

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF THE APPLICATION )**  
**OF PACIFICORP DBA UTAH POWER & ) CASE NO. PAC-E-05-11**  
**LIGHT COMPANY FOR APPROVAL OF AN )**  
**ELECTRIC SERVICE AGREEMENT WITH )**  
**NU-WEST INDUSTRIES ) ORDER NO. 29940**  
**)**

---

On December 2, 2005, PacifiCorp dba Utah Power & Light Company (PacifiCorp; Company) filed an Application with the Idaho Public Utilities Commission (Commission) requesting approval of an Electric Service Agreement (Agreement) with Nu-West Industries (Nu-West) dated October 31, 2005. The Agreement replaces an Electric Service Agreement (Prior Agreement) dated December 10, 2001, approved by the Commission in Case No. PAC-E-01-17. The Commission in this Order approves the submitted Agreement.

Nu-West is engaged in the production of phosphate fertilizer at facilities located in Soda Springs, Idaho. The Prior Agreement governing electric service to Nu-West terminates on December 31, 2005. The submitted Agreement will become effective January 1, 2006, subject to approval by the Commission, and will terminate on December 31, 2010.

In compliance with Commission Order No. 29833 approving the Stipulation in Case No. PAC-E-05-1, the Company on October 26, 2005 submitted Revised Tariff Sheet No. 400.2, reflecting new rates for Nu-West pursuant to the Stipulation. The Company requests an effective date of January 1, 2006.

As reflected in Section 4 of the Agreement, the following monthly charges will apply to Nu-West:

**MONTHLY CHARGES**

		<u><b>May-October</b></u>	<u><b>November-April</b></u>
Customer Charge	\$ Per Month	\$282.89	\$282.89
Demand Charge	\$ Per kW-Month	\$ 11.19	\$ 9.03
Energy Charge	\$ Per MWh		
(HLH)	Monday – Friday	\$ 23.00	\$ 19.22
	HE0800-HE2300 MPT		
(LLH)	All other hours and holidays	\$ 17.33	\$ 17.33

The demand and energy charges identified in the Agreement are to be uniformly adjusted semi-annually effective July 1, 2006 and January 1, 2006 and each July 1 and January 1 thereafter, so that they equal the tariff rates. Agreement Section 4.2.

Section 8.1 of the Agreement provides that PacifiCorp may terminate the Agreement if the Order approving the Agreement does not provide for the direct assignment of the revenues and costs from the Agreement to the Idaho jurisdiction for ratemaking purposes.

Section 8.3 of the Agreement provides that the Commission has the authority to modify the rates for service under the Agreement under the same standard that applies to tariff customers generally. Commission authorized tariff rate changes, including surcharges or credits that apply to tariff customers generally, will also apply to service under the Agreement. Accordingly, the Company requests that, except as provided in Section 4.2 of the Agreement, the Order approving the Agreement include an acknowledgement that rates for service to Nu-West are subject to modification by the Commission under the same standard that applies to tariff customers generally.

On December 6, 2005, the Commission issued Notices of Application and Modified Procedure in Case No. PAC-E-05-11. The deadline for filing written comments was December 16, 2005. Comments were filed by Commission Staff and Gerald Fleischman of Boise, Idaho.

Staff notes that the proposed rates for service to Nu-West comply with the approved Stipulation and the Commission's Order No. 29833 in Case No. PAC-E-05-1. Staff notes that the proposed rates represent a 1.7% increase over rates that expire December 31, 2005. Staff recommends that the Commission approve the proposed rates and charges.

As reflected in the contract, Staff notes that the Commission retains full jurisdiction over Nu-West contract rates and charges under the Tariff Standard. Proposed changes to Agreement Section 4.2 eliminate the Prior Agreement annual rate adjustment in favor of a semi-annual adjustment. Staff believes this is an improvement over the Prior Agreement and recommends approval. Staff notes that electric service Schedule 400, Sheet 400.2 still includes a reference to "annual adjustments." Staff and the Company agree that this language should be revised to reflect the proposed change. Staff recommends that the Company be directed to file a separate tariff sheet for Nu-West each time tariff rates change and that the reference to "annual adjustment" be changed to "semi-annual adjustments." Staff supports continued use of

previously approved Prior Agreement language that treats Nu-West as a situs customer for purposes of jurisdictional allocation.

Mr. Fleischman in his comments notes that it is interesting in this day of expectations of increasing demand for electric power and knowing that two of the resources that can supply this power, coal and natural gas, especially natural gas, are going to climb in price, that PacifiCorp is offering to sell power to Nu-West for 3.8¢/kWh on the high end. This, Mr. Fleischman contends, is an extremely low price, especially compared to irrigation, residential and small commercial rates. Mr. Fleischman contends that if Nu-West cannot compete using rates that are justifiable on a cost basis, that is residential and small commercial rate minus the cost savings to a large customer, then perhaps this form of phosphate mining cannot be justified. Make that the price, Mr. Fleischman recommends, and see what happens. Mr. Fleischman contends that incentives are needed for companies to improve energy use and develop new technologies to increase electric energy productivity.

#### **COMMISSION FINDINGS**

The Commission has reviewed the filings of record in Case No. PAC-E-05-11 including the comments and recommendations of Commission Staff and Mr. Fleischman.

The Commission finds that the proposed rates and charges set forth in the PacifiCorp/Nu-West Agreement are consistent with the Commission's Order No. 29833 in Case No. PAC-E-05-1. The contract rates and charges set forth in the Agreement, we find, are adjustable by the Commission under the Tariff Standard. The Commission notes that PacifiCorp intends to file an avoided cost case in April 2006. We intend at that time to look at the cost-of-service related to Nu-West. The Commission finds it reasonable to treat Nu-West as a situs customer for purposes of jurisdictional allocation. We find it reasonable to approve the Agreement for an effective date of January 1, 2006. We also find it reasonable that a separate tariff sheet be utilized for service to Nu-West and direct the Company to file a separate tariff sheet conforming to the Agreement, i.e., "semi-annual adjustments," and our Order.

#### **CONCLUSIONS OF LAW**

The Idaho Public Utilities Commission has jurisdiction over PacifiCorp dba Utah Power & Light Company, an electric utility, pursuant to Title 61 of the Idaho Code and the Commission's Rules of Procedure, IDAPA 31.01.01.000 *et seq.*

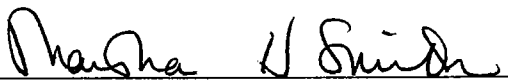
## ORDER

In consideration of the foregoing and as more particularly described above, IT IS HEREBY ORDERED and the Commission does hereby approve PacifiCorp's Electric Service Agreement with Nu-West Industries dated October 31, 2005 for an effective date of January 1, 2006. The Company is directed to file a conforming and separate tariff sheet for Nu-West.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

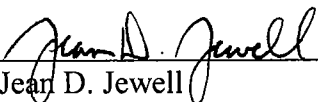
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 30<sup>th</sup> day of December 2005.

  
PAUL KJELLANDER, PRESIDENT

  
MARSHA H. SMITH, COMMISSIONER

  
DENNIS S. HANSEN, COMMISSIONER

ATTEST:

  
Jean D. Jewell  
Commission Secretary

bls/N:PAC-E-05-11\_sw