

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

Application of Rocky Mountain Power for Approval of the Electric Service Agreement between PacifiCorp and Nucor Corporation	<u>DOCKET NO. 17-035-55</u> <u>ORDER APPROVING STIPULATION</u>
-----------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------

ISSUED: November 15, 2017

SYNOPSIS

The PSC approves a stipulation extending the electric service agreement between PacifiCorp and Nucor Corporation by three months, to March 31, 2018, and requiring PacifiCorp to file its new electric service agreement with Nucor Corporation before January 1, 2018.

PROCEDURAL HISTORY

On December 17, 2015, the Public Service Commission of Utah (PSC) approved an electric service agreement (ESA) between PacifiCorp, doing business as Rocky Mountain Power (PacifiCorp), and Nucor Corporation (Nucor), which will expire on December 31, 2017.¹ On October 10, 2017, PacifiCorp filed for an extension to the existing ESA through March 31, 2018 (Application).

On October 16, 2017, the PSC held a scheduling conference and thereafter issued a scheduling order and notice of hearing (Scheduling Order). Pursuant to the Scheduling Order, the Division of Public Utilities (DPU) and Office of Consumer Service (OCS) each filed comments on PacifiCorp's requested extension on October 23, 2017. No party filed reply comments. Instead, PacifiCorp filed a stipulation and settlement agreement (Stipulation) on October 30, 2017.

¹ See *Application of Rocky Mountain Power for Approval of the Electric Service Agreement between PacifiCorp and Nucor Corporation* (Order Approving Electric Service Agreement, issued December 17, 2015; Docket No. 15-035-81).

The parties to the Stipulation agree to keep the current terms and conditions of the Nucor ESA in effect through March 31, 2018, unless a new ESA is approved by the PSC before that date. PacifiCorp also agrees to reach an agreement with Nucor and file a new ESA with the PSC before January 1, 2018. The Stipulation is signed by PacifiCorp, the DPU, and the OCS.

On October 31, 2017, the PSC's designated Presiding Officer conducted a hearing to consider PacifiCorp's Application and, more specifically, the Stipulation. At the hearing, all parties to the Stipulation supported its approval as just and reasonable in result, and in the public interest. The OCS further clarified that the stipulated deadline for PacifiCorp to file the new Nucor ESA before January 1, 2018 will allow it to accomplish the necessary review and analysis, thereby addressing its concerns about a compressed regulatory process. In addition, although Nucor is not a party to this docket, its counsel entered an appearance and supported the Stipulation.

FINDINGS

The parties agree the Stipulation is in the public interest and the results are just and reasonable.² Further, no one opposes the Stipulation.

As set forth in Utah Code Ann. § 54-7-1, settlements of matters before the PSC are encouraged at any stage of a proceeding.³ Pursuant to this statute, the PSC may approve a stipulation or settlement after considering the interests of the public and other affected persons, if

² See Stipulation at 2-3, ¶ 4.

³ See Utah Code Ann. § 54-7-1.

DOCKET NO. 17-035-55

- 3 -

it finds the stipulation or settlement in the public interest.⁴ Likewise, in reviewing a settlement, the PSC may consider whether it was the result of good faith, arms-length negotiations.⁵

The Stipulation at issue is the product of mutual negotiation involving parties with substantial and varying interests. We find that the Application and comments filed in this docket demonstrate the importance and the variety of interests that participated in the negotiation and execution of the Stipulation.

No party has presented testimony or evidence in opposition to the Stipulation. We find that the record and evidence in this docket support the unopposed representation of the parties in Paragraph 4 of the Stipulation, that the settlement is in the public interest and the results are just and reasonable.

Accordingly, we find: 1) approval of the Stipulation is in the public interest; and 2) the evidence contained in the record, supports our finding that the Stipulation is just and reasonable in result.

CONCLUSION AND ORDER

Pursuant to the foregoing findings, we approve the Stipulation and Settlement Agreement filed in this docket on October 30, 2017.

DATED at Salt Lake City, Utah, November 15, 2017.

/s/ Melanie A. Reif
Presiding Officer

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.

DOCKET NO. 17-035-55

- 4 -

Approved and confirmed November 15, 2017, 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
PSC Secretary
DW#297935

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 PSC 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 PSC 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 PSC'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 November 15, 2017, 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

Jana Saba (jana.saba@pacificorp.com)
Daniel E. Solander (daniel.solander@pacificorp.com)
Rocky Mountain Power

Dan Needham (dan.needham@nucor.com)
Nucor Steel-Utah

Jeremy R. Cook (jcook@cohnekinghorn.com)
Counsel for Nucor Steel-Utah

Peter Mattheis (pjm@smxblaw.com)
Eric Lacey (ejl@smxblaw.com)
Stone Mattheis Xenopoulos & Brew, PC

Patricia Schmid (pschmid@agutah.gov)
Justin Jetter (jjetter@agutah.gov)
Rex Olsen (rolsen@agutah.gov)
Steven Snarr (stevensnarr@agutah.gov)
Assistant Utah Attorneys General

Erika Tedder (etedder@utah.gov)
Division of Public Utilities

By Hand-Delivery:

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

Administrative Assistant

DOCKET NO. 17-035-55

- 6 -

APPENDIX



*Daniel E. Solander
Senior Attorney
1407 West North Temple, Suite 320
Salt Lake City, UT 84116
801-220-4014 Office
daniel.solander@pacificorp.com*

October 30, 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: In the Matter of the Application of Rocky Mountain Power for Approval of Electric Service Agreement Extension Between PacifiCorp and Nucor Corporation – Docket No. 17-035-55

Dear Mr. Widerburg:

Rocky Mountain Power (“Company”) hereby submits for filing the Stipulation and Settlement Agreement in the above referenced matter.

The Company respectfully requests that all formal correspondence and requests for additional information regarding this filing be addressed to the following:

By E-mail (preferred): datareq@pacificorp.com
jana.saba@pacificorp.com

By regular mail: Data Request Response Center
PacifiCorp
825 NE Multnomah, Suite 2000
Portland, OR 97232

Informal inquiries may be directed to Jana Saba at (801) 220-2823.

Sincerely,

Daniel E. Solander
Senior Attorney

Enclosures
Cc: Service List (w/ enclosures)

Daniel E. Solander
Rocky Mountain Power
1407 N. West Temple, Suite 320
Salt Lake City, UT 84116
Telephone: (801) 220-4014
daniel.solander@pacificorp.com

Attorney for Rocky Mountain Power

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of)	
ROCKY MOUNTAIN POWER for)	Docket No. 17-035-____
Approval of Electric Service Agreement)	
Extension Between PacifiCorp and Nucor)	Stipulation and
Corporation)	Settlement Agreement
)	
)	

STIPULATION AND SETTLEMENT AGREEMENT

Rocky Mountain Power, a division of PacifiCorp, (“Rocky Mountain Power” or “Company”), the Utah Division of Public Utilities (“DPU”), and the Utah Office of Consumer Service (“OCS”) (collectively, the “Parties”) hereby file this Stipulation and Settlement Agreement for approval by the Public Service Commission of Utah (“Commission”). In addition, although not an intervening party, Nucor Corporation (“Nucor”) has authorized the Parties to represent it supports the Stipulation. In support of the Stipulation, the Parties state as follows.

1. The Parties met prior to the Scheduling Conference held in this Docket on October 16, 2017, and have reached agreement on a Stipulation and Settlement Agreement regarding the Company’s Application in the Docket, which requested an

extension of the existing electric service agreement with Nucor through March 31, 2018. Drafts of this Stipulation were circulated to the Parties for review and comment on October 23, 2017. This Stipulation has been entered into by the Parties after consideration of the views of all parties who intervened in this docket. No intervening party has indicated that it intends to oppose this Stipulation.

2. The Parties represent that this Stipulation is just and reasonable in result and in the public interest. The Parties recommend that the Commission approve the 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.

STIPULATION

3. The Parties stipulate and agree to recommend approval of the Company's Application in this proceeding. The Parties agree to keep the current terms and conditions of the existing electric service agreement in effect through March 31, 2018, unless a new electric service agreement is approved by the Commission prior to that date. Rocky Mountain Power agrees that it will reach agreement with Nucor on, and file a new electric service agreement and supporting Application with the Commission prior to January 1, 2018.

GENERAL TERMS AND CONDITIONS

4. Not all Parties agree that each aspect of this Stipulation is warranted or supportable in isolation. Utah Code Ann. §54-7-1 authorizes the Commission to approve a settlement so long as the settlement is just and reasonable in result. While the Parties are not able to agree that each specific component of this Stipulation is just

and reasonable in isolation, all of the Parties agree that this Stipulation as a whole is just and reasonable in result and in the public interest.

5. 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 Rules, neither the execution of this Stipulation nor any Order adopting it shall be deemed to constitute an admission or acknowledgment 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.

6. The Parties agree that no part of this Stipulation or the formulae 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 intended to be resolved on an ongoing basis by this Stipulation. This Stipulation does not resolve and does not provide any inferences regarding, and the Parties are free to take any position with respect to any issues not specifically called-out and settled herein.

7. The Parties request that the Commission consider this Stipulation and Partial Settlement Agreement at the public hearing scheduled for October 31, 2017. Each of the Parties will make one or more witnesses or representatives available to explain and offer further support for this Stipulation. The Parties shall support the Commission's approval of this Stipulation. As applied to the DPU and the OCS, the

explanation and support shall be consistent with their statutory authority and responsibility.

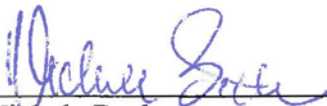


8. The Parties agree that if any person challenges the approval of this Stipulation or requests rehearing or reconsideration of any order of the Commission approving this Stipulation, each Party will use reasonable efforts to support the terms and conditions of this Stipulation. As applied to the DPU and the OCS, the phrase “use reasonable efforts” means that they shall do so in a manner consistent with their statutory authority and responsibility. In the event any person seeks judicial review of a Commission order approving this Stipulation, no Party shall take a position in that judicial review proceeding in opposition to the Stipulation.

9. Except with regard to the obligations of the Parties under the five immediately preceding paragraphs of this Stipulation, this Stipulation shall not be final and binding on the Parties until it has been approved without material change or condition by the Commission.

10. This Stipulation is an integrated whole, and any Party may withdraw from it if it is not approved without material change or condition by the Commission or if the Commission’s approval is rejected or materially conditioned by a reviewing court. If the Commission rejects any part of this Stipulation or imposes any material change or condition on approval of this Stipulation or if the Commission’s approval of this Stipulation is rejected or materially conditioned by a reviewing court, the Parties agree to meet and discuss the applicable Commission or court order within five business days of its issuance and to attempt in good faith to determine if they are willing to modify the Stipulation consistent with the order. No Party shall withdraw from the

Stipulation prior to complying with the foregoing sentence. If any Party withdraws from the Stipulation, any Party retains the right to seek additional procedures before the Commission, including presentation of testimony and cross-examination of witnesses, with respect to issues resolved by the Stipulation, and no party shall be bound or prejudiced by the terms and conditions of the Stipulation.

11. 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.

<div>UTAH OFFICE OF CONSUMER SERVICES</div> <div></div> <div>Michele Beck Director Office of Consumer Services 160 East 300 South, 2nd Floor Salt Lake City, UT 84114</div>	<div>ROCKY MOUNTAIN POWER</div> <div></div> <div>R. Jeff Richards Daniel E. Solander VP and General Counsel Rocky Mountain Power 1407 West North Temple, Suite 320 Salt Lake City, UT 84116</div>
<div>UTAH DIVISION OF PUBLIC UTILITIES</div> <div></div> <div>Chris Parker Utah Division of Public Utilities 160 East 300 South, 4th Floor Salt Lake City, UT 84114</div>	

CERTIFICATE OF SERVICE

Docket No. 17-035-55

I hereby certify that on October 30, 2017, a true and correct copy of the foregoing was served by electronic mail to the following:

Utah Office of Consumer Services

Michele Beck mbeck@utah.gov

Division of Public Utilities

Artie Powell wpowell@utah.gov

Erika Tedder etedder@utah.gov

Utah Assistant Attorneys General

Patricia Schmid pschmid@agutah.gov

Justin Jetter jjetter@agutah.gov

Robert Moore rmoore@agutah.gov

Steven Snarr stevensnarr@agutah.gov

Nucor Corporation

Dan Needham Dan.Needham@nucor.com

Jeremy Cook jcook@cohnepkinghorn.com

Peter Mattheis pjm@smxblaw.com

Eric Lacey ejl@smxblaw.com

Rocky Mountain Power

Jana Saba Jana.Saba@pacificorp.com

Daniel Solander Daniel.Solander@pacificorp.com

Data Request datarequest@pacificorp.com

Response Center



Katie Savarin
Coordinator, Regulatory Operations