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RECEIVED
2011 MAR 17 AM 8:40
IDAHO PUBLIC UTILITIES COMMISSION

Jean D. Jewell, Secretary
Idaho Public Utilities Commission
P.O. Box 83720
Boise, Idaho 83720-0074

Re: Case No. PAC-E-10-07

Dear Mrs. Jewell

Please find enclosed for filing the original and seven copies of Monsanto Company *Petition to Clarify Order No. 32196 and Supporting Affidavit of Randall C. Budge.*

Thank you for your assistance.

Sincerely,


RANDALL C. BUDGE

RCB:rr

Enclosures

cc: Service List (w/encls.)

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RECEIVED
2011 MAR 17 AM 8:40
IDAHO PUBLIC
UTILITIES COMMISSION

Attorneys for Intervenor Monsanto Company

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION 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)
_____)

Case No. PAC-E-10-07

PETITION TO CLARIFY ORDER NO. 32196

COMES NOW Intervenor, Monsanto Company (“Monsanto”), through counsel, and hereby petitions the Idaho Public Utilities Commission (“Commission”) pursuant to Rule 325 of the Rules of Procedure, IDAPA 31.01.01, to clarify Order No. 32196 issued February 28, 2011 (“the Order”) as it relates to certain terms of Monsanto’s Electric Service Agreement (“ESA”) with PacifiCorp, dba Rocky Mountain Power (“RMP”; “Company”). Specifically, Monsanto requests clarification:

(1) That the terms of Monsanto’s new five-year ESA and Tariff Schedule 400 remain the same as the prior ESA (Exhibit 251) and Tariff Schedule 400, except for the changes in the firm and interruptible credit rates set forth in the Order.

(2) Whether the Interruptible Credit of \$8.74 per kW-month established by the Order applies to Monsanto’s full load in excess of the 9 MW of firm power and energy consistent with the previous Agreement; or, only applies to the first 162,000 kW of Interruptible Demand as the

Company now proposes.

(3) Whether the firm power and firm energy charge and Interruptible Credit remain fixed for the five-year term of the Agreement; or, whether one or both are subject to price adjustments during the five-year term of the ESA.

(4) Whether the index in ESA Exhibit B should be changed from "Dow Jones" to "Intercontinental Exchange ("ICE") Day-Ahead" and Exhibit "B-3" deleted as proposed by the Company.

This Petition is based upon the record and supporting Affidavit of Randall C. Budge filed herewith and the exhibits attached thereto.

INTRODUCTION

In this proceeding, neither the Company, Monsanto, Staff nor any other party proposed any changes to the terms or conditions of the current ESA between the Company and Monsanto, nor Tariff Schedule 400, except for the firm rate and interruptible credit for Monsanto's three Interruptible Products. Pursuant to the Order the Commission established a total Interruptible Product value of \$17.0 Million and stated: "The Commission expects the parties to craft an agreement that establishes a value for Monsanto's Interruptible Product that extends for a period of five years." *Order* at 67. Accordingly, Monsanto reasonably expected and anticipated the Company would provide a new ESA updated with respect to the dates, rate and interruptible credit, but otherwise containing the identical terms of the previous Contract, Exhibit 251.

However, the Company submitted its proposed ESA to Monsanto on March 2, 2011, which contains certain new and different terms in paragraphs 2.2 and 4.1.2 and has since submitted a new and different Tariff Schedule 400, neither of which comply with the Order. These new changes were never part of the Company's filing in this case nor any testimony or evidence presented at the hearing. In response, Monsanto proposed its ESA to the Company without change to the previous ESA except for the firm rate and interruptible credit which Monsanto believes is in compliance with the Order. However, the Company is not willing to accept Monsanto's proposed ESA and insists upon its new changes. Furthermore, the Company insists that if Monsanto does not sign the Company's proposed ESA that the Company will not

interrupt Monsanto, that Monsanto will not be provided any interruptible credit and instead will be billed for all power used at firm rates. *See, R. Budge Aff., Ex 1.*

Monsanto remains willing to execute an ESA which complies with the Order as clarified by the Commission as a result of this Petition. In the meantime it is Monsanto's intent to continue to provide all interruptible products to the Company as per the Order. Until such time as the Company executes a new ESA with Monsanto incorporating the terms of the Order and providing the clarifications requested by this Petition, the Commission should incorporate in Schedule 400 by reference the terms and conditions of the existing ESA to insure that Monsanto continues to receive the interruptible credits.

**THE COMPANY'S PROPOSED CHANGES TO THE ESA AND TARIFF
SCHEDULE NO. 400 SHOULD BE REJECTED**

The Company seems intent upon either: (1) imposing upon Monsanto its own creative interpretation of the Order and unilaterally modifying the terms and conditions of the previous ESA (Exhibit 251) by adding new terms and conditions not authorized by the Commission; or (2) converting Monsanto to a firm customer by refusing the Commission's directive to execute a new five-year contract to continue Monsanto as an interruptible customer as it always has been.

The ESA which the Company proposes purportedly in compliance with the Order changes the dates, the reference to the Company's name to "PacifiCorp" to "Rocky Mountain Power", and deleted certain language no longer relevant, to which Monsanto has no objection. *See, R. Budge Aff., Exs 1, 2, ESA ¶ 2.2, 4.1, 4.1.2.* However, the Company's proposed ESA includes three new changes and additions to ESA paragraphs 2.2 and 4.1.2 as follows:

(1) Paragraph 2.2: The following language was added at the end of the first sentence in paragraph 2.2: "Excluding the Interruptible Credit of \$8.74 per kW which shall remain fixed for the term of this Agreement." The effect of this change is to subject Monsanto's firm rates to adjustments but not Monsanto's Interruptible Credit to adjustments during the five-year term of the ESA.

(2) Paragraph 4.1.2: The Company added two new bullet points as follows:

- “For up to the 162,000 kW of Interruptible Demand:”
- “For the portion of Interruptible Demand that exceeds 162,000 kW: Firm Demand Charge.”

The effect of this change is to subject more of Monsanto's load to the firm demand charge than has ever been considered previously. This change was never requested by PacifiCorp until the proposed ESA of March 2, 2011, and was never brought up at anytime during the entire proceeding.

(3) Exhibits “B” and “B-3”: The Company proposed to change the index in ESA Exhibit B from “Dow Jones” to “Intercontinental Exchange (“ICE”) Day-Ahead” and to delete Exhibit “B-3”. The impact of this change is unknown but potentially problematic since Monsanto has subscribed to and relies upon the Dow Jones index to make buy-through decisions under the ESA. Monsanto is currently evaluating this proposed change to determine the effect and if none will withdraw this objection.

These new changes proposed by the Company were not a part of the Company’s original filing in this case nor any subsequent testimony or exhibits presented by the Company or any other party. As such they are clearly improper and contrary to the Order.

Monsanto submitted on March 9, 2011, its proposed ESA in redline format to show the changes made to the Company’s proposed ESA by deleting the Company’s new additions described above. *R. Budge Aff.*, ¶5, 6, *Exs. 3, 4*. Additionally, upon review of the existing Tariff Schedule 400, Monsanto believes that no changes are necessary and that it is in compliance with the Order as well as Monsanto’s proposed ESA. *R. Budge Aff.*, ¶5, *Ex. 5*.

The Company has rejected Monsanto’s proposed ESA and has submitted a new and different Tariff Schedule 400. Accordingly, Monsanto has filed this Petition to Clarify Order No. 32196 to resolve the disagreement between the parties over the terms of Monsanto’s Special Contract and provide direction concerning the implementation of the Order.

MONSANTO'S POSITION ON CLARIFICATION

Monsanto respectfully submits that the Commission should provide clarification, ruling as follows with respect to the issues submitted:

1. That except for the changes in the firm and interruptible credit rates as set forth in the Order, the terms of Monsanto's new five-year ESA with the Company and Tariff Schedule 400 should remain unchanged.

2. That the Interruptible Demand Charge of \$4.71 (\$13.45 firm rate less the credit of \$8.74) established in the Order should apply to Monsanto's full load in excess of the 9 MW of firm power and energy consistent with the previous Agreement.

3. That the firm power and energy charges and interruptible credit should remain fixed for the five-year terms of the Agreement; or, that both should be subject to adjustments during the five-year term of the ESA.

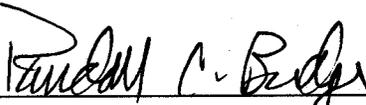
4. The Dow Jones index in Exhibit B should remain unchanged.

Monsanto remains willing to execute an ESA with the Company that complies with the Order as clarified by the Commission in response to this Petition and in the meantime will continue to provide interruptible products in the meantime per the Order and prior ESA. Anticipating that the Company may refuse to sign any ESA with Monsanto the Commission should order the Company to do so and until such time incorporate all terms of the approved ESA in Schedule 400 to provide certainty that Monsanto will continue to make available its interruptible products and receive the approved interruptible credit.

Oral argument is not requested by Monsanto on its Petition, but Monsanto is happy to present oral argument or further evidence to the Commission if desired.

RESPECTFULLY SUBMITTED this 15th day of March, 2011.

RACINE, OLSON, NYE, BUDGE &
BAILEY, CHARTERED

By  _____
RANDALL C. BUDGE

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 15th day of March, 2011, I served a true, correct and complete copy of the foregoing document, to each of the following, via the method so indicated:

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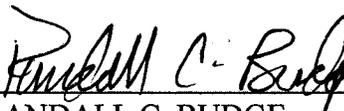
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