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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

**ANSWER TO ROCKY MOUNTAIN POWER'S PETITION FOR CLARIFICATION
AND RECONSIDERATION AND CROSS-PETITION FOR RECONSIDERATION**

COMES NOW Intervenor, Monsanto Company ("Monsanto"), through counsel, and pursuant to Rule 331 of the Rules of Procedure, IDAPA 31.01.01, hereby submits this *Answer To Rocky Mountain Power's Petition or Clarification and Cross-Petition For Reconsideration* ("Answer") to Rocky Mountain Power's ("RMP" or "Company") *Petition for Clarification And Reconsideration* filed herein on March 21, 2011 ("RMP's Petition").

COURSE OF PROCEEDING

On February 28, 2011, the Commission issued Order No. 32196 ("the Order"). On March 15, 2011, Monsanto filed its *Petition to Clarify Order No. 32196* ("Monsanto's Petition") pursuant to Rule 325 of the Rules of Procedure, together with *Supporting Affidavit of Randall C. Budge* with attached Exhibits 1-5. Monsanto's Petition identified four issues for clarification and respectfully requested that the Commission rule as follows:

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 per kW (\$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, specifically Sections 1.5 and 1.6.

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.

Issues 1 through 3 remain properly before the Commission for decision based upon Monsanto's and RMP's Petitions. Issue number 4, the Company's proposal to change the index in ESA Exhibit B from "Dow Jones" to "Intercontinental Exchange" ("ICE") day ahead and delete Exhibit "B-3" need not be decided by the Commission. Monsanto believes it can work out this index with the Company based upon the Company's representation that the ICE reporting service provides the same information as Dow Jones and is readily available without cost.

RMP's Petition asserts that the Order "is unclear, unreasonable, erroneous, not supported by the evidence or otherwise affected by errors of law," and seeks "clarification and reconsideration" of the Commission's Decisions that: (1) 27% of the Populus Terminal transmission line is not used and useful; (2) actual labor costs of \$993,515 should be disallowed; (3) all integration costs be disallowed; (4) the interruptible product valuation of credit for Monsanto should be \$17M and other related issues; (5) other errors affecting revenue requirement calculations; and (6) a return on common equity of 9.9% is reasonable. RMP Petition, p. 1-2.

INTRODUCTION

Monsanto's Answer only responds to pages 25-30 of RMP's Petition seeking clarification or in the alternative rehearing of issues regarding the Monsanto Contract. All other issues

presented by RMP's Petition have been clearly decided by the Commission based upon substantial and competent evidence in the record with the Company's Petition merely reiterating arguments previously made and rejected.

Monsanto's Answer will respond to pages 28-29 of RMP's Petition concerning: (1) translating the \$17M valuation into an Interruptible Credit rate which can then be used to determine the tariff Interruptible Demand Charge for Schedule 400; (2) the application of that Interruptible Demand Charge to Monsanto's load; and (3) potential refusal by the Company to execute a new ESA with Monsanto in an attempt to convert Monsanto to a firm rate customer only contrary to the Order, which can and should be easily remedied by incorporating the interruptible products in Tariff Schedule 400.

MONSANTO'S REPLY

1. Determination of the Interruptible Credit and Interruptible Demand Charge

In order to revise Schedule 400 to reflect the Commission's Order, the Commission must establish rates and not just simply order a valuation, so that Monsanto may be properly billed.

RMP notes in its Petition at page 28 that the Interruptible Credit of \$8.74 per kW is not specified in the Order. RMP is correct. The Commission's Order failed to show a rate for the Interruptible Credit. Monsanto asks that the Commission establish this rate in its clarification as \$8.74 per kW. See footnote 17 of RMP's Petition. Based on this credit, the Commission should then establish the Interruptible Demand Charge as \$4.71 per kW (\$13.45 Firm Demand charge less \$8.74 Interruptible Credit).

The \$8.74 is the correct Interruptible Credit rate because the \$17 million found in Order No. 32196 is premised on valuations of 162 MW. We agree with RMP that the valuation of Monsanto's products was indeed calculated on the basis of 162 MW, i.e., simply the rated sizes of just the three furnaces. It would be entirely inappropriate to use any denominator other than

162 MW for determining the Interruptible Credit rate since the \$17 million is a valuation based on 162 MW, and no other amount. Had the parties used any amount higher or lower than 162 MW in their analysis, the valuation would have been either correspondingly higher or lower. Furthermore, the Interruptible Credit rate can not be based on Monsanto's billing determinants as that amount is *greater* than 162 MW and would unjustly result in an artificially reduced credit which would be lower than the existing credit of \$8.33 per kW.

The important consideration the Commission must keep in mind in developing the Interruptible Credit rate is to maintain consistency between the numerator (expressed as millions of dollars) and the denominator (the size of product valued). This consistency is maintained when the \$17 million is divided by 162 MW, and then divided by 12 to come up with a monthly \$ per kW rate. Monsanto asks the Commission to establish an Interruptible Credit rate of \$8.74 per kW, and to further establish an Interruptible Demand Charge of \$4.71 per kW for Schedule 400.

2. Application of the Interruptible Demand Charge to Monsanto's Loads

RMP's Petition states at page 28 there is no evidence that the Interruptible Demand Charge applies to Monsanto's full load in excess of the 9 MW of firm power. In this instance, RMP is blatantly wrong. There is overwhelming evidence in this proceeding that Monsanto should pay firm demand charges only for the 9 MW of firm power, and that all load in excess of the 9 MW is interruptible power, and has been historically charged under the interruptible demand charge.

Ever since 2004, Monsanto has been served under Electric Service Agreements that

clearly identify that the first 9,000 kW of Measured Demand each month is “Firm Power” and that “Interruptible Power shall be the Measured Demand in any Billing Period in excess of the Firm Power” and up to the total contract demand of up to 215,000 kW. These definitions are found in Sections 1.5, 1.6 and 1.14 of the 2008 Agreement. These undisputed facts were stated repeatedly in prefiled testimony of Monsanto:

“[Monsanto] has a single agreement where 9 MW are billed at firm demand and energy charges, and the remainder of the load is billed at interruptible demand and energy charges.” Direct Testimony of Kathryn Iverson, page 8, November 1, 2010.

“Only a very small portion (9 MW) of Monsanto’s total 182 MW load is served under firm rates. The vast majority of Monsanto’s load is interruptible and is charged a lesser demand charge.” Direct Testimony of Brian Collins, page 2, November 1, 2010.

“Monsanto’s long-term plans are to continue to take service as an interruptible customer for our entire load, except for the 9 MW of firm power.” Direct Testimony of James Smith, page 2, December 22, 2010.

“The 2008 Agreement sets forth the definition of “firm” and “interruptible” power and energy in Sections 1.5 and 1.6. Specifically, it states that the first 9 megawatts are served at firm demand charges, and the remaining measured demand is served at the interruptible demand charge.” Direct Testimony of Kathryn Iverson, page 5, December 22, 2010.

“As I explained in my direct testimony, only 9 MW of Monsanto’s load is served at Firm Demand Charges. The remaining load is served under Interruptible Demand Charges, which, for confidential reasons, are not specified in the public version of Schedule 400.” Rebuttal Testimony of Kathryn Iverson, page 2, January 14, 2011.

The test year billing determinants used in this case showed 9 MW of firm load and roughly 171 MW of “non firm” load for Monsanto. (See Exhibit 55, page 6 of 6, with firm kW shown as 108,000 kW (9 MW per month) and non-firm kW shown as 2,051,216 kW (roughly 171 MW per month)).

As we explained earlier, the \$8.74 per kW is the correct Interruptible Credit since it is

based on 162 MW, i.e., the rating of simply the three furnaces. RMP now seeks for the first time to limit the application of Interruptible Demand Charge only to 162 MW each month despite the long-standing agreement that all load in excess of 9 MW is interruptible. This request should be denied by the Commission for several reasons.

First and foremost, this change to limit interruptible power to 162 MW flies in the face of both the Company's testimony and its statements during oral argument in front of this Commission. For example, Mr. Clements clearly testified on page 25 of his Supplemental Testimony filed in October 2010 that other than pricing, the terms of the contract should not change at this time. At page 22 of his rebuttal testimony, Mr. Clements stated, "The proposed contract values assume Monsanto will enter into a contract with terms and conditions equal to those found in the existing agreement and that Monsanto's load characteristics remain similar to historical patterns." (emphasis added) Furthermore, the Commission also noted in Order No. 32098 : "As per the stated willingness of PacifiCorp and Monsanto at oral argument, all other service terms in the 2008 Agreement shall remain unchanged." Page 5, emphasis added.

Second, the Company has been well aware that all loads in excess of the 9 MW would be charged the lesser demand charge. This is exactly how the agreement has worked since 2004 and RMP has never taken any issue with billing arrangement until now. In fact, this is the very reason why RMP's workpapers showed an existing interruptible credit of \$16.1 million in the Net Power Costs (the prior credit of \$8.33 per kW x 162,000 kW x 12 months), while Ms. Iverson showed on page 3 of her December 22, 2010 Direct testimony that based on the billing determinants of this case, Monsanto's prior credit was \$17,086,629 (\$8.33 x 2,051,216 kW of

Monsanto's non-firm load as shown in Exhibit 55), a difference of less than \$900,000. The Company has never previously raised any concerns regarding the fact that all power in excess of the 9 MW is interruptible, and thus billed at the Interruptible Demand Charge.

Third, it is entirely fair, just and reasonable if the application of the \$8.74 Interruptible Credit rate should result in more than \$17 million. For example, the interruptible billing determinants of this case were 2,051,216 kW-months (or roughly 171 MW each month). Applying \$8.74 to that billing determinant results in \$17.9 million, a difference of roughly the same \$900,000 shown above, which reflects the fact that all loads above 9 MW are indeed interruptible and thus deserving of being billed at the lesser demand charge.

Had RMP raised this issue in either negotiations or during the proceeding, Monsanto would have had the opportunity to explain how the auxiliary loads associated with the furnaces come down together with the furnaces during interruptions. RMP actually receives more than 162 MW of demand response from Monsanto on occasion and Monsanto should be compensated accordingly for this demand response. (The interruptible demand credit based on actual metered demand above 9 MW assures that Monsanto is not under or over compensated for demand response it actually provides.) Until the March 2, 2011 letter from RMP, long after the record was closed, the Commission and Monsanto were unaware that RMP had any problem with the fact that all loads above 9 MW are interruptible. Instead, RMP chose to mislead Monsanto and the Commission into believing that it sought no change in the terms of the 2008 Agreement, that is until the Commission presented its Order on February 28, 2011. While this could have been handled in the valuation process by raising the 162 MW upwards to reflect this auxiliary load, it

has always been handled instead through the agreement which provided for all loads except the 9 MW being classified as interruptible. RMP should have brought up this issue months ago if it had any concerns.

For these reasons, the Commission should reject any attempt by RMP to change the definitions of Firm and Interruptible Power in Monsanto's agreement.

3. Monsanto's ESA and Tariff Schedule 400.

It is noteworthy that neither Monsanto, the Company or Staff propose changes to any of the terms or conditions of Monsanto's three interruptible products, Tariff Schedule 400 or the current ESA between the Company and Monsanto, except for the firm rate and interruptible credit.

Since January 1, 2007, Monsanto's rates have been established in accordance with the Tariff Standard, Schedule 400. This occurred for the first time as a result of the Commission's Order No. 30197 dated December 18, 2006, in Case No. PAC-E-06-09 where the Commission stated at page 9 as follows:

"The transition of Monsanto from Contract to tariff standard customer, we find, will facilitate future rate adjustments and should serve to keep Monsanto's rates better aligned with its cost of service. We appreciate that the moving to a tariff-based rate Monsanto has given up some of the certainty provided in a contract-based rate structure. In so doing, however, we note that Monsanto was the last of PacifiCorp's contract customers to make the transition. While tariff rates may present Monsanto with new challenges, we perceive the regulatory result to be positive and one of greater equity. Under the submitted Agreement, Monsanto's future rates after January 1, 2008, will be adjusted using the same process as all other customers."

It is clear that the Commission in Order 30197 moving Monsanto to tariff-based rates was referring to both firm and interruptible rates and the pricing for both has been set forth on every Schedule 400. Paragraph 2.1 of the ESA (Exhibit 251) provides:

"After the Termination Date PacifiCorp shall continue to provide any electric service to Monsanto as specified in Idaho Electric Service Schedule No. 400 or its

successor then in effect until such time as the Commission establishes or approves other terms and conditions and prices.”

Paragraph 2.2 of the ESA provides that all charges and credits as specified in Schedule No. 400 or its successor are subject to adjustment “from any general rate case or other filing by PacifiCorp.” Since no party proposed any change to the terms of the ESA and Schedule No. 400 has always been subject to changes in both the firm and interruptible charges, the Order should be clarified to provide that both charges are subject to review and change in any future rate case.

Despite nearly 60 years of providing interruptible service to Monsanto, it appears the Company may now seek punitive or retaliatory action against Monsanto by refusing to sign a new Contract and asserting that the interruptible credit is contract rather than tariff-rate based. The Company may then refuse to take interruptions and bill Monsanto for all power at firm rates. This would deprive Monsanto of the interruptible credit ordered by the Commission and intentionally create a billing dispute.

While the Commission may not be able to force the Company to sign a new ESA, it can and should incorporate in Tariff Schedule 400 the terms of the interruptible products as contained in the ESA, in addition to the charges for both firm and interruptible power. This would not only render moot the need for a new signed ESA, but also preclude any Company effort to undermine the Commission’s Order and deprive Monsanto of its right to an interruptible rate and to receive an interruptible credit. This would be consistent with the Idaho Irrigation Load Control Program offered to Idaho irrigation customers under Tariff Schedule Nos. 72 and 72A.

The position asserted in RMP’s Petition that Monsanto’s firm rates should be subject to adjustment but the interruptible rate fixed for a five-year term is contrary to the position the Company has asserted in this case. In fact, the Company’s witness Clements acknowledged in his testimony the pricing should be subject to change in the next general rate case and that the Company was recommending no change in any of the contract terms other than price. In this regard, Clements testified in his Supplemental Testimony dated October 2011, page 25, lines 3-11 as follows:

“Q. How long should the pricing you are recommending be in effect?”

A. Absent an agreement between the Company and Monsanto on contract length, the Commission ordered pricing should be in effect until rates change in the context of the next general rate case or other appropriate docket properly before the Commission.

Q. Should other terms of the Contract change at this time?

A. No. The values recommended by the Company apply only if Monsanto provides the same interruptible products under the same terms and conditions as those found in the Contract, with the assumption of 800 hours of economic curtailment.”

As stated in its Petition to Clarify, Monsanto remains willing to execute an ESA which complies with the Order as clarified by the Commission and until such time will continue to make all interruptible products available to the Company as per the Order.

RESPECTFULLY SUBMITTED this 28th day of March, 2011.

RACINE, OLSON, NYE, BUDGE &
BAILEY, CHARTERED

By 
RANDALL C. BUDGE

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 28th 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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