

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Voluntary Request of)
Rocky Mountain Power for Approval of)
Resource Decision and Request for)
Accounting Order)

) DOCKET NO. 14-035-147
) REPORT AND ORDER
) MEMORIALIZING BENCH RULING
)

ISSUED: April 29, 2015

SHORT TITLE

**Rocky Mountain Power
Deer Creek Mine Closure Resource Decision**

SYNOPSIS

The Commission approves an uncontested stipulation resolving all issues in this matter. The Commission approves PacifiCorp's voluntary request for approval of a resource decision to close the Deer Creek Mine through implementation of a specified transaction and authorizes deferred accounting treatment for specified components of the transaction.

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APPEARANCES

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Rex Olsen, Esq. Utah Office of the Attorney General	"	Office of Consumer Services
Gary A. Dodge, Esq. Hatch, James & Dodge, PC	"	UAE Intervention Group
Travis Ritchie, Esq. Sierra Club	"	Sierra Club

I. PROCEDURAL HISTORY AND BACKGROUND

This matter is before the Public Service Commission of Utah (“Commission”) on the December 15, 2014, application (“Application”) of PacifiCorp, dba Rocky Mountain Power, (“PacifiCorp” or “Company”) requesting approval of a proposed transaction to close the Deer Creek Mine and for a deferred accounting order. The Application also was filed on behalf of Energy West Mining Company (“Energy West”), a wholly-owned subsidiary of PacifiCorp that currently operates the Deer Creek Mine. The Application was filed pursuant to Utah Code Ann. §§ 54-4-1 (general jurisdiction), 54-4-21 (valuation of public utilities), 54-4-23 (accounts and records of utilities), 54-4-26 (contracts calling for expenditures), 54-17-402 (voluntary request for approval of a resource decision) and Utah Admin. Code R746-401-3 (sale of utility and nonutility assets) and R746-440-1 to R746-440-3 (voluntary resource decision). The Application represents that it serves as PacifiCorp’s report under Utah Admin. Code R746-401-3. The Application describes the transaction and requested approvals, in part, as follows:

The closure of the Deer Creek Mine consists of four major components: (1) the Company will permanently close the Deer Creek Mine and incur direct closure costs (‘Closure’); (2) Energy West will withdraw from the United Mine Workers of America (‘UMWA’) 1974 Pension Trust, incurring a withdrawal liability; (3) the Company will sell certain mining assets as defined later in the Application (‘Mining Assets’); and (4) the Company will execute a replacement coal supply agreement (‘CSA’) for the Huntington power plant and an amended CSA for the Hunter power plant. Energy West has also settled its retiree medical obligation related to Energy West union participants (‘Retiree Medical Obligation’). Together, the components of the Closure and settlement of the Retiree Medical Obligation constitute the transaction to close the Deer Creek Mine (‘Transaction’). The Company further requests that the Commission find that the Company’s decision to consummate the Transaction is prudent and in the public interest.

Pursuant to Utah Code Ann. § 54-4-23, the Company requests that the Commission allow it to defer for current and/or future recovery: (1) the costs associated with the Closure; (2) the unrecovered investment in the Deer Creek Mine and the Mining Assets; (3) all payments associated with the withdrawal from the UMWA 1974 Pension Trust; (4) any losses associated with settlement of the Retiree Medical Obligation; and (5) the incremental costs and benefits of fueling costs related to the Transaction, including costs associated with the new Huntington power plant and amended Hunter power plant CSAs, as described in more detail later in this Application.

The sale of the Mining Assets and the execution of the CSAs are contractually contingent upon regulatory approval and Transaction closure on or before May 31, 2015. There is sufficient time for the Commission to review and approve the transaction using nearly the full statutory timeframe of 180 days permitted by Utah Code Ann. § 54-17-402(6).¹

On December 22, 2014, the Commission issued a scheduling order and notices of confidential technical conference, prehearing conference, hearing and public witness hearing (“December 22 Order”). On January 20, 2015, the Commission convened the scheduled confidential technical conference.

The statutory parties in this case are the Division of Public Utilities (“Division”) and the Office of Consumer Services (“Office”). In addition, the Commission granted intervention to the Utah Association of Energy Users (“UAE”) and the Sierra Club.

On March 17, 2015, pursuant to the December 22 Order, the Division, the Office, UAE, and the Sierra Club filed direct testimony. On April 7, 2015, and April 8, 2015, the Division and PacifiCorp filed rebuttal testimony, respectively.

¹ See redacted version of the Application at pp. 2-3.

On April 16, 2015, PacifiCorp filed, for Commission approval, redacted and confidential versions of a settlement stipulation (“Stipulation”), and related attachments, signed by PacifiCorp, the Division, the Office, UAE and the Sierra Club (collectively the “Parties”). On April 17, 2015, the Commission issued the First Order Amending Scheduling Order, modifying the December 22 Order and stating the Commission would consider the Stipulation at hearings on April 21, 2015, and noting the second and third days of the hearings previously noticed were unnecessary.

On April 21 the Commission conducted a hearing to examine the Stipulation. Witnesses from PacifiCorp, the Division, the Office, and UAE provided sworn testimony supporting the Stipulation. The Sierra Club provided a statement supporting the Stipulation. No party opposed the Stipulation. No witnesses provided comment or testimony during the public witness portion of the hearing. At the conclusion of the hearing, the Commission ruled from the bench approving the Stipulation. This order memorializes that bench ruling.

II. STIPULATION

A copy of the Stipulation, which contains 33 numbered paragraphs and a confidential attachment (“Attachment 1”), is attached to and incorporated in this order. For convenience, a summary of the Settlement Stipulation is provided below. This summary and other discussion of the terms of the Stipulation in this order are not intended to modify the terms of the Stipulation, and the language in the Stipulation controls.

Paragraphs 1 through 10 provide background on the Application and a brief procedural history of the case. These paragraphs include the statement that Parties engaged in extensive discovery, filed written testimony, held a series of settlement conferences, and that all

intervenors in the docket were invited to participate in settlement discussions. The Parties state they have agreed on settlement of the issues in this docket and that the settlement terms are prudent and in the public interest.

Paragraphs 11 through 25 provide the terms of the settlement.

In Paragraph 11, the Parties request the Commission issue an order finding PacifiCorp's decision to enter into the Transaction is prudent and in the public interest. The Parties request the Commission find the Transaction costs listed in confidential Attachment 1 of the Stipulation are based on PacifiCorp's estimates. The Parties agree that a party, other than PacifiCorp, may challenge the prudence of actual costs incurred in the implementation of the Transaction in a later proceeding pursuant to the standards for prudence determination set forth in Utah Code Ann. § 54-4-4(4).

In Paragraph 12, Parties other than PacifiCorp reserve the right to challenge PacifiCorp's recovery of some or all of the costs listed on lines 11, 12, and 17 in confidential Attachment 1 of the Stipulation, on grounds relating to the timing of prior and future rate case proceedings, rate case projections, and test periods. PacifiCorp reserves the right to argue these same costs were necessary to achieve customer benefits in the Transaction and should be recovered from customers.

In Paragraphs 13, 14, 20, 21, 22, and 24, Parties request the Commission enter an order authorizing the transfer of the Utah-allocated portion of the following items to regulatory assets: 1) the unrecovered investment in the Deer Creek Mine (excluding construction work in progress "CWIP" and preliminary survey and investigations "PS&I"); 2) the approximate [REDACTED] loss related to the sale of the Cottonwood Preparation Plant (excluding related CWIP), the Central

Warehouse, and the Trail Mountain Mine; 3) all Deer Creek Mine closure-related costs as the costs are incurred; 4) a one-time loss on settlement of the Retiree Medical Obligation;² 5) the withdrawal from the 1974 Pension Trust; and 6) the \$3.8 million of the net Deer Creek Mine related CWIP, PS&I, and salvage. These paragraphs also request specific amortization rates and other accounting treatments, which vary, for each item.

In Paragraph 15, Parties request the Commission enter an order authorizing a return on investment calculated using PacifiCorp's approved rate of return on rate base on the [REDACTED] "sold" portion of the Mining Assets to be credited against the regulatory asset identified in Paragraph 14 beginning June 1, 2015, until the rate effective date of the next general rate case.

In Paragraph 16, the Parties agree the Commission should enter an order authorizing separate accounts for all joint-owner elements related to the Transaction. Paragraph 16 itemizes some of these elements.

In Paragraph 17, the Parties request the Commission enter an order authorizing a one-time, non-precedential exception to the 70/30 Energy Balancing Account ("EBA") sharing mechanism for certain itemized costs, allowing them to be recovered by flowing them through the EBA at 100 percent until the rate effective date of the next general rate case.

In Paragraph 18, the Parties agree the carrying costs of EBA-related deferrals should continue at 6 percent except for the amortization expense associated with the Deer Creek Mine and loss on Mining Assets. For this amortization expense the EBA-related carrying costs should

² Paragraph 21 states PacifiCorp is required, in its next general rate case, to demonstrate the prudence of any portion of the loss in excess of [REDACTED].

be zero during the calendar year in which the net power cost differential is calculated and deferred to the EBA.

In Paragraph 19, the Parties request the Commission authorize two specific regulatory asset offsets in connection with the Fossil Rock coal leases and coal inventory savings beginning June 1, 2015, as described in Paragraph 13.

In Paragraph 23, the Parties agree the Huntington CSA is prudent provided PacifiCorp can successfully exercise its termination rights should new or existing environmental regulation or settlement cause it to be uneconomical to burn coal at Huntington. Should PacifiCorp fail to successfully exercise its termination rights and pay costs or damages related to the Huntington CSA for coal it is unable to use at Huntington or another facility, Parties agree the prudence of such costs are subject to future review.

In Paragraph 25, the Parties request the Commission enter an order authorizing the deferral of any future Fossil Rock royalty revenue for credit to customers in future rate cases.

Paragraphs 26 through 30 provide general terms and conditions. Paragraph 27 notes Utah Code Ann. § 54-7-1 authorizes the Commission to approve a settlement provided the settlement is just and reasonable in result. The Parties agree the Stipulation as a whole is just and reasonable in result and is in the public interest.

Paragraphs 31 through 33 itemize the requests for relief sought by the Parties. Specifically, the Parties request that the Commission consider the Stipulation at the hearing scheduled in this docket, receive the testimony filed in this docket as evidence in support of the Stipulation, and approve the Stipulation. Further, the Parties request that the Commission make

findings of fact and reach conclusions of law based on the evidence and on the Stipulation, and issue an order by May 27, 2015.

III. PARTIES' POSITIONS AT HEARING

A. PacifiCorp

PacifiCorp's witness testified in support of the Stipulation. PacifiCorp provided a summary of the Stipulation and represented that Parties negotiated in good faith to achieve the settlement agreement. PacifiCorp states it supports the Stipulation as filed, and recommends the Commission approve it by May 27, 2015, as the Transaction is in the public interest and should move forward expeditiously.

B. Division

The Division's witness testified the Commission should approve the Stipulation as filed because it is prudent and in the public interest. The Division testified it extensively reviewed and analyzed the information filed in this docket, issued data requests, reviewed data responses, and reviewed relevant information filed in other states in its investigation of the Application. The Division believes PacifiCorp's decision to enter into the Transaction is prudent and in the public interest but that many of the costs related to the Transaction are currently unknown. The Division explains the Stipulation recognizes the uncertainty of the cost estimates and provides appropriate opportunities to review and challenge specific costs in future proceedings. The Division testified its staff examined the provisions related to the flow through of certain costs in the EBA without the sharing mechanism and concluded the Division would be able to adequately track, segregate, and audit the relevant costs.

C. Office

The Office testified it is in the public interest for PacifiCorp to move forward on the Deer Creek Mine closure and the related components of the Transaction. The Office states it performed a detailed review of the Application and supports the Stipulation based on three key elements. First, the Transaction is based on estimates but under the Stipulation actual costs may be challenged before passing to customers. Second, the use of the EBA to flow through certain costs and offsets without application of the sharing mechanism is a one-time, non-precedential event. Third, the Stipulation includes the identification of offsets that will be credited against regulatory assets or flowed through the EBA.

D. UAE

UAE testified in support of the Stipulation. UAE explained the Stipulation provides a balanced outcome to the fairly complex issues raised in the docket, resolves the issues in a just and reasonable manner, and should be approved by the Commission.

E. Sierra Club

Sierra Club's counsel stated it participated in all settlement discussions and supports approval of the Stipulation.

IV. DISCUSSION, FINDINGS, AND CONCLUSIONS

The Parties represent a diversity of interests and the major customer groups. These parties agree the Stipulation is in the public interest, and all of its terms and conditions will produce fair, just and reasonable results. All testimony and exhibits filed in this docket, and all sworn

testimony provided at hearing, are entered into this docket as evidence supporting the Stipulation. No intervening party or public witness opposes the Stipulation.

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 in the public interest.⁴ In reviewing a settlement, the Commission also may consider whether it was the result of good faith, arms-length negotiation.⁵ When reviewing a settlement involving a rate increase, the Commission may limit factors and issues to be considered in its determination of just and reasonable rates.⁶

Our consideration of the Stipulation is guided by Utah Code Ann. § 54-7-1, *et seq.*, encouraging informal resolution of matters brought before the Commission. Based on our consideration of the evidence before us, the testimony and recommendations of the parties, the Stipulation terms and conditions, and the applicable legal standards, we find approval of the Stipulation to be in the public interest and find it constitutes a reasonable and lawful basis for establishing just and reasonable rates.

Further, based on the evidence in this docket, we find PacifiCorp's decision to enter into the Transaction is prudent and in the public interest. However, we also find the Transaction costs described in confidential Attachment 1 of the Stipulation are based on PacifiCorp's estimates as provided in its Application, testimony and exhibits. As such, the determination of the prudence

³ See Utah Code Ann. § 54-7-1.

⁴ See *Utah Dept. of Admin. Services v. Public Service Comm'n*, 658 P.2d 601, 613-14 (Utah 1983).

⁵ See *id.* at 614, n.24.

⁶ See Utah Code Ann. § 54-7-1(4).

of actual costs incurred to implement the Transaction will occur in a later proceeding based on the standards for a prudence determination pursuant to Utah Code Ann § 54-4-4(4), subject to our finding pursuant to Utah Code Ann. § 54-17-402(7)(a), described below.

PacifiCorp filed its Application in accordance with Part 4 of the Energy Resource Procurement Act, “Voluntary Request for Resource Decision Review.” Section 54-17-402(7)(a) and (b) requires that we include in our order on a resource decision our findings as to the approved projected costs of the resource decision and the basis for this finding. Section 54-17-402(6)(a) authorizes us to approve “all or part of the resource decision.” Based on the Stipulation, the sworn testimony, and statements of counsel at hearing, we approve in part the projected costs of the resource decision. The approved portion of these costs is the sum of the dollars identified in Paragraphs 21 and 24 of the Stipulation, or [REDACTED].

Regarding the one-time exception to the EBA 70/30 sharing mechanism, we direct PacifiCorp to clearly identify the costs included in Paragraph 17 in its relevant EBA reports and application.

Based on the foregoing, the Commission approves the Stipulation and enters the requested accounting orders below. Our approval of the Stipulation, as in similar cases, is not intended to alter any existing Commission policy or to establish any Commission precedent.

V. ORDER

Pursuant to the foregoing discussion, findings, and conclusions made herein:

1. We approve the Stipulation and all of its terms and conditions.
2. We approve PacifiCorp’s resource decision to enter into the Transaction.

3. We authorize PacifiCorp to establish all of the regulatory assets, deferred accounts, carrying charges, amortization rates, offsets, and other accounting treatments specified in the Stipulation.
4. We authorize PacifiCorp to implement a one-time exception to the 70/30 Energy Balancing Account sharing mechanism as described in Paragraphs 17 and 18 of the Stipulation.
5. With reference to UCA § 54-17-402(7)(a), [REDACTED] is the approved portion of the projected costs of the resource decision authorized in this order. All other associated costs of this resource decision are subject to further review as described in the Stipulation.

DATED at Salt Lake City, Utah, this 29th day of April, 2015.

/s/ Ron Allen, Chairman

/s/ David R. Clark, Commissioner

/s/ Thad LeVar, Commissioner

Attest:

/s/ Gary L. Widerburg
Commission Secretary

DW#265916

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 written 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 CERTIFY that on the 29th day of April, 2015, 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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Administrative Assistant

DOCKET NO. 14-035-147

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SETTLEMENT STIPULATION

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

IN THE MATTER OF THE VOLUNTARY
REQUEST OF ROCKY MOUNTAIN POWER
FOR APPROVAL OF RESOURCE DECISION
AND REQUEST FOR ACCOUNTING ORDER

Docket No. 14-035-147

SETTLEMENT STIPULATION

This Settlement Stipulation (“Stipulation”) is entered into in Docket No. 14-035-147 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”).

(1) The Parties have conducted multiple settlement discussions. No intervening party opposes this Stipulation.

(2) The Parties recommend that the Public Service Commission of Utah (“Commission”) approve the Stipulation and all of its terms and conditions as more fully explained and set forth in this Stipulation. The Parties request that the Commission make findings of fact and reach conclusions of law based on the evidence filed in this docket and based upon this Stipulation, and issue an appropriate order thereon not later than May 27, 2015, consistent with the terms herein.

BACKGROUND

1. On December 9, 2014, PacifiCorp, doing business as Rocky Mountain Power (“Company”), filed and served a Public Notice of Intent to File Voluntary Request for Approval of Resource Decision pursuant to the provisions of Utah Administrative Code R746-440-1(2).

2. On December 12, 2014, the Commission provided notice of a scheduling conference to be held in this docket on December 18, 2014.

3. On December 15, 2014, the Company filed its Application for Approval of Transaction and for a Deferred Accounting Order (“Application”). The Application requested that the Commission schedule proceedings on the Application and: (1) authorize the Company to defer the costs and apply the accounting treatment as described in the Application to continue with or facilitate future recovery of all costs associated with the closure of the Deer Creek Mine, sale of the Mining Assets, as described in the Application (“Mining Assets”), and entry into the Coal Supply Agreements, as described in the Application (“CSAs”), withdrawal from the 1974 United Mine Workers of America Pension Trust (“1974 Pension Trust”), and settlement of the Retiree Medical Obligation (collectively the “Transaction”); (2) determine that the Company's decision to consummate the Transaction is prudent and in the public interest; (3) approve the Application to close the Deer Creek Mine, sell the Mining Assets and enter into the CSAs as described in the Application on or before May 27, 2015; and (4) grant such other relief as the Commission deems necessary and proper. The Application was supported by the Company’s direct testimony.

4. On December 22, 2014, the Commission issued a Scheduling Order setting a schedule for a confidential technical conference, discovery, the filing of further testimony and a hearing.

5. A confidential technical conference was held on January 22, 2015, during which the Company responded to questions submitted by the parties and provided other information regarding the Transaction.

6. The Parties have engaged in extensive discovery.
7. Non-Company Parties filed their direct testimony on March 17, 2015.
8. Certain Parties filed rebuttal testimony on April 7, 2015.
9. The Parties have held a series of settlement conferences. All intervenors in the docket have been invited to participate in these settlement conferences.
10. The Parties have agreed on settlement of the issues in this matter and agree that the following settlement terms are prudent and in the public interest.

SETTLEMENT TERMS

11. The Parties request that the Commission issue an order finding that the Company's decision to enter into the Transaction is prudent and in the public interest. The Parties also request that the Commission find the estimated Transaction costs described and listed in Attachment 1 are based on estimates provided by the Company in its filing. Although the Parties agree the Commission should find that the Transaction is prudent and in the public interest, the Parties agree that a non-Company Party may challenge the prudence of actual costs incurred in implementation of the Transaction in a later proceeding based on the standards for a prudence determination as set forth in Utah Code Ann. § 54-4-4(4). The Parties agree that a challenge to the prudence of actual costs incurred in implementation of the Transaction addresses only recovery in rates of the portion of any actual cost incurred. However, the determination of prudence or not of actual costs later challenged does not affect the Parties' stipulation and agreement that the Transaction itself is prudent and in the public interest.

12. For the specific costs related to union supplemental unemployment and medical, non-union severance, and miscellaneous closure/on-going labor, as further identified on lines 11,

12 and 17 in Attachment 1, the non-Company Parties also reserve the right to challenge the Company's recovery of some or all of these costs on grounds relating to the timing of prior and future rate case proceedings, rate case projections and test periods, and the Company reserves its right to argue that these same costs were necessarily incurred to achieve customer benefits in the context of the overall Transaction, and that the Company should be allowed to recover these costs.

13. The Parties agree that the Commission should enter an order authorizing the Utah-allocated portion of unrecovered investment in the Deer Creek Mine, excluding Construction Work in Progress ("CWIP") and Preliminary Survey and Investigations ("PS&I"), to be transferred to a regulatory asset and to continue to be recovered at an amortization rate equal to the investments' current depreciation rates at least until the rate effective period of the Company's next general rate case, at which time amortization rates may be reconsidered.

- a. Amortization should begin January 1, 2015.
- b. This regulatory asset should be included in rate base in the Company's next general rate case.

14. The Parties agree that the Commission should enter an order authorizing the Utah-allocated portion of the approximate [REDACTED] loss related to the sale of the Cottonwood Preparation Plant ("Prep Plant") (excluding the Prep Plant related CWIP), the Central Warehouse, and the Trail Mountain Mine, all as described in the Application, to be transferred to a regulatory asset and to continue to be recovered at an amortization rate equal to the current depreciation expense beginning January 1, 2015, until the rate effective period of the Company's next general

rate case, at which time amortization rates may be reconsidered. This regulatory asset should be included in rate base in the Company's next general rate case.

15. The Parties agree that the Commission should enter an order authorizing a return on investment calculated using the Company's approved rate of return on rate base ("ROR")⁷ on the [REDACTED] "sold" portion of the Mining Assets to be credited against the regulatory asset identified in Paragraph 14 beginning June 1, 2015, until the rate effective period of the Company's next general rate case. [REDACTED]

16. The Parties agree that the Commission should enter an order authorizing separate accounts to be established for all joint owner elements related to the Transaction, including but not limited to the following:

- a. the Utah-allocated portion of unrecovered investment in the Deer Creek Mine and the loss on the Mining Assets;
- b. the Utah-allocated portion of Deer Creek closure costs;
- c. the Utah-allocated portion of loss on settlement of the Retiree Medical Obligation;
- d. the Utah-allocated portion of the withdrawal from the 1974 Pension Trust; and
- e. the Utah-allocated portion of total Company amount of \$3.8 million of the net Deer Creek Mine related CWIP (including PS&I and salvage).

⁷ For purposes of all ROR references in this Stipulation, the authorized rate of return on a pre-tax basis will be used.

The Company will be responsible for obtaining reimbursement of these costs from joint owners; the Company's utility customers' rates will not be impacted in the event the joint owners do not fully reimburse the Company.

17. The Parties agree that the Commission should enter an order authorizing a one-time, non-precedential exception to be made to the 70/30 Energy Balance Account ("EBA") sharing band for the following items, to be recovered by flowing them through the EBA at 100% without applying the sharing band until the rate effective date of the next general rate case:

- a. unrecovered Deer Creek Mine investment amortization, at the current level of depreciation expense in rates, and the amortization of the loss related to the Mining Assets at the current rate of depreciation as described in the Application; and
- b. actual Utah fueling cost for the Hunter and Huntington plants, including:
 - i. lower replacement coal costs;
 - ii. Prep Plant operational savings;
 - iii. pension timing savings; and
 - iv. savings on Energy West retiree medical benefits as a result of the settlement of the Retiree Medical Obligation.

The Parties agree that the sharing band waiver is non-precedential, and the Company agrees to not request any change or elimination of the EBA sharing band to be effective prior to the end of the EBA pilot.

18. The Parties agree that the carrying costs of EBA-related deferrals should continue to be 6%, as set forth in the EBA tariff, except for the amortization expense associated with the

Deer Creek Mine and loss on Mining Assets, for which the EBA-related carrying costs should be zero during the calendar year in which the Net Power Cost differential is calculated and deferred to the EBA. This condition should exist until the rate effective date of the Company's next general rate case. For the period in which the costs have been deferred and are awaiting review and collection, the normal EBA carrying cost rate should apply.

19. The Parties agree that the Commission should enter an order authorizing the following offsets beginning June 1, 2015 to the regulatory asset described in Paragraph 13 above to be applied until the Company's next general rate case:

- a. ROR on the Fossil Rock coal leases as described in the Application ("Fossil Rock"); and
- b. ROR on fuel inventory savings consistent with the methodology in OCS Exhibit DR-1.

20. The Parties agree that the Commission should enter an order authorizing the Utah-allocated portion of all Deer Creek Mine closure related costs to be recorded as a regulatory asset as those costs are incurred.

- a. The carrying charge for incurred and funded costs should be the Company's authorized cost of debt until the Company's next general rate case.
- b. Closure costs in the regulatory asset should be included in rate base in the Company's next general rate case and should be subject to prudence review with respect to the implementation of the Transaction, and potential challenge as specified in Paragraph 12.

- c. Amortization of the regulatory asset should be amortized to fuel cost starting with the effective date of rates approved in the Company's next general rate case.

21. The Parties agree that the Commission should enter an order authorizing a regulatory asset to be created for a one-time loss on settlement of the Retiree Medical Obligation based on the actual amount booked at the time of the completion of the transaction, with a carrying cost at the Company's authorized ROR. The Company will be required in its next general rate case to demonstrate the prudence of any portion of the loss in excess of [REDACTED]. All prudent costs related to the Retiree Medical Obligation included in the Company's next general rate case should be included in rate base and amortized as determined in that case.

22. The Commission should enter an order authorizing a regulatory asset to be created for the Utah-allocated portion of the withdrawal from the 1974 Pension Trust.

- a. The Company should continue annual \$3.0 million payments to the 1974 Pension Trust.
- b. No carrying charge should be allowed on the regulatory asset until and unless the Company's obligation to the 1974 Pension Trust is satisfied through a prepayment of an annual installment settlement.
- c. The Company's decision to enter into a pre-payment of an annual installment settlement, if any, should be subject to future Commission approval.

23. The Parties agree that the Huntington CSA is prudent, provided, however, that the Company can successfully exercise its termination rights if a new or existing environmental regulation or settlement causes it to become uneconomical to burn coal at Huntington. If the

Company is unable to successfully exercise its termination rights and is required to pay costs or damages related to the Huntington CSA for coal that it is unable to use at Huntington or another facility, then the prudence of such costs or damages should be subject to future review, taking into account the overall benefits to customers. Parties are free to take any position they choose in such future review.

24. The Parties agree that the Commission should enter an order authorizing the Utah-allocated portion of total Company amount of \$3.8 million⁸ of the net Deer Creek Mine related CWIP (including PS&I and salvage) to be transferred to a regulatory asset and that any amount in excess of that amount should be the responsibility of the Company and not collected from customers.

- a. The CWIP regulatory asset balance should earn a carrying charge at the Company's authorized cost of debt.
- b. The CWIP regulatory asset balance should be included in rate base and amortized to fuel cost beginning with the effective date of rates in the Company's next general rate case over an amortization period to be determined in that case.

25. The Parties agree that the Commission should enter an order authorizing that any future Fossil Rock royalty revenue, if any, will be deferred and credited to customers in future rate cases.

⁸ CWIP (total company) estimate in the filing of $\$5.1\text{m} \times 75\% = \3.8m as set forth in Attachment 1. Based on this estimate, shareholders would be responsible for 25%, or \$1.3m (total company) and any amount in excess of the \$5.1m estimate.

GENERAL TERMS AND CONDITIONS

26. The Parties agree that no part of this Stipulation or the formula and methodologies used in developing the same or a Commission order approving the same shall in any manner be argued or considered as precedential in any future case except with regard to issues expressly called-out and resolved by this Stipulation.

27. Utah Code Annotated § 54-7-1 authorizes the Commission to approve a settlement so long as the settlement is just and reasonable in result. The Parties agree that this Stipulation as a whole is just and reasonable in result and in the public interest.

28. 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.

29. The Company, the Division and the Office each will, and any other Party that has intervened in these proceedings may, make one or more witnesses available to explain and offer further support for this Stipulation at the hearing scheduled by the Commission to consider this Stipulation. As applied to the Division and the Office, the explanation and support shall be consistent with their statutory authority and responsibility.

30. 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.

REQUEST FOR RELIEF

31. The Parties request that the Commission consider this Stipulation at the hearing scheduled in this docket.

32. The Parties request that the testimony filed in this docket be received into evidence in support of this Stipulation.

33. The Parties request that the Commission approve this Stipulation and all of its terms and conditions. The Parties request that the Commission make findings of fact and reach conclusions of law based on the evidence and on this Stipulation and issue an appropriate order thereon before May 27, 2015.

DATED this 16th day of April, 2015.

/s/ R. Jeff Richards

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