

-BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH-

In the Matter of the Application of
PacifiCorp for Approval of an Electric
Service Agreement for Nucor Steel

)
)
)
)
)

DOCKET NO. 06-035-147

ORDER APPROVING AN ELECTRIC
SERVICE AGREEMENT

ISSUED: December 14, 2006

SUMMARY

By this Order, the Commission approves an Electric Service Agreement between PacifiCorp and Nucor Steel. The Electric Service Agreement specifies the rates, terms and conditions under which PacifiCorp will provide electric service to Nucor Steel for a term spanning January 1, 2007, through December 31, 2013.

By The Commission:

On November 17, 2006, PacifiCorp, d/b/a Rocky Mountain Power, filed an application for approval of an Electric Service Agreement (“Agreement”) with Nucor Steel (Nucor). An existing service agreement between these parties is set to expire December 31, 2006. On December 8, 2006, the Committee of Consumer Services (“Committee”) and the Division of Public Utilities (“Division”) filed the results of their reviews and analyses of the Agreement. After notice, the Commission held a hearing concerning the Agreement on December 12, 2006. At the hearing, PacifiCorp, Nucor, the Division, and the Committee appeared and presented witnesses in support of approval of the Agreement, subject to the recommendations made by the Division and the Committee. No party appeared in opposition to approval of the Agreement.

The Agreement provides the terms and conditions through which PacifiCorp will provide electric service to Nucor’s facilities located in Plymouth, Utah. The Agreement provides for a three stage period in which the rates Nucor pays for electric service will increase to

approximate, by 2009, Pacificorp's Schedule 9 service rates. Beginning in 2009 and through the remaining term of the Agreement, Nucor's rates will then be adjusted by the same percentage change, either increase or decrease, as any prior-year Commission approved jurisdictional average rate changes, subject to an indexed cap. In comparison to the existing service agreement, the Agreement also increases the frequency and durations of possible service interruptions to Nucor as well as increasing the overall total hours of annual interruption possible. The Agreement also increases the credit which Nucor may receive in agreeing to operate under the new service terms with the curtailment possibilities contained in the Agreement. The operating reserve and curtailment credit Nucor will receive is also subject to the Agreement's index provisions.

Both the Division and the Committee conclude that the overall terms of the Agreement are reasonable and the Agreement may be approved by the Commission as just and reasonable. Both believe that the changes in the rates to be paid by Nucor represent significant movement to appropriate compensation for the costs incurred to serve the customer. They also believe that the methodology to establish the value of the credits to be made available to Nucor, in agreeing to operate under the terms of the Agreement, is appropriate and has reached a reasonable approximation of the reserve and curtailment value. The Division identified four conditions which it recommended should be included in any approval of the Agreement. They are: that Pacificorp be required to provide cost of service studies that include Nucor in all future rate change proceedings during the term of the Agreement; that the interruption and curtailment feature of the Agreement be considered a system resource and be allocated as such; that

Pacificorp file with the Commission and make available to State regulatory agencies any future amendments to the Agreement, including those to any exhibits or appendices; and that the Commission explicitly state that the terms and conditions of the Agreement remain subject to future Commission modification. The Division, also, initially expressed concerns that the seven year length of the Agreement was longer than the five year term which the Division had traditionally considered reasonable. However, in light of the benefits obtainable through utility operations under the Agreement and the changes in compensation the Agreement makes, the Division ultimately concluded that the seven year term of the Agreement may be accepted. At the hearing on the Agreement, Pacificorp acquiesced to all of the Division's conditions for approval.

In considering the information presented and the recommendations made, we agree with the parties' positions supporting approval of the Agreement. Based upon the foregoing, we find and conclude that the rates, terms and conditions of the Agreement are just and reasonable and it is in the public interest to approve the Agreement. We do not include the order language, concerning future Commission ordered modification to the Agreement, requested by the Division. We conclude that such abilities are part of our regulatory authority and jurisdiction and we need not restate them, even where the private parties' negotiations have seemingly attempted to limit our authority. We question whether we may even agree to or approve private parties' efforts to avoid or thwart the powers and responsibilities given to the Commission. *C.f., Stewart v. Public Service Commission*, 885 P.2d 759, 776-777 (Utah 1994) (Statute unconstitutionally delegated to private party governmental power that could be used to further private interests contrary to public interests.).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The Electric Service Agreement between Pacificorp and Nucor Steel, submitted November 17, 2006, is approved. Service to Nucor will be considered a system resource and will be allocated as such.

2. It is further ordered that Pacificorp will include Nucor's service in future cost of service studies.

3. Pacificorp will provide information concerning amendments to the Electric Service Agreement as described in the Division of Public Utilities' December 8, 2006, Memorandum.

DATED at Salt Lake City, Utah, this 14th day of December, 2006.

/s/ Ric Campbell, Chairman

/s/ Ted Boyer, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard,
Commission Secretary
G#51751