

DECISION MEMORANDUM

**TO: COMMISSIONER KJELLANDER
COMMISSIONER SMITH
COMMISSIONER HANSEN
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL**

FROM: SCOTT WOODBURY

DATE: MAY 16, 2003

**RE: CASE NO. PAC-E-01-16 (PacifiCorp)
ELECTRIC SERVICE AGREEMENT—MONSANTO (Soda Springs)**

On December 10, 2001, PacifiCorp dba Utah Power & Light Company (PacifiCorp; Company) filed an Application with the Idaho Public Utilities Commission (Commission) regarding supply of electric service to Monsanto Company (Monsanto). Monsanto's Soda Springs facility produces elemental phosphorous and is PacifiCorp's largest Idaho customer with an electric load of over 200 megawatts. PacifiCorp and Monsanto are engaged in litigation in federal District Court regarding the contract termination date of a Commission approved 1995 Power Supply Agreement (Agreement). Reference Case No. UPL-E-95-4, Order No. 26282.

The Commission by Order No. 28918 issued December 21, 2001, denied the Company's interim rate request. As reflected in the Commission's Order No. 28918, the procedure and process adopted by the Commission in this case was to establish a permanent rate going forward for Monsanto. A true-up mechanism retroactive to the termination date of the existing Agreement as determined by the federal District Court will be used to adjust the difference between the existing rate and the new rate.

On January 27, 2003, the Commission issued final Order No. 29157 in Case No. PAC-E-01-16 deciding relevant contract and rate issues for a new service agreement. As reflected in the Commission's Order, "the Commission's resolution of issues, while determinative, is not in lieu of a new service agreement which the Commission expects the parties to negotiate, finalize and file for approval."

On February 18, 2003, PacifiCorp filed a Petition for Reconsideration and Clarification of Order No. 29157. On March 14, 2003, the Commission issued Final Order On Reconsideration No. 29206 denying PacifiCorp's Petition for Reconsideration and providing clarification on some limited points. The parties were encouraged to negotiate in good faith and to submit a signed service agreement conforming with the Commission's Orders for Commission consideration and approval.

On May 13, 2003, an Electric Service Agreement between PacifiCorp and Monsanto was filed with the Commission. The parties contend that the Agreement complies with the terms of Commission Order Nos. 29157 and 29206.

Commission Staff has reviewed the submitted Electric Service Agreement between PacifiCorp and Monsanto and finds that it comports in all material respects with the rates and terms established and defined in the Commission's Orders in Case No. PAC-E-01-16. The Agreement by its terms is subject to the approval of the Commission. The submitted Agreement is effective January 1, 2003 and terminates on December 31, 2006. Staff recommends that the Commission approve the Electric Service Agreement without change or modification.

Commission Decision

PacifiCorp and Monsanto Company have submitted an Electric Service Agreement effective January 1, 2003 and terminating December 31, 2006, for retail electric service to the Monsanto Soda Springs Plant. The contract parties represent that the Agreement complies with the terms of Commission Order Nos. 29157 and 29206 in Case No. PAC-E-01-16. Staff has reviewed the Agreement and agrees. Staff recommends that the Agreement be approved pursuant to Commission Order. Does the Commission agree?

Scott Woodbury

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