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October 5, 2017

VIA ELECTRONIC FILING

Public Service Commission of Utah
Heber M. Wells Building, 4th Floor
160 East 300 South
Salt Lake City, UT 84114

Attention: Gary Widerburg
Commission Secretary

RE: Docket No. 17-035-54 – In the Matter of Rocky Mountain Power’s Petition for Declaratory Ruling re Kennecott Utah Copper LLC’s 2015 EBA Recovery Charges

Dear Mr. Widerburg:

Enclosed for filing in the above-referenced matter is Rocky Mountain Power’s (“Company”) Petition for Declaratory Ruling re Kennecott Utah Copper LLC’s 2015 EBA Recovery Charges.

Please feel free to call me at the number referenced above or Bob Lively at (801) 220-4052 if you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Yvonne R. Hogle".

Yvonne R. Hogle
Assistant General Counsel

Enclosures

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Attorneys for Rocky Mountain Power

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of Rocky Mountain Power's Petition for Declaratory Ruling re Kennecott Utah Copper LLC's 2015 EBA Recovery Charges	Docket No. 17-035-54 ROCKY MOUNTAIN POWER'S REQUEST FOR AGENCY ACTION AND PETITION FOR DECLARATORY RULING
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PacifiCorp doing business as Rocky Mountain Power (the "Company"), pursuant to Utah Admin. Code R746-101 *et seq.*, hereby petitions the Public Service Commission of Utah (the "Commission") for a declaratory ruling to establish the rights and obligations of the Company and Kennecott Utah Copper LLC ("Kennecott") with regard to charges under Tariff Schedule 94, Energy Balance Account (the "EBA Tariff") and the Commission's order dated November 28, 2016 in Docket 16-035-33 (the "Order").

I. INTRODUCTION

In 2015, Kennecott accrued charges under the EBA Tariff related to power provided by the Company to Kennecott. These charges were approved by the Commission in October 2016, and became due from Kennecott in November 2016. The Company billed the first installment of these charges to Kennecott [REDACTED] in an invoice dated January 5, 2017. Kennecott paid this first installment. However, a new energy services agreement between Kennecott and the Company became effective on December 1, 2016. Because [REDACTED], Kennecott now argues that it is not required to pay the remaining 2015 EBA Tariff charges [REDACTED] (“2015 EBA Disputed Charges”).

The Company seeks a declaratory ruling establishing that, under the EBA Tariff, the Order and the applicable contract, Kennecott is obligated to pay the 2015 EBA Disputed Charges.

II. RELEVANT FACTS

1. The [REDACTED] in 2015 EBA Disputed Charges were accrued in relation to power provided by the Company to Kennecott in 2015. Kennecott does not dispute that the charges were incurred in 2015 pursuant to the EBA Tariff.

2. EBA Tariff, Schedule 94.9 states that EBA charges “shall be allocated to all retail rate schedules and applicable special contracts based on the rate spread approved by the Commission.” *See* “EBA Rate Determination” (emphasis added).

3. The applicable contract between the Company and Kennecott in 2015 was the energy services agreement dated June 27, 2014 (“June 2014 ESA”), attached hereto as **Confidential Exhibit A**.

4. [REDACTED]
[REDACTED]

5. In its November 2016 invoice, the Company billed Kennecott for [REDACTED] in EBA charges related to energy provided to Kennecott during 2015.

6. Kennecott paid the November 2016 invoice without dispute.

7. In its December 2016 invoice to Kennecott, the Company billed Kennecott for another installment of the 2015 EBA Disputed Charges for additional power provided in 2015.

8. Kennecott refuses to pay the 2015 EBA Disputed Charges.

9. The Company received payments from other customers under the same EBA Tariff related to the November 2016 invoices, and expects to receive payment from these same customers for the EBA Tariff related to the December 2016 invoices.

10. A new energy services agreement between the Company and Kennecott was approved in Docket No. 16-035-33, which became effective on December 1, 2016 (the “December 2016 ESA”), attached hereto as **Confidential Exhibit B**.

11. At the time the December 2016 ESA was being negotiated, Kennecott was planning to withdraw from service under the Company’s system pursuant to Utah Code Ann. § 54-3-32(5) (the “Transfer Statute”).

12. Pursuant to the Transfer Statute, to withdraw , Kennecott was required to pay:

(a) any amounts due to the public utility for electric service provided to the eligible customer in accordance with a tariff or the eligible customer's contract for service; [and]

(b) all balancing account costs, major plant addition costs, and any other surcharges or credits:

(i) attributable to the service provided to the eligible customer; and

(ii) incurred prior to the eligible customer's transfer of service to the nonutility energy supplier;

Utah Code Ann. § 54-3-32(5) (emphases added).

13. The Order in Docket No. 16-035-33 approved a stipulation filed October 7, 2016 (“Stipulation”), wherein Kennecott was relieved from paying any EBA “rate changes effective

after December 1, 2016.” *See* Stip. ¶ 12 (emphasis added). Kennecott was not a party to Docket No. 16-035-33, but its attorney reviewed the Stipulation and did not make any changes to the relevant provision.

III. REASON FOR REVIEW AND RELIEF REQUESTED

The Company has worked with Kennecott since January 2017 to obtain payment of the 2015 EBA Disputed Charges. Despite these efforts, Kennecott refuses to pay the charges, arguing that EBA charges [REDACTED]. However, Kennecott’s position that [REDACTED] is irrelevant as to [REDACTED] when the 2015 EBA Disputed Charges were incurred. These charges were not incurred [REDACTED]. Therefore, Kennecott’s obligation with relation to the 2015 EBA Disputed Charges [REDACTED], which clearly required payment by Kennecott.

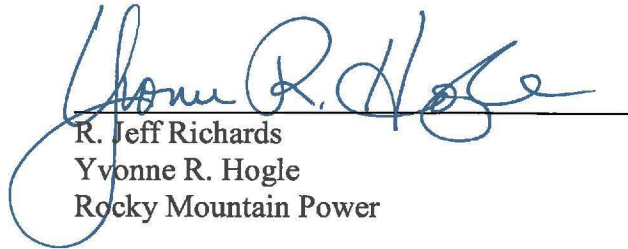
Kennecott’s refusal to pay for the charges it incurred is contrary to the provisions of the EBA Tariff, with the Commission’s Order in Docket No. 16-035-33 [REDACTED]. Therefore, the Company requests that the Commission enter a declaratory ruling ordering that Kennecott is required to pay the 2015 EBA Disputed Charges.

IV. STATEMENT OF NO ADVERSE EFFECT

Pursuant to R746-101-2, the Company states that neither any public utility nor the public at large would be adversely affected by a ruling favorable to the Company in response to this Petition.

DATED: October 3, 2017.

Respectfully submitted,

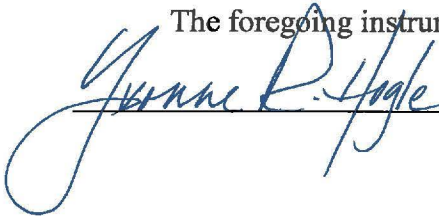

R. Jeff Richards
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Rocky Mountain Power

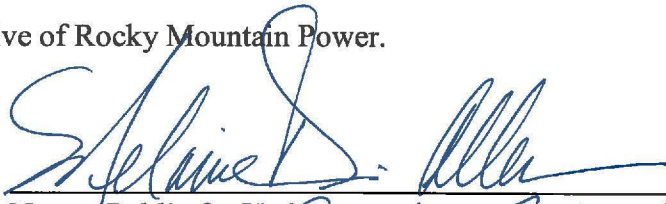
D. Matthew Moscon
Landon A. Allred
Stoel Rives LLP

Attorneys for Rocky Mountain Power

STATE OF UTAH)
)
:ss.
SALT LAKE COUNTY)

The foregoing instrument was acknowledged before me on October 3, 2017, by

 a Representative of Rocky Mountain Power.


Notary Public for Utah
Residing at: Salt Lake City, Utah
My commission expires: 9-11-18



Redacted
Exhibit A

**THIS EXHIBIT IS CONFIDENTIAL IN ITS
ENTIRETY AND IS PROVIDED UNDER
SEPARATE COVER**

Redacted
Exhibit B

**THIS EXHIBIT IS CONFIDENTIAL IN ITS
ENTIRETY AND IS PROVIDED UNDER
SEPARATE COVER**

CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of the foregoing **ROCKY MOUNTAIN POWER'S PETITION FOR DECLARATORY RULING** to be served upon the following by email on October 5, 2017:

Division of Public Utilities:

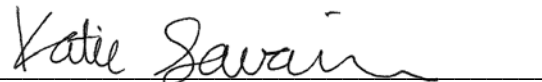
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Katie Savarin
Coordinator, Regulatory Operations