

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

---

In the Matter of the Application of Rocky Mountain Power for Approval of the Electric Service Agreement between PacifiCorp and Nucor Corporation	<u>DOCKET NO. 15-035-81</u> <u>ORDER APPROVING ELECTRIC SERVICE AGREEMENT</u>
--	--

---

ISSUED: December 17, 2015

**SYNOPSIS**

The Commission approves the electric service agreement between PacifiCorp and Nucor Corporation.

---

**PROCEDURAL HISTORY**

On November 5, 2015, PacifiCorp, doing business as Rocky Mountain Power (PacifiCorp), filed an application (Application) for approval of an electric service agreement (ESA) between PacifiCorp and Nucor Corporation (Nucor). Under the ESA, PacifiCorp will provide Nucor with electric power and energy and Nucor will provide PacifiCorp with certain interruptible products.

On November 10, 2015, the Commission held a scheduling conference and issued a scheduling order and notice of hearing (Scheduling Order). Pursuant to the Scheduling Order, the Division of Public Utilities (Division) and the Office of Consumer Services (Office) filed comments on the Application on December 7, 2015. PacifiCorp filed reply comments on the Application on December 10, 2015.

On December 14, 2015, the Commission's designated presiding officer conducted a hearing to consider the Application. At hearing, PacifiCorp provided testimony recommending Commission approval of the Application. The Division also provided testimony recommending

approval of the Application with certain conditions applied. The Office provided testimony recommending the Commission not approve the Application; but, in the event the Commission approves the Application, the Office recommended the Commission apply certain conditions. The evidence supporting the Application is briefly summarized below.

**DISCUSSION, FINDINGS AND CONCLUSIONS**

**A. The ESA**

PacifiCorp and Nucor are parties to an Electric Service Agreement that expires on December 31, 2015 (Prior ESA). The ESA that is the subject of the Application is a two-year extension of the Prior ESA with modifications to various terms beginning January 1, 2016 and expiring December 31, 2017. Under the ESA, PacifiCorp will 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.

**B. Parties' Positions**

**1. PacifiCorp**

The ESA contains modifications to the pricing terms and interruptible provisions offered by Nucor. PacifiCorp asserts that the rates for full requirements service that Nucor will pay PacifiCorp under the ESA are negotiated rates that are consistent with rates applicable to other large customers. Similar to the Prior ESA, Nucor's base rate charges for power and energy 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. If

PacifiCorp does not file a general rate case or major plant addition case in 2016, Nucor's base rate charges and curtailment credit will increase on January 1, 2017, by 1 percent.

PacifiCorp represents that Nucor will continue to be subject to applicable surcharge rates, including the energy balancing account, the renewable energy credit balancing account, and the solar incentive surcharge, and testifies that such rates will change concurrently with changes for other Utah retail customers. Surcharge rates will be set to collect or credit the same percent of Nucor's base revenue corresponding to the average percentage collected or credited with respect to the total Utah retail base tariff revenues for the period. Nucor will also be subject to any new surcharge rates ordered by the Commission. At hearing, PacifiCorp testified the ESA is just and reasonable for Nucor and for other customers and recommends the ESA be approved.

## **2. Division**

At hearing, the Division testified it supports approval of the ESA as being just and reasonable and in the public interest with the continued application of the following conditions contained in the Commission's February 11, 2014 Order Confirming Bench Ruling Approving Electric Service Agreement in Docket No. 13-035-169 (February 2014 Order)<sup>1</sup>:

(1) The interruption and curtailment aspects of service to Nucor be considered a system resource and that it be allocated as such; (2) PacifiCorp will include Nucor's service in future cost of service studies; and (3) PacifiCorp will file with the Commission, with copies to the Division and the Office, any future amendments to the current ESA. The Division also recommended that Nucor be subject to Electric Service Schedule No. 91 - Surcharge to Fund Low Income

---

<sup>1</sup> See *In the Matter of the Application of Rocky Mountain Power for Approval of the Electric Service Agreement between PacifiCorp and Nucor Corporation*, Docket No. 13-035-169.

Residential Lifeline Program (Schedule 91) and testified that this surcharge be applied to Nucor at the same rate as that currently charged to Electric Service Schedule No. 9 – General Service - High Voltage (Schedule 9) customers.

The Division represented that the ESA's modified pricing changes brings Nucor closer to being in line with other large industrial customers receiving service on Schedule 9 and determined that the pricing structure set forth in the ESA is reasonable. The Division anticipates that in a future ESA, Nucor's rates will be at the Schedule 9 rate or will be at Nucor's own cost of service rate, excluding any interruptible products or credits.

### **3. Office**

The Office raised several concerns with the Application. The Office testified it agreed to an expedited schedule to review the Application and indicated it would make its best efforts to complete its review prior to the ESA's proposed effective date. At hearing, the Office testified it was not timely served with either the confidential version of the ESA or the confidential version of PacifiCorp's reply comments. The Office claimed PacifiCorp also did not provide a response to its initial data request within the timeframes established by the Commission in the scheduling order for this docket.

The Office commented that the proposed ESA rates for Nucor are below cost of service and claims that rate adjustments based on the average percent change for total Utah retail customers will be inadequate to move Nucor closer to cost of service. The Office also argued no analysis was provided to justify the ESA's proposed change to the curtailment credit rate.

At hearing, the Office expressed concern that PacifiCorp did not support the ESA with technical analysis or evaluation and requests that the Commission require future applicants provide a sufficient level of analysis and supporting documentation to enable regulators to evaluate and justify rates, charges, and payments in contracts such as the ESA.

Because of these concerns, the Office concluded that it cannot determine that the ESA is in the public interest. At hearing, the Office recommended the Commission not approve the ESA, or, in the alternative, if the Commission approves the ESA, that the following conditions should apply: (1) Nucor be subject to the Schedule 91 surcharge at the same rate as currently charged to Schedule 9 customers; (2) any new surcharge applicable to Nucor and approved by the Commission be charged or credited to Nucor concurrently with other customers rather than at the time of future contract renewal; and (3) the Commission require PacifiCorp to conduct a study to determine the value of curtailment and interruptibility before requesting approval of such provisions in a future contract.

#### **4. PacifiCorp's Reply Comments**

In its reply comments, PacifiCorp disagrees with the Office's contention that PacifiCorp has not provided adequate evidence to show the rates and charges contained in the ESA bring Nucor closer to its cost of service. PacifiCorp represents it referred to Nucor's cost of service study results from the 2014 Utah general rate case (See Docket No. 13-035-184) in negotiating rates and charges in the proposed ESA. PacifiCorp claims the ESA's final rates and charges bring Nucor closer to these cost of service study results.

PacifiCorp also represents that the curtailment credit is based on the outcome of negotiations it conducted with Nucor in which Nucor offered to increase the amount of curtailment hours it allowed. PacifiCorp claims it performed an analysis of the proposed curtailment credit and determined it to be just and reasonable.

As noted above, PacifiCorp testifies it does not oppose the continued application of the conditions contained in the Commission's February 2014 Order, as recommended by the Division, neither does PacifiCorp oppose the recommendation put forward by both the Division and the Office that Nucor be subject to the Schedule 91 surcharge. It also does not oppose the Office's recommendation that any new surcharge rate changes applicable to Nucor and approved by the Commission should be charged or credited to Nucor concurrently with surcharge rate changes to other customers.

**B. Findings and Conclusions**

Based on the Application, our review of the ESA, the comments filed in this docket, and the testimony provided at hearing, we find the prices, terms and conditions of the ESA are just and reasonable, and in the public interest. We further find that the conditions of approval recommended by the Division to continue the application of the three conditions contained in the February 2014 Order are reasonable. We also find the Division's and the Office's recommendation that Nucor be subject to the Schedule 91 surcharge at the rate applied to Schedule 9 customers to be reasonable, and concur with the Office's recommendation that any new surcharge rate changes applicable to Nucor and approved by the Commission should be charged or credited to Nucor concurrently with surcharge rate changes to other customers.

PacifiCorp should ensure in future filings that all parties to the proceeding are provided with a timely copy of its application and that deadlines set forth in the scheduling order are complied with. Ensuring that all parties have complete and timely information in a proceeding is especially important when, as in this docket, PacifiCorp requests an expedited schedule.

**ORDER**

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

1. The ESA between PacifiCorp and Nucor is approved.
2. The interruption and curtailment aspect of service to Nucor will be considered a system resource and will be allocated as such.
3. PacifiCorp will include Nucor's service in future cost of service studies.
4. PacifiCorp will provide the Division and the Office information concerning amendments to the current ESA.
5. Nucor is subject to the Electric Service Schedule No. 91 Surcharge to Fund Low Income Residential Lifeline Program, applied at the same rate as that currently charged to Schedule 9 customers.
6. Any new surcharge rate applicable to Nucor and approved by the Commission will be charged or credited to Nucor concurrently with surcharge rate changes to other customers.

DATED at Salt Lake City, Utah, this 17<sup>th</sup> day of December, 2015.

/s/ Melanie A. Reif  
Presiding Officer

DOCKET NO. 15-035-81

- 8 -

Approved and Confirmed this 17<sup>th</sup> day of December, 2015, as the Order of the Public Service Commission of Utah.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Attest:

/s/ Gary L. Widerburg  
Commission Secretary  
DW#270992

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.



CERTIFICATE OF SERVICE

I CERTIFY that on the 17<sup>th</sup> day of December, 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](mailto:datarequest@pacificorp.com))  
PacifiCorp

Bob Lively ([bob.lively@pacificorp.com](mailto:bob.lively@pacificorp.com))  
Paul Clements ([paul.clements@pacificorp.com](mailto:paul.clements@pacificorp.com))  
Daniel E. Solander ([daniel.solander@pacificorp.com](mailto:daniel.solander@pacificorp.com))  
Yvonne R. Hogle ([yvonne.hogle@pacificorp.com](mailto:yvonne.hogle@pacificorp.com))  
Rocky Mountain Power

Patricia Schmid ([pschmid@utah.gov](mailto:pschmid@utah.gov))  
Justin Jetter ([jjetter@utah.gov](mailto:jjetter@utah.gov))  
Rex Olsen ([rolsen@utah.gov](mailto:rolsen@utah.gov))  
Assistant Utah Attorneys General

By Hand-Delivery:

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

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

---

Administrative Assistant