



October 8, 2010

VIA HAND DELIVERY

Jean D. Jewell
Commission Secretary
Idaho Public Utilities Commission
472 W. Washington
Boise, ID 83702

**Re: Case No. PAC-E-10-07
Rocky Mountain Power's Response to Monsanto's Motion to Dismiss or Strike
Testimony**

Dear Ms. Jewell:

Please find enclosed for filing an original and (7) seven copies of Rocky Mountain Power's response to Monsanto's Motion to Dismiss or Strike Testimony.

All formal correspondence regarding this supplemental testimony should be addressed to:

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Communications regarding discovery matters, including data requests issued to Rocky Mountain Power, should be addressed to the following:

By E-mail (preferred): datarequest@pacificorp.com

By regular mail: Data Request Response Center
PacifiCorp
825 NE Multnomah St., Suite 2000
Portland, OR 97232

Informal inquiries may be directed to Ted Weston, Idaho Regulatory Manager at (801) 220-2963.

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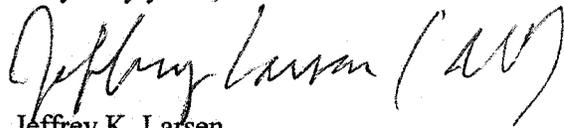
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IDAHO PUBLIC
UTILITIES COMMISSION

Idaho Public Utilities Commission

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Very truly yours,

A handwritten signature in black ink, appearing to read "Jeffrey K. Larsen" followed by a circled "AK" or similar initials.

Jeffrey K. Larsen
Vice President, Regulation

cc: Service List

Enclosures

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Attorneys for Rocky Mountain Power

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION) CASE NO. PAC-E-10-07
OF ROCKY MOUNTAIN POWER FOR)
APPROVAL OF CHANGES TO ITS ELECTRIC)
SERVICE SCHEDULES AND A PRICE)
INCREASE OF \$27.7 MILLION, OR)
APPROXIMATELY 13.7 PERCENT)

**ROCKY MOUNTAIN POWER'S RESPONSE
TO MONSANTO'S MOTION TO DISMISS**

Pursuant to IDAPA Rule 31.01.01.057, PacifiCorp, dba Rocky Mountain Power (the "Company"), through its attorneys, hereby responds to the MOTION TO DISMISS OR STRIKE TESTIMONY ("Motion") filed by Monsanto Company ("Monsanto") October 1, 2010.

I. Background

Rocky Mountain Power effectively has two commercial arrangements with Monsanto within the Electric Service Agreement between PacifiCorp and Monsanto

Company ("ESA"), one is the provision of retail electric service to Monsanto, and the second is a bilateral agreement whereby the Company procures and Monsanto provides curtailment products for values established by the ESA. The relationship with Monsanto is set forth in and governed by the ESA, which expires December 31, 2010.

Absent the Company requesting a change to its currently authorized tariffs and the Commission authorizing a change in the tariffs, the regulated retail service rates governed by the Commission under Electric Service Schedule 400 would continue to be in effect until changed by Commission order. The Company filed with the Commission May 28, 2010, its application for approval of changes to its electric service schedules and a price increase of \$27.7 million, or approximately 13.7 percent ("Application") to reset the tariff rates charged to all retail customers, including Monsanto.

Prior to filing of the Application, the Company met numerous times with Monsanto to discuss the second component of the commercial arrangement with Monsanto on valuation of the curtailment products and the terms and conditions of the bilateral contract arrangements that would be in place after the existing contract related to these products expires December 31, 2010. Due to the lack of progress in settlement discussions to reach a resolution on the valuation of the curtailment products, the Company filed Supplemental Testimony of Paul H. Clements ("Supplemental Testimony") in Case No. PACE-E-10-07 outlining the issue and Company's valuation recommendation with the intent that the Commission would resolve the issue prior to the expiration of the ESA on December 31, 2010.

Monsanto is now seeking to strike the Supplemental Testimony or dismiss the case altogether, eliminating an impartial forum to resolve the question of valuation prior

to the expiration of the ESA. Absent a negotiated agreement between Monsanto and the Company or a finding by the Commission, neither party is bound by the provisions of the ESA related to curtailment products past December 31, 2010.

Rocky Mountain Power entered into discussions in good faith with Monsanto very early in the year to establish a new commercial arrangement for January 1, 2011 and beyond. The Company met with Monsanto on March 18, 2010, to discuss the fact that the existing agreement will terminate effective December 31, 2010, and provided written notice to that effect consistent with the ESA terms. The Company and Monsanto subsequently met on May 25, 2010, in Salt Lake City, and on June 9, 2010, July 13, 2010, August 26, 2010, September 23, 2010, in St. Louis. At the September 23rd meeting, the Company informed Monsanto of its intent to file the Supplemental Testimony as a backstop on the issue of the curtailment valuation for the Commission to resolve in the event that an agreement could not be reached.

Prior to the decision to file the Supplemental Testimony and the September 23rd discussion with Monsanto, the Company had sought advice from the Idaho Public Utilities Commission Staff ("Staff") on their preference in administratively dealing with the issue if it were placed before the Commission. Staff suggested that the Company file supplemental testimony on the issue rather than file it as a separate matter in a new case.

While Monsanto may or may not agree with the valuations set forth in the Supplemental Testimony, the fact that the Company filed the Supplemental Testimony should not be a "surprise" to anyone. If the Commission chooses to not address the curtailment valuation, then the Company's Application should proceed on the ordered schedule and establish the retail tariff rate based on cost of service for Monsanto. The

curtailment credit referenced in Schedule 400 will be zero due to the expiration of the contract. As of January 1, 2011, no agreement for curtailment products will exist between Monsanto and the Company unless a mutual agreement is reached before then.

ARGUMENT

I. **The Application Should Not Be Dismissed Because It Meets the Requirements of Rule 121 and Complies with the Order (defined below).**

The Company's Application, including the proposed revisions to Electric Service Schedule No. 400, is complete and includes the information required under Rule 121.01.a. which states, in part:

Applications by any public utility to increase, decrease or change any rate, fare, toll, rental or charge or any classification, contract, practice, rule or regulation resulting in any such increase, decrease or change must include the following data: a. an exhibit showing in full each proposed change in rates, tolls, rentals, charges ...

ID ADC § 121.01

Specifically, the proposed Schedule No. 400 in the Application reflects the current revenue requirement and cost of service pertaining to Monsanto. Proposed Schedule No. 400 of the Application specifically includes the proposed tariff-based-rate that Monsanto would be paying once new rates go into effect. This recognizes the Commission's "transition of Monsanto from contract to tariff standard customer" as noted by the Commission in its Order Number 30917 in Case No. PAC-E-06-09 ("Order"). Contrary to Monsanto's false representation that the Company ignored the Commission's direction, Schedule No. 400 even "addresses ... interruptible product

valuation” which the Commission ordered¹ parties to address, as follows: “Interruptible Demand Charge: Firm Demand charge minus Interruptible Credit.”

Curtailed products and their value are separate commercial arrangements governed by contracts that customers like Monsanto may participate in. They are market driven products that the Company purchases at a rate reflecting their value. The value for such products has changed and the Company has calculated that the rate will be significantly lower from the current rate.

Proposed Schedule No. 400 purposefully referenced the value for interruptible services broadly so that it could accommodate and reflect changes to the terms of the contracts, including price, as old contracts expire and new ones are entered into. The “interruptible demand charge” is equal to the Firm Demand Charge minus the “Interruptible Credit”. The Interruptible Credit is whatever is provided for by contract. If there is no contract in place, the Interruptible Credit would be zero. In addition, the broad reference also accommodates the differences in the time periods used to set retail rates in general rate cases relative to the time period used for valuation of interruptible services. For example, this case was filed May 28, 2010 using a historical test year ending December 31, 2009, with known and measurable changes through December 31, 2010. What was known and measurable and in effect through the end of the test period is the current ESA which won’t expire until December 31, 2010.

By broadly referencing the value for interruptible services, Schedule No. 400 allows the retail rate set in the ESA to continue under tariff through the expiration of the ESA. Currently the parties don’t know whether there will be a new contract for interruptible services with Monsanto, but any new contract that is reached will be beyond

¹ Order, p. 9

the test period of the Application. Such new contract will reflect the current market conditions that will dictate the price to be paid for interruptible services over the term of a new contract. Assuming the Company and Monsanto execute another contract in January 2011, it will not be necessary to amend Schedule 400 to account for the new value for interruptible services. If the Company and Monsanto do not execute another contract in January 2011, it will also not be necessary to amend Schedule 400 because there will be no "Interruptible Credit" to be netted against the Firm Demand Charge referenced in Schedule 400. Regardless, all other customers will not be harmed because the actual expenses for power costs incurred in 2011 will be trued-up on a historical basis through the energy cost adjustment mechanism (ECAM). Given that the Application complies with both Rule 121 and the Order, the Commission should deny Monsanto's Motion to Dismiss or Strike Testimony.

II. The Supplemental Testimony of Paul H. Clements Should Not Be Stricken Because the Company Presented Monsanto With Its Calculations for Valuation of Interruptible Services on Numerous Occasions and in Advance of Filing Its Application.

The Company provided Monsanto notice of intent to terminate the ESA at its first meeting with Monsanto on March 18, 2010, well in advance of the 180 days specified in the ESA. Subsequent to that meeting, the Company and Monsanto met on five separate occasions. At the March 18, 2010 meeting and during the subsequent meetings, calculations for the valuation of interruptible services were discussed as part of the effort to negotiate a new contract upon the expiration of the ESA on December 31, 2010. The analysis and economic value for interruptible services has been the topic of information exchange, discussions and negotiations for approximately half a year. The Company did not include direct testimony to support its valuation of interruptible services in its

Application because it wanted to give the parties the opportunity to negotiate and reach an agreement. Monsanto was both aware of the Company's position on value and its intent to file the Supplemental Testimony if a settlement could not be reached. Therefore, the Supplemental Testimony should not be stricken.

III. Paul H. Clements' Supplemental Testimony is Necessary to Avoid the Overpayment of Interruptible Credits to the Detriment of Customers.

The Company still hopes that an agreement on purchasing curtailment products from Monsanto can be reached. If the parties are not able to reach an agreement, Monsanto should pay cost of service based rates as determined by the Commission the same as all other customers. The Company adopts a "customer indifference" approach when valuing interruptible products offered by industrial customers. In other words, the Company seeks to pay industrial customers who can offer interruptible products the same price the Company would otherwise pay if it were to acquire those same products from other sources, such as the market or its own resources.

It is important to price curtailment products that industrial customers provide consistent with the price the Company would pay to acquire the same product from other sources because all customers are allocated their proportionate share of prudently incurred costs by the Company. The price paid to industrial customers for interruptible products is included in net power costs which are allocated on a system basis to all customers. If the Company pays industrial customers more for the interruptible products than it would otherwise incur acquiring those same products from another source, all customers would be paying more for energy and would be subsidizing the industrial customers who provide these products.

Therefore, in order to maintain fairness to all customers, the price paid to industrial customers, and in this case to Monsanto, for interruptible products should be no greater than the amount the Company would incur if it were to acquire those same products from the next lowest cost available resource. The Company uses this no harm to customer principle in its approach to value interruptible products provided by industrial customers. With this approach industrial customers are fairly compensated for providing these products, and other customers are indifferent as to whether the products are provided by the industrial customer or from other resources.

IV. The ESA Expires December 31, 2010 and the Obligation to Purchase Interruptible Services From Monsanto Expires With It.

The Company is required to provide electric service to Monsanto at cost of service based rates under the regulatory guidelines and purview of the Commission. In this case, there is a separate transaction between the Company and Monsanto that is governed by the ESA. The Commission authorized the ESA after reviewing the contract and finding that it was reasonable.² The Company is responding to Monsanto's attempt to strong arm the Company into continuing to pay the same price for interruptible services beyond December 31, 2010. The Commission should not allow Monsanto to use heavy handed tactics to get its way.

After December 31, 2010, the Company is under no contractual obligation to continue to purchase interruptible products from Monsanto. In fact, given what the Company's models are showing the value for interruptible services will be in 2011, it would be unreasonable to require the Company to continue to pay the same amount for the curtailment products.

² Order No. 30482 in Case No. PAC-E-07-05.

While the parties have negotiated extensively, a new agreement for interruptible services between the Company and Monsanto has not been reached. If the parties are able to agree on the appropriate fair value for curtailment products, the Company will purchase those products from Monsanto under a new agreement. At that time, the Commission will have the opportunity to review the terms of the new contract for reasonableness. Unless a new contract is reached before December 31, 2010, the Company will have no right to curtail Monsanto and Monsanto will have no claim for curtailment credits, or other value or compensation for interruptible products it currently provides the Company.

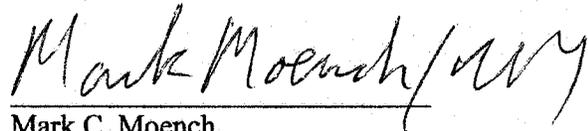
V. **The Company Offers to Extend the Filing Deadline to Respond to the Supplemental Testimony of Paul H. Clements.**

Given that Commission staff and other intervening parties have not been involved in the discussions, the Company proposes an extension to the current schedule on this issue to allow parties ample opportunity to file testimony responding Clements' Supplemental Testimony. The Company proposes that the deadline to respond to the Supplemental Testimony of Paul H. Clements be extended to November 10, 2010. The Company proposed to provide its rebuttal response to the November 10, 2010, filing of the parties by November 24, 2010. The Company also proposes that data requests pertaining to the Supplemental Testimony or parties responses to the issue be responded within 7 calendar days of receipt of such requests. The Company respectfully requests that the rest of the schedule remain as ordered by the Commission.

CONCLUSION

Based on the foregoing, the Company respectfully requests that the Commission deny Monsanto's Motion to Dismiss or Strike Testimony.

Respectfully submitted this 8th day of October 2010.

A handwritten signature in black ink, appearing to read "Mark Moench/Yvonne Hogle". The signature is written in a cursive style and is positioned above a horizontal line.

Mark C. Moench
Yvonne Hogle
Rocky Mountain Power

Paul J. Hickey
Hickey & Evans, LLP

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of October, 2010, I caused to be served via E-mail, a true and correct copy of Rocky Mountain Power's Response to Monsanto's Motion to Dismiss in PAC-E-10-07 to the following:

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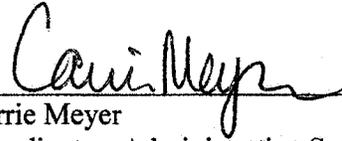
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