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Initial Comments

To: Public Service Commission of Utah

From: Utah Division of Public Utilities

Chris Parker, Director
Brenda Salter, Assistant Director
Doug Wheelwright, Utility Technical Consultant Supervisor
Abdinasir Abdulle, Utility Technical Consultant Supervisor
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Date: January 31, 2025

Re: **Docket No. 23-035-51**, In the matter of the Application of Rocky Mountain Power for Approval of an Energy Service Agreement Between PacifiCorp dba Rocky Mountain Power ("RMP") and Kennecott Utah Copper LLC (KUC).

Recommendation (Approval)

The Division of Public Utilities ("Division" or "DPU") recommends the Public Service Commission of Utah ("Commission" or "PSC") approve the Energy Service Agreement ("Agreement" or "ESA") between Rocky Mountain Power, an unincorporated division of PacifiCorp ("Company" or "RMP"), and Kennecott Utah Copper LLC ("Kennecott").

Background

On November 13, 2023, Kennecott filed its Application for an order determining rates, terms, and conditions of an ESA with Rocky Mountain Power. The Commission issued an Action Request to the Division on November 13, 2023, to review the application and make recommendations. Pursuant to the initial scheduling conference on November 22, 2023, the parties stipulated to a testimony schedule with a hearing scheduled for May 22, 2024.



On May 6, 2024, Kennecott filed a Stipulated Motion to Suspend the remainder of the original schedule to allow settlement discussions to continue between RMP and Kennecott. On May 7, 2024, the hearing was cancelled pursuant to Commission Order. After a number of Scheduling Conferences, the Commission issued a second Scheduling Order and Notice of Hearing with initial comments due on January 31, 2025 and reply comments due on February 21, 2025. A hearing is scheduled for March 5, 2025. These are the Division's initial comments.

Issue

The current agreement was executed on July 28, 2016, and is set to expire on December 31, 2025. Under this agreement, Kennecott indicated that going forward, it would satisfy its power needs through a non-utility power provider. Kennecott is now seeking to restore its relationship with RMP and to continue receiving its power from RMP.

The new Energy Services Agreement executed on September 23, 2024, restores RMP as Kennecott's primary energy provider with an effective date of January 01, 2026, through December 31, 2032.

Discussion

As noted above, Kennecott currently receives service from RMP pursuant to a contract set to expire on December 31, 2025. Kennecott initially indicated it intended to transfer service to a non-utility energy supplier but remains an eligible customer of RMP. In its November 13, 2023, filing, Kennecott requested the Commission order RMP to enter a contract to provide energy services subject to Electric Service Schedule 31.

Through extensive negotiations, RMP and Kennecott have reached an agreement on a new electric service agreement. RMP represents this agreement moves Kennecott closer to covering its full cost of service, which is an improvement over prior agreements. The agreement contains certain guard rails and provisions to protect RMP's general ratepayers from market volatility and other risks as Kennecott transitions to full service. Certain provisions contain 'the higher of' language to protect ratepayers from energy cost variability during the transition years. Based on the DPU's analysis of the documents provided, and

meetings with RMP and Kennecott, Kennecott's agreement will contribute to cover fixed costs of the utility.

Conclusion

The Division recommends the Commission approve the Energy Service Agreement between RMP and Kennecott dated September 23, 2024, as just, reasonable, and in the public interest.

The Division continues to request the Commission order PacifiCorp, at the time of future ESA filings, to provide to the Division and Office of Consumer Services the modeling outputs and Excel spreadsheets supporting the price calculations along with the spreadsheets showing avoided line loss calculations. All spreadsheets are to be provided with formulas left intact.

cc: Jana Saba, PacifiCorp
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Phillip J. Russell, Kennecott
Jeff Armington, Kennecott
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