

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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In the Matter of the Application of Rocky Mountain Power for Approval of its Asset Transfer Agreement with the City of Blanding, Utah )  
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DOCKET NO. 13-035-58  
ORDER DENYING REQUEST FOR REVIEW OR REHEARING

ISSUED: August 1, 2013

By The Commission:

**BACKGROUND**

On April 19, 2013, Rocky Mountain Power, a division of PacifiCorp (“RMP” or “Company”), filed with the Commission an Application for Approval of Asset Transfer Agreement (“Agreement”) with the City of Blanding, Utah (“City”). The Agreement provides for the transfer of distribution facilities and 35 customers that are located within the Company’s service territory and outside the City’s municipal boundaries from RMP to the City.

On May 20, 2013, the Division of Public Utilities (“Division”) filed a response to the Commission’s April 23, 2013, Action Request, recommending approval of the Agreement. Based on the Division’s recommendation and RMP’s representations, the Commission issued an Order Approving Asset Transfer Agreement on June 12, 2013 (“Order”). As noted in the Order, the Division’s recommendation for approval was based in part on its determination that: (1) City customers impacted by the Agreement will experience no obvious change to their electric service; and (2) a majority of the current RMP customers (24) will see a decrease in rates with the transfer of electric service to the City.

On July 12, 2013, Hal W. and Kammy L. Palmer (“Palmers”) sent an email to the Commission generally complaining about the affect of the Agreement on their electric bill and

containing allegations regarding the lack adequate communications with customers concerning the Agreement. The Commission treated the Palmer's correspondence as a timely request for review or rehearing and issued a notice on July 17, 2013, requesting comments regarding the sufficiency of notice provided to RMP customers regarding the proposed Agreement and its potential affect. Pursuant to that request, Mr. Thomas Bradford submitted comments on July 22, 2013, and the Office of Consumer Services ("Office") and RMP and provided comments on July 26, 2013.

**Thomas Bradford Comments**

As noted in the Commission's July 17<sup>th</sup> notice, Mr. Bradford, another City customer, sent an email to the Commission on July 16, 2013. Mr. Bradford's email generally concurred with the Palmer's July 12<sup>th</sup> email and made additional allegations against RMP and the City. Mr. Bradford's comments of July 22<sup>nd</sup> complain about insufficient notification and communication with City customers by RMP regarding the Agreement. His comments also discuss concerns about a provision contained in the City's electric terms of service ("Policy Document") requiring customers to sign a restrictive covenants agreement giving the City rights with regard to annexation prior to City Council approval or any construction being completed.

**Office Comments**

In its comments, the Office outlined the following concerns focusing primarily on the City's Policy Document:

The Policy Document has not been revised in over 15 years. Some of the references are out of date.

This Agreement creates a new category of customers: customers outside of the city limits that are existing customers with current electric service rather than new customers requesting new service. The Policy Document

only addresses customers inside the city limits or construction for new customers outside the city limits. Thus, existing customers affected by the asset transfer have not been provided the actual terms of service under which they would be served.

The Policy Document appears to not fully comply with the statutes.

The Office provides specific examples of its concerns and recommends the Commission: (1) require the Company work with the City to provide affected customers with access to both the rates and terms of service; (2) re-open this docket to take public comment from affected customers and inform such customers that the Commission has initiated this process; and (3) delay its final order until after such comment is received and reviewed. The Office further recommends the Commission consider providing guidance for future customer transfer filings, including guidance on adequate notice to affected customer regarding potential rate changes and complaint resolution, among other things.

**RMP Response**

In its response, the Company provides a detailed explanation of the notice provided to customers affected by the Agreement. For example, RMP explains that on April 12, 2013, the Company sent a letter to the 35 affected customers (attached as Exhibit A to RMP's response) explaining the Agreement is subject to Commission approval and that customers could access information regarding the Agreement on the Commission's website and make comments. RMP further notes the letter refers customers to the City's website for information about the City's rates and service. Finally, the letter provided a point of contact at the Company and the City for further information.

The Company's response further points to a letter sent to the 35 customers on July 8, 2013 (attached as Exhibit B to RMP's response), indicating the Agreement had been approved by the Commission and informing customers of the pending transfer of service from RMP to the City. RMP also describes several communications with the Palmer's and other affected customers regarding potential bill impacts resulting from the transfer of service from RMP to the City.

**DISCUSSION, FINDINGS AND CONCLUSION**

As an initial matter, we note the Office's assertion that the City's Policy Document may need updates and revisions to address the type of customers at issue in this proceeding. Our jurisdiction in this matter, however, is over the Company, and we have no authority to direct the City to update or revise its Policy Document. Our lack of jurisdiction in City matters is likewise applicable to Mr. Bradford's comments regarding the annexation provision contained in the City's Policy Document.

With respect to the question of proper notice to customers, we find RMP's communications were reasonable and adequate to allow customers to: (1) review and seek information regarding the Agreement; (2) obtain information about the City's rates and service; and (2) access the Commission's website and make comments. We note that although the Company provided contact information and a website address for the City, like the Policy Document, the Commission has no authority over the City's provision of information to prospective customers or for electric service.

Ultimately, we believe the Commission's rationale for approval of the Agreement as outlined in the Order stands. As noted in the Division's initial recommendation, there will be

no obvious impact to the electric service to the transferred customers and a majority of those customers will see a decrease in rates. We understand that some of the customers (including the Palmers and Mr. Bradford) may see an increase in electric rates associated with the transfer, however, we believe the overall benefits of the Agreement to the majority of the affected customers outweighs the potential detriment to a lesser number of customers. In short, we believe approval of the Agreement is in the public interest.

**ORDER**

Pursuant to the foregoing discussion, findings and conclusions made herein, we deny the Palmer's request for review or rehearing. Review of this order is governed by Utah Admin. Code § R746-100-11, Utah Code Ann. §§ 54-7-15, 63G-4-302(b) and 63G-4-401(3), which requires the filing of a petition for judicial review of an order constituting final agency action within 30 days of issuance.

DATED at Salt Lake City, Utah this 1<sup>st</sup> day of August, 2013.

/s/ Ron Allen, Chairman

/s/ David R. Clark, Commissioner

/s/ Thad LeVar, Commissioner

Attest:

/s/ Gary L. Widerburg  
Commission Secretary

D#246022

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 1<sup>st</sup> day of August, 2013, 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](mailto:datarequest@pacificorp.com))  
PacifiCorp

Dave Taylor ([dave.taylor@pacificorp.com](mailto:dave.taylor@pacificorp.com))  
Robert C. Lively ([bob.lively@pacificorp.com](mailto:bob.lively@pacificorp.com))  
Daniel E. Solander ([daniel.solander@pacificorp.com](mailto:daniel.solander@pacificorp.com))  
Rocky Mountain Power

Jeremy Redd ([jredd@blanding-ut.gov](mailto:jredd@blanding-ut.gov))  
Blanding City

By Hand-Delivery:

Division of Public Utilities  
160 East 300 South, 4<sup>th</sup> Floor  
Salt Lake City, UT 84111

Office of Consumer Services  
160 East 300 South, 2<sup>nd</sup> Floor  
Salt Lake City, UT 84111

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Administrative Assistant