

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)
OF PACIFICORP DBA ROCKY MOUNTAIN) **CASE NO. PAC-E-10-07**
POWER FOR APPROVAL OF CHANGES TO)
ITS ELECTRIC SERVICE SCHEDULES) **NOTICE OF**
) **FURTHER SCHEDULING**
)
) **NOTICE OF**
) **TECHNICAL HEARING**
) **(Economic Valuation of**
) **Monsanto Interruptible Products)**
)
) **ORDER NO. 32098**

On May 28, 2010, PacifiCorp dba Rocky Mountain Power (RMP; Company) filed an Application with the Commission for authority to change its electric service schedules to reflect a proposed revenue increase of \$27.7 million, or 13.7%. The rate case is scheduled for technical hearing beginning November 30, 2010. The current suspension period for the rate case expires December 28, 2010. Order No. 32001.

On September 30, 2010, the Company filed supplemental testimony with the Commission regarding the economic valuation of interruptible products (operating reserve, economic curtailment, and system integrity) offered by Monsanto Company and purchased by PacifiCorp. The Monsanto/PacifiCorp business relationship is currently defined by a 2008 Service Agreement (i.e., a contract) and electric tariff Schedule 400. The Service Agreement expires December 31, 2010.

On October 1, 2010, Monsanto filed a Motion to Dismiss the rate case or Strike the Supplemental Testimony of Paul H. Clements. On October 8, 2010, PacifiCorp and Commission Staff each filed Answers to Monsanto's Motion. PacifiCorp opposed Monsanto's Motions. Staff recommended that the issue presented by the supplemental testimony of Mr. Clements be moved to a new case. Monsanto and PacifiCorp each opposed Staff's recommendation.

On October 18, 2010, the Commission convened an oral argument to consider the Motion and the Answers. Order No. 32093. Appearing before the Commission and presenting oral argument were PacifiCorp represented by Paul J. Hickey, Monsanto Company represented

by Randall C. Budge, and Commission Staff represented by Scott D. Woodbury. Also in attendance but not participating was Ben Otto, attorney for Idaho Conservation League.

DISCUSSION AND COMMISSION FINDINGS

The Commission has reviewed PacifiCorp's supplemental testimony, Monsanto's Motion to Dismiss or Strike (and accompanying brief), and the related Answers of PacifiCorp and Commission Staff. We have also reviewed PacifiCorp's electric Schedule 400 (Monsanto), the 2008 Service Agreement between PacifiCorp and Monsanto, Order No. 30197 in Case No. PAC-E-06-09 (approving Monsanto's 2007 Agreement) and Order No. 30482 in Case No. PAC-E-07-05 (approving the 2008 Service Agreement).

The Commission thanks the parties for their presentations and response to Commission questions.

In Order No. 30197 we stated:

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 in moving to a tariff-based rate Monsanto has given up some of the certainty provided in a contract-based rate structure. In doing so, 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.

Included in the Agreement are three interruptible provisions that provide operational benefits to PacifiCorp. The products offered also provide Monsanto with a means of controlling its net energy price. We find the products to be priced at a level commensurate with the value they represent today. Monsanto contends that public disclosure of the interruptible demand credit will compromise its ability to compete in the world market for elemental phosphorus. We accept its certified representations as true and agree to maintain the confidentiality of that information.

The Commission also recognizes that the value of interruptible products furnished by Monsanto as well as Monsanto's cost of service will be important considerations in establishing the net rate to Monsanto in the future. **Consequently, we expect the parties to address interruptible product valuation in the context of a general rate case when Monsanto's cost of service is determined.**

Order No. 31097, p. 9 (emphasis added).

In moving Monsanto from a contract customer to a Schedule 400 tariff customer, we did so with the understanding that the general nature of electric service long provided to Monsanto by PacifiCorp (and its predecessors) would remain unchanged, i.e., a small amount of firm power and energy and a much larger amount of interruptible power and energy. Moving Monsanto from a contract customer to a tariff customer, we find, carried with it the continuing responsibility of PacifiCorp to negotiate and bargain in good faith. We find this to be a minimal standard of behavior, a standard that we expect of our regulated utilities in all business relations with their customers. PacifiCorp represents that “the analysis and economic value for interruptible services has been the topic of information, exchange, discussions, and negotiations for approximately half a year.” Answer [Response], p. 6. The Commission doubts that true negotiation can be conducted if the utility’s representative, as indicated at oral argument, has no authority to negotiate or bind the Company. Monsanto and PacifiCorp, as explained at the argument, have failed to reach agreement on terms for interruptible service beyond the contract termination date of the 2008 Agreement. Despite Mr. Budge’s representations to the contrary, the only recital of the interruptible credit amount is that set forth in the 2008 Agreement, and that expires December 31, 2010. Thus, it is necessary for this Commission to establish an interruptible credit value and terms of service beginning January 1, 2011, for Monsanto.

When the Commission stated “we expect the parties to address interruptible product valuation in the context of a general rate case when Monsanto’s cost of service is determined,” it was not a suggestion, it was a requirement. We are informed by Staff that PacifiCorp in its June 8, 2007 general rate case neglected to file interruptible product valuation testimony and had to be reminded by Monsanto on June 21, 2007, to do so. We find that PacifiCorp in this present rate case again failed to file testimony addressing interruptible product valuation. In its filed response to Monsanto’s Motion, the Company states, it “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 agreement.” Response, pp. 6-7.

In failing to file its interruptible product valuation testimony with its Application, we find that PacifiCorp has failed to comply with the prior Commission Order. Order No. 31097; *Idaho Code* § 61-406. We find that PacifiCorp’s late filing of an issue merely two weeks before the date for Staff/intervenors direct testimony will unacceptably disrupt the processing of the rate case and development of a proper decision record unless we adjust the schedule. We find also

that without adjustment the untimely filing of the new supplemental testimony may be adverse to the procedural rights of other parties who may wish to conduct discovery and submit testimony on this issue. PacifiCorp and Monsanto insist that the issue of the economic valuation of Monsanto's interruptible products be taken up and considered in the rate case docket. We accordingly find it reasonable and necessary to toll the existing suspension period and amend the scheduling of this rate case to allow the parties to fully address this issue, to investigate, to prepare direct testimony, and prepare cross-examination and rebuttal. In doing so, we reject Staff's recommendation to open a separate proceeding.

To establish a clean record for decision, we find it reasonable to consider the economic valuation of Monsanto's interruptible products separately from the rest of the Company's rate case. We direct Monsanto (and all parties who have addressed this issue in their October 14, 2010 prefile) to separate this issue out and re-file their direct testimony on all other issues no later than the close of business, November 1, 2010.

We accept the supplemental testimony of Mr. Clements as the Company's direct filing on this issue. In accepting Mr. Clements' testimony we reject Monsanto's argument that PacifiCorp should be precluded from advocating for any interruptible credit value less than the existing amount. Monsanto Brief, p. 7. We find that it does not serve the public interest or contribute to a reasoned decision process to restrict testimony on valuation. As the decision maker, we should hear arguments both for an increase and decrease in the credit amount. We find Monsanto's statements that it "had every reason to believe that no decrease in the interruptible value was being sought" (Brief, p. 3) and that "much to the surprise of Monsanto the Company in its supplemental testimony is proposing for the first time new methodologies, analysis and recommendations" (Brief, p. 3) to be disingenuous. The "front office" and "GRID" valuation methodologies presented by the Company in Mr. Clements' testimony are not "new" to Monsanto but are the same methodologies presented by the Company to Monsanto in the 2008 Agreement filings. Further, we find that on March 18, 2010, PacifiCorp provided Monsanto with notice of its intent to terminate the 2008 Agreement pursuant to the terms of the contract. PacifiCorp Answer, p. 6. This is undisputed. Both PacifiCorp and Monsanto are experienced and sophisticated in their business practices. We do not accept posturing to the contrary by either party.

We establish the following scheduling and technical hearing dates for the separated issue of the economic valuation of Monsanto's interruptible products.

December 22, 2010	Staff/Intervenor direct testimony prefile deadline
January 14, 2011	Rebuttal testimony prefile deadline
February 1 (2) , 2011	Technical hearing (economic valuation of Monsanto interruptible products) commencing at 9:30 a.m. in the Commission's Hearing Room, 472 W. Washington Street, Boise, Idaho

All testimony filings on this issue (including the supplemental testimony filing of Mr. Clements) should clearly state in the first page heading following witness identification "Economic Valuation of Monsanto Interruptible Products." Acknowledging the Company's stated ability to do so, data requests pertaining to the supplemental testimony are to be responded to by the Company within seven calendar days of receipt of such requests.

It is the Commission's intent to issue an interim order by December 28, 2010, establishing rates for all tariffs, save and except the interruptible credit portion of Monsanto's Schedule 400. Given the presentation of the evidence on this issue at this late date and the new schedule set out above, we find it reasonable to continue the existing interruptible credit that would otherwise expire by contract on December 31, 2010, until the matter is decided by the Commission. As per the stated willingness of PacifiCorp and Monsanto at oral argument, all other service terms in the 2008 Agreement shall remain unchanged.

Finally, we find it fair, just and reasonable to toll the suspension of the rate case for 61 days, so that the Commission can decide the valuation of interruptible products provided by Monsanto. Addressing this issue in the present rate case, we find, is administratively more efficient than opening a new case. As mentioned above, it is our intention to issue an interim rate order by December 28, 2010, so that those rates can be decided and implemented and then take up the interruptible issue. Tolling the present suspension period also avoids the possibility of two reconsideration periods – one during the processing of the interruptible issue.

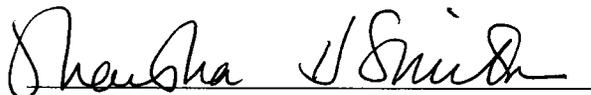
ORDER

In consideration of the foregoing and as more particularly described above IT IS HEREBY ORDERED and the Commission does hereby (1) deny the Motion of Monsanto to Dismiss or Strike; (2) toll the suspension period for the Company's rate case 61 days from October 28, 2010 to December 28, 2010; (3) continue the existing interruptible credit (and terms of service) under the Monsanto contract until February 28, 2011; (4) adopt the foregoing procedure, scheduling and hearing dates for the issue of economic valuation of Monsanto interruptible products; and (5) require Monsanto and all parties who have addressed the economic valuation of Monsanto interruptible products in their October 14, 2010 filings to separate this issue out and re-file their direct testimony on issues other than that no later than the close of business, November 1, 2010.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 22nd day of October 2010.



JIM D. KEMPTON, PRESIDENT



MARSHA H. SMITH, COMMISSIONER



MACK A. REDFORD, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

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