorp and Nucor  
14 Corporation, how that new contract is different from the existing  
15 contract that expires at the end of this month.

16 Q. Please proceed.

17 A. After several weeks of negotiation, PacifiCorp and  
18 Nucor executed a two-year extension of their existing electric  
19 service agreement on October 11 of 2013. That agreement was  
20 filed with the Commission on that same day. The existing  
21 agreement was set to expire December 31 of 2013.

22 The term of the new agreement begins January 1,  
23 2014, and expires on December 31 of 2015. Again, it's a  
24 two-year extension of the current agreement.

25 Under the agreement, PacifiCorp will continue to

1 provide Nucor with retail full requirements service of electric  
2 power and energy, and Nucor will provide PacifiCorp with  
3 certain interruptible products. The rates for full requirements  
4 service that Nucor will pay to PacifiCorp were negotiated rates,  
5 but they're consistent with rates applicable to other large  
6 industrial customers in the State.

7 The agreement also provides for a credit from  
8 PacifiCorp to Nucor against the rate it pays in exchange for  
9 providing PacifiCorp with certain interruptible products. The  
10 rates effective January 1 of 2014 are detailed in Article V of the  
11 electric service agreement. And they produce a net rate  
12 increase for Nucor of about 4.48 percent compared to the rates  
13 that are currently in place.

14 Now, let me explain how the rates in the new  
15 contract were established and how that process differs from that  
16 one previously used in the expiring contract.

17 In the existing agreement, beginning in January of  
18 2009 and every January 1 through 2013, Nucor's retail contract  
19 rate and the interruptible credit have been increased through an  
20 annual rate adjustment index that reflects the percentage  
21 increase in PacifiCorp's Commission- approved Utah revenue  
22 requirement for the previous 12 months.

23 Under the existing contract, Nucor had not been  
24 directly subject to the energy balancing account, the renewal  
25 energy credit balancing account, or the solar incentive



1 surcharge, which I'll refer to collectively as "surcharge rates."  
2 But the impact of those rate mechanisms have been reflected in  
3 the calculation of the annual rate change for Nucor.

4 That annual rate change was subject to rate index  
5 cap and floor spelled out under the existing contract. But  
6 because the rate index for the--in the existing agreement for all  
7 the years 2009 through 2012 was lower than the cap, the index  
8 did not have any impact--or the floor of the cap did not have any  
9 impact on the determination of new rates for Nucor during that  
10 time period.

11 However, in 2013, the change that happened in  
12 January of this year, which is the current rate, that index did  
13 exceed the cap that was allowed under the agreement.  
14 Therefore, the current rates that Nucor is paying are about 2.9  
15 percent lower than they would have been absent that cap in that  
16 indexing in the contract.

17 Under the new contract, Nucor's rates will be  
18 separated into base rates, surcharge rates, and curtailment  
19 credit. Nucor's base rate charges for power and energy will be  
20 uniformly adjusted by the average percent change to Utah's total  
21 retail customers concurrently with changes in general rate cases  
22 or major plant addition cases for retail customers. Now, that's a  
23 modification from the current contract, which only allowed a  
24 change to happen once per year.

25 Under the agreement, Nucor will now become

1 subject to surcharge rates, which are EBA, the REC balancing  
2 account, and the solar incentive surcharge. Those surcharge  
3 rates for Nucor will be set to collect or credit the same percent  
4 of Nucor's base revenue as those corresponding surcharges  
5 collect or credit from the average retail base rates of Utah retail  
6 customers. Those surcharge rates for Nucor will change and be  
7 adjusted concurrently with changes in those surcharge rates for  
8 other customers.

9           The curtailment credit in the rate will also change  
10 concurrently with, and by the same percentage as, any change  
11 to Nucor's base rate or surcharge rates.

12           Lastly, unlike the previous contract, the new  
13 agreement does not contain any rate caps or rate floor  
14 provisions. So, those changes, as I have just explained, will  
15 happen without any restrictions on a limit or floor.

16           Now, let me explain how the current rate was  
17 established. As I indicated earlier, because of the impact of the  
18 index rate cap, the current rates that Nucor are paying are  
19 about 2.9 percent lower than they otherwise would have been  
20 absent the cap. To make up this difference, the agreement  
21 includes a provision in which the impact of that rate cap  
22 shortfall in 2013 will be caught up in two steps. Approximately  
23 one-third of that shortfall will be made up in 2014. And the  
24 remaining two-thirds of that impact will be made up in 2015.

25           So, applying all of those to rates that were

1 currently in effect, Nucor's base rates will go up by about 2.65  
2 percent starting the 1st of January. That's both the indexed  
3 change and that additional one-third of the shortfall. Surcharge  
4 rates will also become in effect, and that will increase the rates  
5 Nucor pays by about another 1.83 percent, bringing the total  
6 increase that Nucor will see beginning in January at 4.48  
7 percent as compared to the rates that are currently in place.  
8 The curtailment credit will also increase by 4.48 percent on  
9 January 1, as well.

10 And as I previously discussed, these rates will  
11 change concurrently with changes to the rates for other Utah  
12 retail customers.

13 Q. Do you have any final comments and a  
14 recommendation regarding the contract?

15 A. I do. First of all, I'd like to express the Company's  
16 appreciation to the DPU and the Office for their  
17 recommendations and their comments supporting the contract.  
18 And I recommend that the Commission approve the new electric  
19 service agreement between PacifiCorp and Nucor Corporation  
20 as it's filed. Thank you. That concludes my comments.

21 MR. SOLANDER: Thank you.

22 Mr. Taylor is available for cross-  
23 examination or questions from the Commission.

24 THE HEARING OFFICER: Before we proceed with  
25 that cross, just as a matter of procedure, we have application

1 that was filed and then the comments filed by the Division and  
2 then also the Office. Do the parties have any opposition to--I  
3 mean, do you want to make a motion to have those received into  
4 evidence or . . .

5 MR. JETTER: Yeah, I'll move at this time to put the  
6 application and the exhibits thereto from the Company, as well  
7 as the DPU and the Office of Consumer Service filings in the  
8 docket into the record.

9 THE HEARING OFFICER: Any objection?

10 MR. SOLANDER: No objection.

11 THE HEARING OFFICER: They're received.

12 Mr. Jetter.

13 MR. JETTER: Thank you. Just a quick couple  
14 questions for Mr. Taylor.

15 CROSS EXAMINATION

16 BY-MR.JETTER:

17 Q. The Division in its memo--I don't know if you have  
18 that available to you.

19 A. I don't. I did read it.

20 Q. Maybe I could provide it to you.

21 A. Oh, I have it now.

22 Q. Okay. On page 3, this relates to the three  
23 conditions that were included in the 2006 order. Essentially, that  
24 Nucor will be included in the cost of service studies provided by  
25 PacifiCorp in future general rate cases. The second is that the

1 curtailment feature would be considered a system resource, and  
2 third, that the Division and the Office of Consumer Services  
3 would be provided information relating to any future  
4 amendments to the agreement. Does the Company object to  
5 those terms?

6 A. No. Those three conditions are fully acceptable to  
7 the Company. I'll just note that when we do file a rate case,  
8 Nucor is a class of service in the cost of service study, so those  
9 costs are identified. And the curtailment credit is treated as a  
10 element of net power cost as a power purchase as opposed to a  
11 deduction of revenue, so it is a system allocated cost. And we  
12 certainly don't have any opposition to providing the Division and  
13 the Office and the Commission with any change or amendments  
14 to the contract as they come forward.

15 MR. JETTER: Thank you. That's all the questions  
16 I have. Thank you.

17 THE HEARING OFFICER: Mr. Coleman.

18 MR. COLEMAN: Nothing from the Office. Thank  
19 you.

20 THE HEARING OFFICER: Mr. Mattheis, I'm  
21 assuming you don't have any questions, but you're welcome if  
22 you have any cross for Mr. Taylor.

23 MR. MATTHEIS: Thank you. No questions, Your  
24 Honor.

25 THE HEARING OFFICER: Mr. Jetter.

1 MR. JETTER: Thank you. The Division of Public  
2 Utilities would like to call our witness, have him sworn in,  
3 Charles Peterson.

4 THE HEARING OFFICER: Do you solemnly swear  
5 to tell the whole truth and nothing but the truth?

6 MR. PETERSON: Yes.

7 THE HEARING OFFICER: Be seated.

8 CHARLES E. PETERSON, being first duly sworn,  
9 was examined and testified as follows:

10 DIRECT EXAMINATION

11 BY-MR.JETTER:

12 Q. Would you please state your name and occupation  
13 for the record, Mr. Peterson?

14 A. Charles E. Peterson. I'm a technical consultant  
15 with the Division of Public Utilities.

16 Q. Thank you. And have you reviewed the filings in  
17 this docket made by Rocky Mountain Power, as well as those by  
18 the Office of Consumer Services?

19 A. Yes, I have.

20 Q. And did you prepare and submit a document  
21 labeled "The Confidential Action Request Response from the  
22 Division of Public Utilities"?

23 A. Yes.

24 Q. And does your analysis and representations made  
25 in that document reflect the opinion of the Division of Public

1 Utilities today?

2 A. Yes.

3 Q. Are you aware of any party opposing the  
4 application or any terms of the application or, I guess, the  
5 contract included therein?

6 A. I'm not aware of any opposition.

7 Q. And is it your opinion that the three terms that I  
8 had asked Mr. Taylor earlier about should be--that are included  
9 in page 3, should be included in the order in this docket?

10 A. Yes, or an indication that they continue from the  
11 previous order.

12 Q. Thank you. With that, do you believe that approval  
13 of the application would be just, reasonable--just and  
14 reasonable as well as result in rates to consumers that are in  
15 the public interest?

16 A. Yes, I do.

17 MR. JETTER: Thank you. I have no further  
18 questions.

19 THE HEARING OFFICER: Mr. Solander.

20 MR. SOLANDER: No questions. Thank you.

21 THE HEARING OFFICER: Mr. Coleman.

22 MR. COLEMAN: Nothing from the Office. Thanks.

23 THE HEARING OFFICER: Mr. Mattheis.

24 MR. MATTHEIS: No questions. Thank you.

25 THE HEARING OFFICER: Thank you. Mr.

1 Coleman.

2 MR. COLEMAN: The Office would call Ms. Cheryl  
3 Murray and ask that she be sworn.

4 THE HEARING OFFICER: Do you solemnly swear  
5 to tell the whole truth and nothing but the truth?

6 MS. MURRAY: Yes.

7 THE HEARING OFFICER: Be seated. Thank you.

8 CHERYL MURRAY, being first duly sworn, was  
9 examined and testified as follows:

10 DIRECT EXAMINATION

11 BY-MR. COLEMAN:

12 Q. Can you state your name and business title for the  
13 record, please?

14 A. My name is Cheryl Murray. I'm a utility analyst with  
15 the Office of Consumer Services.

16 Q. Did you have the opportunity to participate on  
17 behalf of the Office in Docket 13-035-169?

18 A. Yes, I did.

19 Q. In that course, did you research and prepare the  
20 comment documents provided by the Office on November 22,  
21 2013?

22 A. I did.

23 Q. Do you have a summary of the Office's position on  
24 this particular docket?

25 A. Yes, I do.



1 Q. Proceed.

2 A. The Office of Consumer Services is responsible for  
3 assessing the impact of utility rate changes and regulatory  
4 actions on residential and small commercial customers. And it's  
5 in that capacity that we analyzed the proposed electric service  
6 agreement between Nucor and PacifiCorp. And our effort was to  
7 evaluate any potential impact on those customers that we  
8 represent. Based on our analysis, the Office asserts that the  
9 modified prices of the proposed ESA, as identified in our memo  
10 of November 22, 2013, better maintain the tie between Nucor  
11 contract provisions and retail tariff rate provisions and are  
12 necessary to improve rate equity for other customers. These  
13 modifications Mr. Taylor listed: the contemporaneous rate  
14 changes, the two-step catch-up increase, the inclusion of  
15 surcharge rates, and the removal of the cap and the floor for  
16 rate changes.

17 From a cost of service standpoint, a fundamental  
18 ratemaking principle is that customers should pay rates that are  
19 cost-based. Therefore, the Office recommends that the  
20 Commission require the Company to continue to include Nucor  
21 in future cost of service studies. And Mr. Taylor has just  
22 indicated that the Company does agree to that provision, which  
23 was also included in the Division's recommendations.

24 With that provision, the Office recommends the  
25 Commission approve the proposed ESA between PacifiCorp and

1 Nucor Corporation. Thank you.

2 Q. Do you have any further additions or modifications  
3 to the November 22, 2013, comments?

4 A. No, I do not.

5 MR. COLEMAN: Given that that document's  
6 already been admitted into the record, present Ms. Murray for  
7 cross-examination.

8 THE HEARING OFFICER: Mr. Solander.

9 MR. SOLANDER: No questions.

10 THE HEARING OFFICER: Mr. Jetter.

11 MR. JETTER: I have no questions.

12 THE HEARING OFFICER: Mr. Mattheis.

13 MR. SOLANDER: No questions. Thank you.

14 THE HEARING OFFICER: And while we're with  
15 you--I apologize--is Mr. Lacey a potential witness or does  
16 the--does Nucor plan on presenting--

17 MR. MATTHEIS: No. He's one of our attorneys.

18 We don't have witnesses.

19 THE HEARING OFFICER: Well, we do have  
20 attorneys testify at times.

21 MR. MATTHEIS: I've been accused of that.

22 THE HEARING OFFICER: No problem.

23 Is there any other parties here that have anything  
24 additional that they wish to ask regarding the proposed--the  
25 application before us?

1                   What I'm going to do is take a brief recess. Before I  
2 do that, we are recording and it will be posted, so I'm going to  
3 try to turn it off and back on. I always want to give people  
4 forewarning, because we all understand there's issues with that.  
5 So, why don't we go ahead and go off the record? I'm going to  
6 switch off the recorder, hopefully, and be back briefly, hopefully.  
7 I'm assuming that the parties are requesting a bench order  
8 here--

9                   MR. SOLANDER: That was our intent.

10                  THE HEARING OFFICER: --because of pending  
11 expiration. Right. Be back in a minute.

12                  (Recess taken, 2:19-2:20 p.m.)

13                  THE HEARING OFFICER: Let's go ahead and go  
14 back on the record. Appreciate everyone's participation today.  
15 Is there anyone else who wants to present anything else on this  
16 application  
17 before . . .

18                  Thank you very much for your patience. Based  
19 upon the Commission's review of Rocky Mountain Power's  
20 application, the comments filed in this docket, the testimony  
21 presented here today, and the lack of opposition to the  
22 application, the Commission approves Rocky Mountain Power's  
23 application for approval of the electric service agreement,  
24 Docket No. 13-035-169. The Commission will issue a written  
25 order memorializing this bench order in due course. With that,

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the witnesses are excused and we are adjourned. Thank you very much.

(Proceedings concluded at 2:21 p.m.)

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CERTIFICATION

This is to certify that the foregoing proceedings were taken before me, SCOTT M. KNIGHT, a Registered Professional Reporter and Notary Public in and for the State of Utah, residing at South Jordan, Utah;

That the proceedings were reported by me in stenotype and thereafter caused by me to be transcribed into typewriting, and that a full, true, and correct transcription of said proceedings so taken and transcribed is set forth in the foregoing pages, inclusive.

I further certify that I am not of kin or otherwise associated with any of the parties to said cause of action, and that I am not interested in the event thereof.

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Scott M. Knight, RPR

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