

in opposition to approval of the Application. At the conclusion of the hearing, the Presiding Officer issued a bench order approving the ESA. This order memorializes that bench ruling.

DISCUSSION, FINDINGS AND CONCLUSIONS

I. The ESA

PacifiCorp and Nucor were parties to an Electric Service Agreement that expired on December 31, 2013 (“Prior ESA”). PacifiCorp indicates the current ESA that is the subject of the Application is materially a two-year extension of the Prior ESA, with certain modifications to how rate adjustments are made during its term.¹ Under the current ESA PacifiCorp will continue to provide Nucor with retail full requirements service of electric power and energy. Nucor will receive an interruption credit against the rates it pays PacifiCorp in exchange for providing PacifiCorp with certain interruptible products. The Application further explains the rates for full requirements service that Nucor will pay PacifiCorp under the current ESA are negotiated rates that are consistent with rates applicable to other large industrial customers.

A. Parties’ Positions

1. Applicant

At hearing, PacifiCorp provided testimony regarding the differences between the Prior ESA and the current ESA. In the Prior ESA, beginning in January of 2009 and every January 1 through 2013, Nucor's retail contract rate and the interruptible credit were increased through an annual rate adjustment index reflecting the percentage increase in PacifiCorp's Commission-approved Utah revenue requirement for the previous 12 months. Under this method, Nucor was

¹The term of the current ESA began on January 1, 2014 and ends on December 31, 2015.

not directly subject to the energy balancing account, the renewal energy credit balancing account, or the solar incentive surcharge (collectively, the “Surcharge Rates”). Instead, the impact of the Surcharge Rates was reflected in the calculation of the annual rate change for Nucor that was subject to a rate index cap and floor spelled out under the Prior ESA.

According to PacifiCorp, because the rate index in the Prior ESA for all the years 2009 through 2012 was lower than the index cap, the index cap and floor had no impact on the determination of new rates for Nucor during that time period. In January 2013, however, the index exceeded the cap that was allowed under the Prior ESA and therefore the rates Nucor was paying were about 2.9 percent lower than they would have been absent the index cap.

PacifiCorp explains that under the current ESA, Nucor’s rates are separated into base rates, Surcharge Rates, and curtailment credit. Nucor's base rate charges for power and energy under the current ESA will be uniformly adjusted by the average percent change to Utah's total retail customers concurrently with changes in general rate cases or major plant addition cases for retail customers. In contrast, the Prior ESA only allowed such a change once a year.

Additionally, PacifiCorp indicates that under the current ESA, Nucor will now be directly subject to Surcharge Rates, which are set to collect or credit the same percent of Nucor's base revenue as those corresponding Surcharge Rates collect or credit from the average retail base rates of Utah retail customers. The Surcharge Rates for Nucor will change and will be adjusted concurrently with changes in those Surcharge Rates for other customers. The curtailment credit in Nucor’s rate will also change concurrently with, and by the same percentage as, any change to

Nucor's base rate or Surcharge Rates. Unlike the Prior ESA, the current ESA contains no rate caps or rate floor provisions.

As previously noted, under the Prior ESA, Nucor's rates were approximately 2.9 percent lower than they otherwise would have been absent the index cap. To make up this difference, PacifiCorp indicates the current ESA includes a provision in which the impact of that rate cap shortfall in 2013 will be caught up in two steps. Approximately one-third of that shortfall will be made up in 2014. The remaining two-thirds of that impact will be made up in 2015.

In response to cross-examination by the Division, PacifiCorp indicated it had no objection to the following three conditions for approval of the current ESA that were recommended by the Division in its comments of November 21, 2013: (1) Nucor will be included in the cost of service studies provided by PacifiCorp in future general rate cases; (2) the curtailment feature of the current ESA will be considered a system resource; and (3) the Division and the Office will be provided information relating to any future amendments to the ESA.

2. The Division

At hearing, the Division testified that approval of the Application would be just, reasonable and result in rates to consumers that are in the public interest. The Division further recommended the Commission include the conditions listed above, and as outlined in its comments of November 21, 2013, in an order approving the current ESA.

3. The Office

At hearing, the Office recommended approval of the current ESA and testified that the modified prices, as identified in the Office's comments of November 22, 2013, better maintain

the tie between Nucor contract provisions and retail tariff rate provisions, and are necessary to improve rate equity for other customers. The Office further recommended the Commission require PacifiCorp to include Nucor in future cost of service studies.

B. Findings and Conclusions

Based on the Application, our review of the current ESA, the comments filed in this docket, the testimony provided at the hearing, and the lack of opposition to the Application, we find the prices, terms and conditions of the current ESA are just and reasonable and in the public interest. We further conclude that the conditions of approval recommended by the Division and the Office are reasonable.

ORDER

Pursuant to the foregoing discussion, findings and conclusions, we order:

1. The ESA between PacifiCorp and Nucor is approved, effective December 12, 2013. The interruption and curtailment aspects of service to Nucor will be considered a system resource and will be allocated as such.
2. PacifiCorp shall include Nucor's service in future cost of service studies.
3. PacifiCorp will provide information concerning amendments to the current ESA as described in the Division's November 21, 2013, comments.

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DATED at Salt Lake City, Utah, this 11th day of February, 2014.

/s/ Jordan A. White
Presiding Officer

Approved and confirmed this 11th day of February, 2014, as the Order of the Public Service Commission of Utah.

/s/ Ron Allen, Chairman

/s/ David R. Clark, Commissioner

/s/ Thad LeVar, Commissioner

Attest:

/s/ Gary L. Widerburg
Commission Secretary
DW#250922

Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this written order by filing a request for review or rehearing with the Commission within 30 days after the issuance of the 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 fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, 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 Utah Code Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

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CERTIFICATE OF SERVICE

I CERTIFY that on the 11th day of February, 2014, a true and correct copy of the foregoing was served upon the following as indicated below:

By Electronic-Mail:

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

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By Hand-Delivery:

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