

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

Application of Kennecott Utah Copper, LLC for an Order Determining the Rates, Terms, and Conditions of Electric Service by Rocky Mountain Power to Kennecott	<u>DOCKET NO. 23-035-51</u> <u>ORDER</u>
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ISSUED: May 23, 2025

SYNOPSIS

The Public Service Commission (PSC) approves the settlement agreement between Rocky Mountain Power (RMP) and Kennecott Utah Copper LLC (“Kennecott”), which will govern RMP’s provision of electric service to Kennecott beginning January 1, 2026.

PROCEDURAL BACKGROUND

On November 9, 2023, Kennecott filed its Application for an Order Determining Rates, Terms, and Conditions of Electric Service by RMP (“Application”), requesting the PSC order “just and reasonable rates, terms, and conditions for the provision of electric service by [RMP] to Kennecott following the termination of the parties’ existing Electric Service Agreement on December 31, 2025.”¹

After holding a scheduling conference, the PSC issued a Scheduling Order and Notice of Hearing (“Scheduling Order”) on November 24, 2023. Subsequently, Kennecott, RMP, the Division of Public Utilities (DPU), and the Office of Consumer Services (OCS) filed several rounds of written testimony.

¹ Application at 1.

On May 6, 2024, Kennecott filed a Stipulated Motion to Suspend Deadlines in the Scheduling Order and Request for Status Conference and Request for Expedited Treatment ("Motion"). In support of the Motion, Kennecott represented it had "reached an agreement in principle [with RMP], subject to negotiation of a mutually acceptable written settlement stipulation."² The PSC granted the Motion on May 7, 2024.

On December 13, 2024, Kennecott and RMP (collectively, the "Parties") filed a Stipulation and Settlement Agreement ("Settlement"). The PSC issued a Second Scheduling Order and Notice of Hearing on January 7, 2025, allowing all parties an opportunity to submit comments and setting a new hearing date, March 5, 2025.

The OCS and DPU each filed initial comments on January 31, 2025, and RMP filed reply comments on February 21, 2025.

On February 24, 2025, Kennecott, RMP, OCS, and DPU (collectively, the "Parties") filed a stipulated motion for the admission into evidence of the pre-filed testimony and exhibits of the Parties.

The PSC held a virtual hearing on March 5, 2025.

THE SETTLEMENT

The Settlement includes a new Electric Service Agreement ("ESA") between the Parties. In the Settlement, the Parties agree to abide by the rates, terms, and conditions of the ESA, starting January 1, 2026.

² Motion at 1.

COMMENTS

DPU recommends the PSC approve the ESA. In making its recommendation, DPU states the ESA “contains certain guard rails and provisions to protect RMP’s general ratepayers from market volatility and other risks as Kennecott transitions to full service.”³ Additionally, DPU states the ESA is just, reasonable, and in the public interest.⁴ Further, DPU “request[s] the Commission order PacifiCorp, at the time of future ESA filings, to provide to the [DPU and OCS] the modeling outputs and Excel spreadsheets supporting the price calculations along with the spreadsheets showing avoided line loss calculations” with “formulas left intact.”⁵

OCS also recommends the PSC approve the Settlement. OCS states that after reviewing the ESA and the Parties’ responses to data requests, OCS concludes the ESA will generate more annual revenue for RMP and Kennecott will appropriately cover its cost of service. OCS notes “[t]he terms of the proposed new ESA are complex and difficult to evaluate[,]”⁶ and OCS “desires to see more analyses and modeling filed concurrently with a proposed new special contract ESA, including scenarios evaluating varying market conditions, in order to provide more transparency and assist in the review of the contract.”⁷

³ DPU’s Initial Comments at 2, filed January 31, 2025.

⁴ *Id.* at 3.

⁵ *Id.*

⁶ OCS’s Initial Comments at 2, filed January 31, 2025.

⁷ *Id.* at 3.

RMP responded to OCS's and DPU's requests for supplying supporting analysis, specifically modeling output, documentation supporting price calculations, and scenarios with varying market conditions at the time of filing. Specifically, RMP states it "typically submits this type [of] information at the time of filing for approval of an ESA, but was not the applicant in this proceeding [and RMP] will continue its practice of providing the supporting information for the expedient review of future ESA filings."⁸

HEARING

At hearing, Kennecott, RMP, DPU, and OCS provided testimony in support of the Settlement. Kennecott testified it had, through this proceeding, "ultimately work[ed] out an agreement with [RMP] that will serve Kennecott's electric service needs and will also ensure that Kennecott pays for that cost of service."⁹ Kennecott testified that approving the Settlement "will resolve all current disputes between Kennecott and [RMP] regarding the provision of electric service."¹⁰

RMP similarly testified it and "Kennecott have met numerous times to mutually agree upon rates, terms, and conditions for [RMP's] provision of electric service to Kennecott[.]" and RMP "believes this replacement agreement [under the Settlement] is just, reasonable, and in the public interest."¹¹

⁸ RMP Reply Comments at 1.

⁹ Hr'g Tr. at 8:4-7.

¹⁰ *Id.* at 9:11-13.

¹¹ *Id.* at 12:6-12.

Finally, both OCS and DPU testified that the terms of the new ESA are just, reasonable, and in the public interest.

DISCUSSION, FINDINGS, AND CONCLUSIONS

Settlements of matters before the PSC are statutorily encouraged. To approve a settlement, the PSC must consider the interests of the public and other affected persons and find the settlement is just and reasonable in result.¹²

Here, the Settlement is the product of mutual negotiation, and no party has presented testimony or evidence opposing the Settlement. Kennecott states in the Application that it and RMP “[had] [. . .] engaged in lengthy negotiations regarding new rates, terms, and conditions for the provision of electric service by RMP to Kennecott beyond the expiration of the term of the 2016 ESA [and] those negotiations ha[d] not resulted in an agreement between the parties and negotiations [were] at an impasse.”¹³ During the months between the Application and the Settlement, Kennecott and RMP continued in “privileged and confidential”¹⁴ negotiations.

The PSC appreciates the Parties’ efforts to reach the Settlement considering the complex and prolonged negotiations. The PSC further observes that both DPU and OCS support approval of the Settlement as just, reasonable, and in the public interest. Based on the PSC’s review of the Settlement, the Parties’ testimony in support of the

¹² See Utah Code Ann. § 54-7-1.

¹³ Application at 4, ¶¶17-18.

¹⁴ Settlement at 2, ¶7.

Settlement, as well as the testimony and endorsement of DPU and OCS, and there being no opposition, we find the Settlement is in the public interest and conclude it is just and reasonable in result.

ORDER

For the foregoing reasons, the PSC approves the Settlement.

DATED at Salt Lake City, Utah, May 23, 2025.

/s/ Jerry D. Fenn, Chair

/s/ David R. Clark, Commissioner

/s/ John S. Harvey, Ph.D., Commissioner

Attest:

/s/ Gary L. Widerburg
PSC Secretary
DW#339912

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 30 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 May 23, 2025, a true and correct copy of the foregoing was served upon the following as indicated below:

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