

In the Matter Of:

In Re: RMP - ESA Kennecott Utah Copper, LLC

HEARING PROCEEDINGS DOCKET NO. 16-035-33

October 27, 2016

Job Number: 332683

1 BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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3 In the Matter of the Application of Docket No. 16-035-33
4 Rocky Mountain Power and Kennecott
5 Utah Copper, LLC

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HEARING PROCEEDINGS

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10 TAKEN AT: Utah Public Service Commission
11 Fourth Floor
12 160 East 300 South
13 Salt Lake City, Utah
14 DATE: Tuesday, October 27th, 2016
15 TIME: 9:00 a.m.
16 REPORTER: Mary R. Honigman, R.P.R.

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Job Number: 332683

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APPEARANCES

FOR THE PUBLIC SERVICE COMMISSION:
Michael Hammer, Commission Chair

FOR THE DIVISION OF PUBLIC UTILITIES:

Justin Jetter, ESQ.
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ROCKY MOUNTAIN POWER
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1 PROCEEDINGS

2 OFFICER HAMMER: Good morning. My
3 name is Michael Hammer, and I am the Commission's
4 presiding officer designated for this hearing. This
5 is the time and place noticed for a hearing in the
6 matter of the approval of an Energy Services
7 Agreement between Rocky Mountain Power and Kennecott
8 Utah Copper, LLC. That's Commission Docket
9 16-035-33. Let's have appearances, please.

10 MS. HOGLE: Good morning. Yvonne
11 Hogle on behalf of Rocky Mountain Power. With me
12 today are Steve McDougal and Paul Clements.

13 MR. JETTER: And I'm Justin Jetter,
14 representing the Utah Division of Public Utilities.
15 And with me at counsel table is Mr. Charles Peterson
16 with the Division of Public Utilities.

17 MR. OLSEN: Rex Olsen with the Office
18 of Consumer Services, and with me is Cheryl Murray.

19 OFFICER HAMMER: And I understand we
20 have one individual participating by phone today; is
21 that correct?

22 MR. WILDING: Yes. This is Mike
23 Wilding from PacifiCorp.

24 OFFICER HAMMER: Thank you,
25 Mr. Wilding. Before we move on to any other

1 preliminary matters, we are streaming live over the
2 Internet this morning. I'm aware there has been a
3 significant amount of confidential information filed
4 in this docket. I don't know if any of the parties
5 anticipate that any of that information will be
6 discussed during the hearing, but please be aware
7 that we are streaming. And if you want to address
8 confidential information, please bring it to my
9 attention and we can consider an appropriate motion.
10 Are there any other preliminary matters before we
11 begin? Okay. As this is the Company's application,
12 we'll ask the Company to call its first witness.

13 MS. HOGLE: The Company calls
14 Mr. Paul Clements.

15 OFFICER HAMMER: Mr. Clements, I'm
16 comfortable -- is the court reporter comfortable if
17 Mr. Clements stays seated where he is?

18 THE COURT REPORTER: Yes.

19 OFFICER HAMMER: Then you can stay
20 where you're at. Good morning, Mr. Clements.

21 PAUL CLEMENTS,
22 having been first duly sworn to tell the truth, was
23 examined and testified as follows:

24 EXAMINATION

25 BY MS. HOGLE:

1 Q. Can you please state your name, address
2 and position with Rocky Mountain Power for the
3 record?

4 A. Yes. My name is Paul Clements. My
5 current position is consultant to Rocky Mountain
6 Power. At the time my direct testimony was filed,
7 my position was director of commercial services for
8 Rocky Mountain Power. My current address is 340
9 East North Canyon Road, Bountiful, Utah 84010.

10 Q. And in that capacity, did you prepare or
11 cause to be prepared direct testimony including
12 confidential Exhibits A and B and confidential work
13 papers filed on August 15, 2016 in support of the
14 Company's application in this case?

15 A. Yes, I did.

16 Q. And do you have any changes to your
17 testimony?

18 A. I do not.

19 Q. So if I were to ask you the questions in
20 your testimony again here today, would your answers
21 be the same?

22 A. Yes, they would.

23 MS. HOGLE: Okay. At this time, I'd
24 like to move for the admission of Mr. Clements'
25 direct testimony, including confidential Exhibits A

1 and B and confidential work papers filed with the
2 Commission on August 15, 2016.

3 OFFICER HAMMER: I see no objection.
4 They're admitted.

5 MS. HOGLE: Thank you. The Company
6 calls its second witness, Steve McDougal.

7 STEVEN MCDOUGAL,
8 having been first duly sworn to tell the truth, was
9 examined and testified as follows:

10 EXAMINATION

11 BY MS. HOGLE:

12 Q. Can you please state your name, business
13 address, and current position with Rocky Mountain
14 Power?

15 A. Yes. My name is Steven R. McDougal, and
16 my business address is 1407 West North Temple
17 Street, Salt Lake City, 84116. I'm currently
18 employed as the director of revenue requirement for
19 the Company.

20 Q. Thank you. And in that capacity, did you
21 prepare or cause to be prepared direct testimony
22 including confidential Exhibit A and confidential
23 work papers filed with the Commission on August 15,
24 2016 in support of the Company's application in this
25 case?

1 A. Yes, I did.

2 Q. And do you have any changes to your
3 testimony?

4 A. No, I do not.

5 Q. So if I were to ask you the questions in
6 your testimony again here today, would your answers
7 be the same?

8 A. Yes.

9 Q. Okay. And what is the purpose of your
10 summary testimony here today?

11 A. I am here in support of the Stipulation
12 that was reached by all the signing parties in this
13 case including Rocky Mountain Power, the Division of
14 Public Utilities, and the Office of Consumer
15 Services.

16 MS. HOGLE: And before we proceed,
17 I'd like to move for the admission of Mr. McDougal's
18 direct testimony, along with confidential Exhibit A
19 and confidential work papers filed with the
20 Commission on August 15, 2016.

21 OFFICER HAMMER: They're admitted.

22 BY MS. HOGLE:

23 Q. Thank you. Can you please describe the
24 Settlement, Mr. McDougal?

25 A. Yes. First of all, I'd like to thank the

1 parties for the time and effort that they have
2 dedicated to this case and the resulting Stipulation
3 we are presenting today. This Stipulation was
4 negotiated in good faith and is a reasonable and
5 fair outcome in this docket.

6 I'm going to walk through, briefly, the
7 Stipulation and touch on each of the major items.
8 While I am going to be providing a summary of the
9 Stipulation, the language within the Stipulation
10 itself and the four corners of that document governs
11 the Agreement.

12 The Stipulation contains two confidential
13 attachments, and a couple of paragraphs -- as you
14 have noted -- do contain confidential information.
15 I'm going to refrain from specifically referring to
16 any of that unless there's any questions from the
17 bench.

18 The first eight paragraphs of the
19 Stipulation are basically the background, and they
20 identify a brief overview of the case, the timing of
21 the various filings.

22 If we start with Paragraph 9 -- in
23 Paragraph 9, the parties request that the Commission
24 approve the Kennecott Contract as submitted and
25 signed in total and -- considering the terms and

1 conditions in the Stipulation -- that the Contract
2 and the Stipulation are just and reasonable and in
3 the public interest.

4 Paragraph 10 discusses two confidential
5 exhibits that the Company has updated consistent
6 with recommendations from the DPU. Exhibit A to the
7 Energy Services Agreement was updated using a
8 multiplier rather than specific values. And Exhibit
9 B was updated because of a mathematical error.

10 Paragraph 11 describes certain limitations
11 and future proceedings related to what the Company
12 can and cannot do in any Kennecott related
13 proceedings, especially related to allocations.

14 Paragraphs 12 through 14 describe an
15 agreement between the parties on the treatment of
16 Kennecott and the Energy Balancing Account.

17 Specifically in Paragraph 12, that Kennecott will
18 not be subject to the EBA in related rate changes
19 after December 1st, 2016.

20 The next part describes that Kennecott
21 will be included in the EBA using the process
22 described within Paragraph 14 that basically says,
23 under Step 1, we are going to calculate the EBA just
24 as we do today with the exceptions noted in Step 2
25 and in Paragraph 18. And Step 2 states that on a

1 monthly basis, the Company will apply the Block 2
2 Differential described in Paragraph 14.c to the EBA.
3 The Block 2 Differential is the difference between
4 the -- excuse me, that was a confidential word --
5 the Block 2 Differential is the difference as
6 described in the Settlement of the EBA. The Company
7 will be responsible for the first \$350,000 of that
8 True-up or Deadband. Everything over that will be
9 included and will be recovered from other Utah
10 customers.

11 Paragraph 15 describes what will happen in
12 the next rate proceeding where this is addressed and
13 gives other parties the opportunity to revisit some
14 of the accounting and to revisit the Deadband.
15 However, it states that in any such case -- the
16 Deadband -- the other parties will not support any
17 Deadband exceeding \$500,000.

18 Paragraph 17 describes the Kennecott
19 loads, the costs and the revenues, and how they will
20 be treated in interjurisdictional allocations.

21 And then Paragraph 18 describes the
22 treatment if Kennecott serves their Block 2 as
23 described in paragraph 5.01(b)(iii) of the contract.
24 The remainder of the Stipulation just gives general
25 terms and conditions.

1 In summary, the Stipulation has been
2 negotiated in good faith by all parties, and we
3 recommend that the Commission approve it as
4 requested and find that the agreement is in the
5 public interest.

6 **Q. Does that conclude your testimony, Mr.**
7 **McDougal?**

8 A. Yes.

9 MS. HOGLE: The Company rests.

10 OFFICER HAMMER: Thank you. Mr.
11 Jetter, Mr. Olsen, I'll give you an opportunity to
12 ask any cross-examination questions you have of
13 Mr. Clements or Mr. McDougal.

14 MR. JETTER: No questions from the
15 Division. Thank you.

16 MR. OLSEN: None from the Office.

17 OFFICER HAMMER: Thank you. Then
18 we'll proceed with the Division.

19 MR. JETTER: Thank you. The Division
20 would like to call to have sworn in Mr. Charles
21 Peterson.

22 CHARLES PETERSON,
23 having been first duly sworn to tell the truth, was
24 examined and testified as follows:

25 EXAMINATION

1 BY MR. JETTER:

2 Q. Mr. Peterson, would you please state your
3 name and occupation for the record?

4 A. Charles E. Peterson. I'm a technical
5 consultant with the Division of Public Utilities.
6 I'm located on the fourth floor here in this
7 building.

8 Q. And have you prepared a brief statement
9 summarizing the Division's position?

10 A. Yes, I have.

11 Q. Please, go ahead.

12 A. Good morning. The Division recommends
13 that the Commission approve the Electric Service
14 Agreement as amended between Kennecott Utah Copper,
15 LLC, and PacifiCorp, doing business as Rocky
16 Mountain Power, and the Stipulation that was entered
17 into by the parties as being, in result, just and
18 reasonable and in the public interest. The Division
19 has studied the proposed Agreement and is a party to
20 the Stipulation that was filed in this matter. The
21 Company's witnesses -- Mr. Clements and
22 Mr. McDougal -- have described a Contract and
23 Stipulation among the parties in some detail, so I
24 will only make a few additional comments.

25 As part of its review and evaluation, the

1 Division has reviewed the responses that they
2 requested and the Office of Consumer Services have
3 submitted. The Division also participated in
4 technical workshops and settlement discussions with
5 the Company, Rocky Mountain Power.

6 The Division had a number of concerns with
7 the Contract, including the approximate 9-year term
8 of the Contract and the apparent risks that rate
9 payers face as a result of the lengthy term,
10 including the limitations to price adjustments set
11 forth in the Contract and the reliance on relatively
12 long-term forecasts and other assumptions that went
13 into the Contract pricing. Off-setting these risks
14 under this agreement is the risk to rate payers of
15 Kennecott leaving the PacifiCorp system through an
16 action brought before the Commission under Utah Code
17 annotated 54-332. Such an action is now at a
18 minimum, pushed out a number of years into the
19 future.

20 And because PacifiCorp now has time to
21 plan and adjust for an eventual departure of
22 Kennecott, such a Section 32 proceeding may not ever
23 need to be brought before the Commission. The
24 Stipulation the parties negotiated with PacifiCorp
25 also brings some additional protections to rate

1 payers.

2 In sum, the Division recommends approval
3 of the Stipulation and the Electric Service
4 Agreement between the Company and Kennecott as just
5 and reasonable and in the public interest in result.
6 And that concludes my statement.

7 OFFICER HAMMER: Thank you.

8 Mr. Peterson is available for cross-examination.

9 Ms. Hogle or Mr. Olsen, any questions?

10 MR. OLSEN: No questions.

11 OFFICER HAMMER: Thank you.

12 MR. JETTER: We have nothing further
13 from the Division.

14 OFFICER HAMMER: Thank you, Mr.
15 Jetter. Mr. Olsen?

16 MR. OLSEN: Thank you. The Office
17 would like to call Cheryl Murray and have her sworn,
18 please.

19 CHERYL MURRAY,
20 having been first duly sworn to tell the truth, was
21 examined and testified as follows:

22 EXAMINATION

23 BY MR. OLSEN:

24 Q. Ms. Murray, could you state your name and
25 business address for the record, please?

1 A. My name is Cheryl Murray. My business
2 address is 160 East 300 South, Salt Lake City, Utah.

3 **Q. And what is your position with the Office?**

4 A. I'm a utility analyst.

5 **Q. Thank you. Did you participate in**
6 **settlement discussions related to the Kennecott**
7 **Electric Service Agreement under consideration here**
8 **today?**

9 A. Yes. Michele Beck, the director of the
10 Office, and I participated in the negotiations.

11 **Q. Have you prepared testimony in support of**
12 **the stipulation?**

13 A. Yes.

14 **Q. Please proceed.**

15 A. Good morning. To support our efforts to
16 assess the implications of the Electric Service
17 Agreement -- or ESA -- on interjurisdictional
18 allocations and net power costs, the Office enlisted
19 the assistance of expert consultants Donna Ramos and
20 Philip Hayet.

21 The Office and our consultants reviewed
22 all testimony, exhibits, work papers, and the
23 Electric Service Agreement provided in the Company's
24 filing. We submitted three sets of data requests.
25 Our informal questions resulted in several

1 conference calls with appropriate Company personnel.

2 In addition, we participated in technical
3 workshops and met separately with Rocky Mountain
4 Power and Kennecott representatives to gain an
5 understanding of all provisions of the ESA, as well
6 as the impact on current and future rates for our
7 other customers. The Office believes that the ESA
8 can be found to be in the public interest in the
9 context of the provisions described in the
10 Settlement Agreement.

11 The Office would like to highlight the
12 following important provisions from that Settlement
13 Agreement. Paragraph 11: "The Company agrees that
14 it will not take a position on whether costs
15 associated with serving the Kennecott load should be
16 included in cost allocations to Utah beyond the date
17 of the termination of the Kennecott Contract in the
18 Multi-State Process ("MSP") or any similar
19 successive MSP process, including any regional or
20 FERC process in which allocation of costs to
21 different states or jurisdictions is addressed." It
22 is the Office's view that this provision will help
23 mitigate future risks of an entity attempting to
24 assign additional costs to Utah if Kennecott leaves
25 the Rocky Mountain Power system.

1 Paragraph 15, in part, reads, "The Parties
2 agree that either in the next general rate case or
3 other appropriate proceeding, Parties may propose
4 alternative methods for the ratemaking treatment of
5 the Block 2 True-up and the Deadband." The Office
6 believes that the treatment of the costs associated
7 with the ESA as described is reasonable but must be
8 revisited when rates are re-set so that it can be
9 reviewed as part of a complete evaluation of rates.
10 The future ability of parties to suggest an
11 alternative method of accounting for the True-up of
12 Block 2 costs is essential to the Office's support
13 of the Stipulation.

14 Taken in total, the Office believes that
15 the Settlement Stipulation is just and reasonable in
16 result and in the public interest. Accordingly, we
17 recommend Commission approval.

18 **Q. Does that conclude your statement for**
19 **today?**

20 A. Yes, it does.

21 MR. OLSEN: Ms. Murray is available
22 for cross-examination.

23 OFFICER HAMMER: Any
24 cross-examination for Ms. Murray?

25 MS. HOGLE: No questions.

1 MR. JETTER: No, thank you.

2 OFFICER HAMMER: Thank you, Ms.
3 Murray. I believe that concludes the parties'
4 presentation of evidence. Are there any other
5 preliminary or, I should say, additional matters
6 before we adjourn? All right.

7 Well, the Commission is aware that
8 the existing contract is set to expire -- I'm not
9 sure if that date is confidential, so I won't
10 enumerate it or state it here, but -- we're aware
11 that the parties need an order within approximately
12 a month, and we will do our best to get one out.

13 MS. HOGLE: I do have one question.
14 I did notice that the commissioners are not present,
15 but we would hope that the hearing officer would
16 consider a request for a bench order approving this
17 Stipulation, given that there is no opposition from
18 any intervenors, and there is full support by the
19 Office.

20 As you stated, in the interest of
21 clarity and certainty, I believe that the fact that
22 the new contract is vastly different from the one
23 that is soon to be expired warrants consideration of
24 a bench order in order for Kennecott and Rocky
25 Mountain Power to transition into the new

1 arrangement and agreement among them.

2 OFFICER HAMMER: Does any other party
3 have anything to say about Ms. Hogle's request for a
4 bench ruling?

5 MR. JETTER: I think I could just say
6 for the Division we have no objection to a bench
7 ruling. We support this stipulation and approval of
8 it, so in any form, we would support it.

9 MR. OLSEN: Same with the Office. We
10 have no objection.

11 OFFICER HAMMER: Well, I think I can
12 probably get a quorum together of the commissioners
13 in back if we recess for a few minutes. And then I
14 could not only potentially issue a bench ruling, but
15 I could state whether it was approved and confirmed
16 by the Commission. So we'll be in recess for a few
17 minutes. Thank you.

18 (A brief recess was taken.)

19 OFFICER HAMMER: Having considered
20 the Application, the Stipulation and accompanying
21 exhibits, and the testimony presented in hearing,
22 the Commission finds the Stipulation and the
23 Electric Service Agreement between Kennecott and
24 Rocky Mountain Power to be just, reasonable, and in
25 the public interest. The Commission therefore

1 grants the Application and approves the Stipulation
2 and the Electric Service Agreement as amended by the
3 Stipulation. This bench order has been approved and
4 confirmed by the Commission, and the Commission will
5 issue a written order to memorialize it.

6 In the meantime, the Stipulation and
7 Electric Service Agreement are approved, effective
8 immediately, and should take effect as dictated in
9 the terms of those agreements. Do the parties have
10 anything else before we adjourn? Thank you.

11 (The proceedings concluded at 9:35 a.m.)

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REPORTER'S CERTIFICATE

STATE OF UTAH)
COUNTY OF SUMMIT)

I, Mary R. Honigman, a Registered Professional Reporter, hereby certify:

THAT the foregoing proceedings were taken before me at the time and place set forth in the caption hereof; that the witness was placed under oath to tell the truth, the whole truth, and nothing but the truth; that the proceedings were taken down by me in shorthand and thereafter my notes were transcribed through computer-aided transcription; and the foregoing transcript constitutes a full, true, and accurate record of such testimony adduced and oral proceedings had, and of the whole thereof.

I have subscribed my name on this 30th day of October, 2016.



Mary R. Honigman
Registered Professional Reporter

<p>"</p> <hr/> <p>"MSP 17:18</p> <hr/> <p>\$</p> <hr/> <p>\$350,000 11:7</p> <p>\$500,000 11:17</p> <hr/> <p>1</p> <hr/> <p>1 10:23</p> <p>10 10:4</p> <p>11 10:10 17:13</p> <p>12 10:14,17</p> <p>14 10:14,22</p> <p>14.c 11:2</p> <p>1407 7:16</p> <p>15 6:13 7:2,23 8:20 11:11 18:1</p> <p>16-035-33 4:9</p> <p>160 16:2</p> <p>17 11:18</p> <p>18 10:25 11:21</p> <p>1st 10:19</p> <hr/> <p>2</p> <hr/> <p>2 10:24,25 11:1,3,5,22 18:5,12</p> <p>2016 6:13 7:2, 24 8:20 10:19</p>	<p>3</p> <hr/> <p>300 16:2</p> <p>32 14:22</p> <p>340 6:8</p> <hr/> <p>5</p> <hr/> <p>5.01(b)(iii) 11:23</p> <p>54-332 14:17</p> <hr/> <p>8</p> <hr/> <p>84010 6:9</p> <p>84116 7:17</p> <hr/> <p>9</p> <hr/> <p>9 9:22,23</p> <p>9-year 14:7</p> <hr/> <p>A</p> <hr/> <p>ability 18:10</p> <p>Accordingly 18:16</p> <p>Account 10:16</p> <p>accounting 11:14 18:11</p> <p>action 14:16, 17</p> <p>addition 17:2</p> <p>additional 13:24 14:25</p>	<p>17:24</p> <p>address 5:7 6:1,8 7:13,16 15:25 16:2</p> <p>addressed 11:12 17:21</p> <p>adjust 14:21</p> <p>adjustments 14:10</p> <p>admission 6:24 8:17</p> <p>admitted 7:4 8:21</p> <p>after 10:19</p> <p>again 6:20 8:6</p> <p>agree 18:2</p> <p>agreement 4:7 9:11 10:7,15 12:4 13:14,19 14:14 15:4 16:7,17,23 17:10,13</p> <p>agrees 17:13</p> <p>ahead 13:11</p> <p>all 8:12,25 12:2 16:22 17:5</p> <p>allocation 17:20</p> <p>allocations 10:13 11:20 16:18 17:16</p> <p>along 8:18</p> <p>also 14:3,25</p> <p>alternative 18:4,11</p> <p>amended</p>	<p>13:14</p> <p>among 13:23</p> <p>amount 5:3</p> <p>analyst 16:4</p> <p>annotated 14:17</p> <p>answers 6:20 8:6</p> <p>anticipate 5:5</p> <p>apparent 14:8</p> <p>appearances 4:9</p> <p>application 5:11 6:14 7:24</p> <p>apply 11:1</p> <p>appropriate 5:9 17:1 18:3</p> <p>approval 4:6 15:2 18:17</p> <p>approve 9:24 12:3 13:13</p> <p>approximate 14:7</p> <p>assess 16:16</p> <p>assign 17:24</p> <p>assistance 16:19</p> <p>associated 17:15 18:6</p> <p>assumptions 14:12</p> <p>attachments 9:13</p> <p>attempting 17:23</p>	<p>attention 5:9</p> <p>August 6:13 7:2,23 8:20</p> <p>available 15:8 18:21</p> <p>aware 5:2,6</p> <hr/> <p>B</p> <hr/> <p>background 9:19</p> <p>Balancing 10:16</p> <p>basically 9:19 10:22</p> <p>basis 11:1</p> <p>Beck 16:9</p> <p>before 4:25 5:10 8:16 14:16,23</p> <p>begin 5:11</p> <p>behalf 4:11</p> <p>being 13:17</p> <p>believes 17:7 18:6,14</p> <p>bench 9:17</p> <p>between 4:7 10:15 11:3 13:14 15:4</p> <p>beyond 17:16</p> <p>Block 11:1,3,5, 22 18:5,12</p> <p>Bountiful 6:9</p> <p>brief 9:20 13:8</p> <p>briefly 9:6</p>
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