

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE APPLICATION)
OF ROCKY MOUNTAIN POWER FOR) CASE NO. PAC-E-12-03
AUTHORITY TO INCREASE RATES)
THROUGH THE ENERGY COST) ORDER NO. 32554
ADJUSTMENT MECHANISM (ECAM))**

On February 1, 2012, PacifiCorp dba Rocky Mountain Power (“Rocky Mountain” or “Company”) submitted its annual Energy Cost Adjustment Mechanism (“ECAM”) Application in accordance with *Idaho Code* §§ 61-502, 61-503 and Rule 52. On February 15, 2012, the Commission issued a Notice of Modified Procedure establishing a comment deadline of March 13, 2012.

On March 20, 2012, the Commission issued Order No. 32493 granting Monsanto Company’s (“Monsanto”) Petition to Intervene and Monsanto’s Motion to Extend the Comment Deadline until March 20, 2012. Comments were submitted by Commission Staff (“Staff”) and Monsanto, and Rocky Mountain submitted reply comments.

On March 30, 2012, the Commission issued Final Order No. 32507 approving Rocky Mountain Power’s ECAM Application with certain adjustments.¹ On April 20, 2012, Monsanto filed a timely Petition for Reconsideration. The Company filed an answer to Monsanto’s reconsideration petition.

After reviewing the record in this case, the Commission grants in part and denies in part Monsanto’s Petition for Reconsideration. As more fully outlined below, reconsideration is granted on the issues of load split percentage “line losses” and scheduling of future ECAM filings, and denied on the issue of “forced outage.”

BACKGROUND

A. Rocky Mountain’s ECAM Application

Rocky Mountain requested authority to recover its power costs for the ECAM deferral period of December 1, 2010 through November 30, 2011. Application at 1. More specifically, the Company requested approval to recover \$18.1 million in the deferral balancing account (tariff customers \$10.425 million; Agrium \$511,600; and Monsanto \$7.196 million). *Id.*

¹ An Errata to Final Order No. 32507 was issued on April 3, 2012.

To recover its deferral costs, Rocky Mountain proposes to adjust Schedule 94 (Energy Cost Adjustment rates) to collect approximately \$13.0 million over the period beginning April 1, 2012 through March 31, 2013. This represents a rate increase of \$2.6 million over the current Schedule 94 rates in effect as approved in Order No. 32216 (Case No. PAC-E-11-07). *Id.* at 2. Rocky Mountain requested an effective date of April 1, 2012, for the proposed Schedule 94 rate changes. *Id.*

Rocky Mountain noted that “effective January 1, 2011, Monsanto and Agrium’s loads are included in the calculation of the ECAM balances in this ECAM filing.” *Id.* at 5. Pursuant to a stipulation approved by the Commission in the Company’s last general rate case No. PAC-E-11-12, the Company will amortize and collect Monsanto and Agrium’s share of the Commission-approved 2011 ECAM balances over a three-year period. Order No. 32432 at 4, 8-11.

Rocky Mountain did not request a change in the ECAM surcharge rate to recover the full \$24.1 million projected to accumulate in the ECAM deferral balancing account. Application at 9. The Company asserted that “approximately \$3.0 million of the balance will be recovered through Schedule 94 rates from December 1, 2011 to March 31, 2012.” *Id.* The Company stated that it intends to address the remaining balance “in future ECAM filings.” *Id.* Rocky Mountain projected that “an increase in the collection rate this year would be followed by a decrease in the rate next year.” *Id.*

B. The Commission’s Prior Final Order

In the Commission’s final Order No. 32507, we approved Rocky Mountain’s ECAM Application with certain adjustments. *See* Order No. 32507 at 11. The Commission approved adjustments to the Company’s ECAM deferral balance for the transmission line loss percentage, “replacement energy consumed by Monsanto when it buys through curtailment events,” and the removal of “the costs of integrating wind resources . . . associated with intra-hour charges.” *Id.* at 9-10.

The Commission declined to accept “Monsanto’s proposal to offset any . . . liquidated damages paid to Rocky Mountain by its construction contractors.” *Id.* at 10. We found that Rocky Mountain’s plan to defer recovery of the ECAM balance from all customers, except Monsanto and Agrium, until future years was “reasonable and appropriate” in light of the recent history of “repeated and frequent rate increases.” *Id.*

C. Monsanto's Petition for Reconsideration

Monsanto's Brief in Support of its Petition states that "it is critical to develop a proper method to . . ." enable the tracking of "the ECAM balances for Monsanto and Agrium . . . separately through their three-year amortization periods." *Brief* at 4. As set out in greater detail below, Monsanto raises three issues: (1) the proper allocation of Idaho base load; (2) forced outages; and (3) the future scheduling of Rocky Mountain's ECAM applications. According to Monsanto, the proposed adjustments presented in Ms. Iverson's testimony offer an improvement upon the Company's established ECAM allocation. *Id.* Rocky Mountain opposed reconsideration.

ISSUES FOR RECONSIDERATION

A. Legal Standards

Reconsideration provides an opportunity for a party to bring to the Commission's attention any question previously determined and thereby affords the Commission with an opportunity to rectify any mistake or omission. *Washington Water Power Co. v. Kootenai Environmental Alliance*, 99 Idaho 875, 879, 591 P.2d 122, 126 (1979). The Commission may grant reconsideration by reviewing the existing record by written briefs, or by evidentiary hearing. *See* Commission Rule 311, IDAPA 31.01.01.311.03.

If reconsideration is granted, "the matter must be reheard, or written briefs, comments or interrogatories must be filed, within thirteen (13) weeks after the date for filing petitions for reconsideration." *Idaho Code* § 61-626(2). "The commission must issue its order upon reconsideration within twenty-eight (28) days after the matter is finally submitted for reconsideration." *Id.*

B. Proper Allocation of Idaho Base Load

Monsanto claims in its Reconsideration Brief that although Rocky Mountain appropriately "corrected the transmission loss factor for Monsanto and Agrium to 3.605% for actual loads and properly removed replacement energy from both the jurisdictional total as well as Monsanto[,] the actual and base loads "are still incorrect." *Id.* at 5. Monsanto believes that the Company has failed to: (1) "accurately split base load between Monsanto, Agrium and the remaining customers"; (2) remove "the replacement energy from the Idaho jurisdictional base load"; and (3) adjust "actual sales each month . . . to account for the 'extra' losses associated with moving energy for wholesale sales." *Id.* According to Monsanto, "the ECAM ending

balances should be reduced \$14,523 for tariff customers, \$407,631 for Monsanto, and \$41,402 for Agrium, a total of \$463,556. *See, Iverson Di, p. 13, Table 1.* *Id.*

Monsanto requests that the Commission adjust the “ECAM balances based on corrections to base load and actual loads to reduce tariff customers’ balances in the amount of \$14,523, Monsanto’s by \$407,631, and Agrium’s by \$41,402, a total of \$463,556.” *Id.* at 7.

In its answer to Monsanto’s Petition, Rocky Mountain argues that the Commission should deny Monsanto’s Petition proposing additional ECAM adjustments on the merits. Rocky Mountain counters Monsanto’s claim that the Company did not “accurately split Base load between Monsanto, Agrium, and the remaining tariff customers” by pointing out that Monsanto agrees that its load at the meter should be 1,385,173 MWh, the line loss factor should be 3.605%, and that Monsanto’s responsibility for wholesale losses is 2.26% for the base period. *Rocky Mountain Answer* at 6, 8. Utilizing these numbers results in a calculation that is slighter higher for Monsanto than the Company utilized in its ECAM calculation. *Id.* at 6-7.

The Company also maintains that Monsanto’s proposed adjustment to Idaho jurisdictional base loads for “buy-through” energy is incorrect because “once Base loads are established in a general rate case and embedded in rates, they should not be changed in the ECAM.” *Id.* at 6. The Company relies on the testimony of Company witness Steven McDougal and his Exhibit No. 2 in Case No. PAC-E-10-07 addressing the jurisdictional base load amount. *Id.* According to the Company, the jurisdictional base load quoted in Exhibit No. 2, and utilized in the Company’s current ECAM filing, “does not include buy-through energy.” *Id.* Therefore, removal of this buy-through energy as proposed by Monsanto witness Iverson on reconsideration would amount to a double removal of the “buy-through” energy from the already established jurisdictional base load. *Id.*

In summary, the Company maintains that Monsanto’s proposed adjustments to actual load to reflect “extra” line losses is improper because “the source of the Idaho Actual load is the same as the Idaho jurisdictional state metered load reported in Company Exhibit No. 2, which includes the ‘extra’ or wholesale energy losses.” The Company states that Monsanto’s adjustment to actual load “doubles these losses” and is not appropriate. The Company states that Monsanto and Agrium metered loads were only adjusted for the line losses and “all of the additional losses were captured in the remaining customer’s load.”

Commission Findings: After reviewing Monsanto’s Petition, including its brief and attached testimony, and Rocky Mountain’s answer, we find that the “line loss” issue and the issue of the proper apportionment of the jurisdictional base load between Monsanto, Agrium and the Company’s remaining tariff customers is ripe for reconsideration and further analysis. Therefore, the Commission grants Monsanto’s Petition for Reconsideration on these issues.

Reconsideration shall be granted to allow for the establishment of workshops for the Parties to discuss and develop recommendations regarding the following issues:

1. The appropriate load split percentage (normalized and actual) for Monsanto, Agrium and the Company’s remaining tariff customers;
2. The proper apportionment and attribution of ‘line losses’ occurring on Rocky Mountain Power’s Idaho system to specific customer groups; and
3. Scheduling of Rocky Mountain Power’s future ECAM filings.

As more fully discussed below, the Commission denies reconsideration on the “forced outage” issue presented in Monsanto’s Petition.

The Commission orders the parties to work cooperatively with Staff to schedule and participate in workshops regarding the development of a methodology, to be used in the Company’s ECAM filings going forward, for the proper attribution of “line losses” to specific customer groups and the appropriate split of Rocky Mountain’s Idaho jurisdictional base load between Monsanto, Agrium and its remaining tariff customers.

C. Forced Outage Adjustment

In its brief, Monsanto began by summarizing the procedural problems it experienced in obtaining information during discovery regarding the Company’s record of “boiler tube failure forced outages.” *Id.* at 5-6. According to Monsanto, it was forced to file its initial comments on March 19, 2012 (deadline for comments – March 20, 2012) before it obtained a response to its discovery request regarding forced outages. See RMP Response to Data Request 33 dated March 20, 2012. *Id.* at 6. Monsanto reiterated that its late-filed comments of March 30, 2012² addressed the forced outage information provide by Rocky Mountain Power, but these comments “were not considered by the Commission because it was filed after deliberations in the matter

² On March 30, 2012, Monsanto filed “Reply” to Rocky Mountain’s Reply Comments. Monsanto’s “Reply” was not considered because it was filed after our deliberation in this matter. Moreover, our procedural Rules do not provide for a party to respond to a Reply. See Rule 202.

and because the procedural rules do not provided for a party to respond to a reply.” *Id.* at 6; *see also* Order No. 32507 at 9, n.5. Thus, Monsanto witness Mark T. Widmer addresses the proposed adjustment for “excess outages” for the first time in its Petition for Reconsideration. *Id.*

Monsanto suggests that “PacifiCorp’s forced outages significantly exceed industrial averages, is not representative of prudent operations and warrants adjustments.” *Id.* Monsanto presented Table 1 in Mr. Widmer’s testimony purporting to demonstrate that “PacifiCorp’s outages exceed industry averages by a range of approximately 219% to 489%.” *Id.* Based on that information, Monsanto proposes “reductions in the ECAM balance for Idaho retail customers of \$303,072, for Monsanto in the amount of \$173,703, and for Agrium in the amount of \$6,601.” *Id.*

Rocky Mountain argues that the Commission should dismiss Monsanto’s Petition because Monsanto improperly relied upon evidence that is not contained in the record of the case. *Answer* at 3. The newly proffered evidence should be rejected because it is “not intended to correct any mistake made by the Commission, but rather to support new arguments that allegedly strengthen Monsanto’s case.” *Id.* Allowing the admission of the Iverson and Widmer testimony without a hearing or an “adequate opportunity to respond” would be procedurally improper. *Id.* at 4. Rocky Mountain asserts that the purpose of reconsideration is to correct errors, if any, in the Commission’s Final Order and not to allow parties to “expand” their arguments based upon new evidence that could have been presented during the established comment period. *Id.*

According to Rocky Mountain, Monsanto witness Widmer selectively introduced industry data from 2010 regarding select NERC codes. *Id.* at 8. According to the Company, this evidence amounts to an “improper year-to-year comparison” to outages occurring on the Rocky Mountain system from December 2010 to November 2011. *Id.* Rocky Mountain introduces several tables and charts which purport to establish that the Company’s forced outage rate are in line with industry averages. *Id.* at 8-12. Contrary to Mr. Widmer’s focus on “a few select NERC codes, on select units, over a relatively short period of time[,]” the charts and tables provide a more representative picture of the Company’s performance relative to the industry as a whole. *Id.* at 12.

Commission Findings: The Commission denies reconsideration on the issue of

forced outages. The allowed scope of reconsideration process is addressed in *Idaho Code* § 61-626(1); IDAPA 31.01.01.331.01. “After an order has been made by the commission, any corporation, public utility or person interested therein shall have the right, within twenty-one (21) days after the date of said order, to petition for reconsideration in respect to any matter determined therein.” *Idaho Code* § 61-626(2) (emphasis added). Given the literal wording of *Idaho Code* § 61-626(2) reconsideration is limited to matters determined in our final Orders. After thoroughly reviewing our final Order No. 32507, we find that the issue of forced outages was not raised or addressed in the Order.

The appropriate scope of the Commission’s review is also addressed by our Supreme Court in *Idaho Underground Water Users Assoc. v. Idaho Power Co.*, 89 Idaho 147, 404 P.2d 859 (1965). There the Court ruled that reconsideration is “confined to matters urged at the original hearing, and may not include new points raised for the first time, or matters not in the record when the case was decided.” *Id.* at 154, 404 P.2d at 862 (emphasis added and citation omitted). The Court explained that reconsideration “is a phase of the doctrine requiring the exhausting of administrative remedies before judicial consideration will be given to issues on appeal.” *Id.* (citations omitted).

The “forced outage” issue presented by Monsanto in its Petition was not addressed by the Commission in final Order No. 32507. As we noted in that Order, and Monsanto has subsequently acknowledged, Monsanto attempted to introduce new evidence regarding forced outages on the Company’s Idaho system outside of the established comment period. *See* Order No. 32507 at 9; *see also Monsanto Brief* at 2. For that reason, the evidence was excluded and the Commission did not deliberate on the forced outage issue before issuing Order No. 32507. Therefore, we find that the forced outage issue is not properly before us and consequently deny reconsideration on this issue.

D. Future ECAM Scheduling

Monsanto next argues that the scheduling of this case was too “compressed” and “imposed a heavy burden and unreasonable constraint on Monsanto’s ability to conduct discovery and thoroughly review and carefully analyze the ECAM filing.” *Monsanto Petition* at 6. Monsanto stated that in hindsight it probably should have requested a “full hearing” but refrained from doing so because it felt that the “Company and Commission desired to adhere to

an expedited schedule to ensure that the ECAM adjustment went into effect April 1, 2012.” *Id.* Accordingly, Monsanto recommends the following:

- a. An expanded comment period for future ECAM filings in order to afford a greater measure of “due process[;]”
- b. A workshop or “other appropriate collaborative process” to discuss technical aspects of future ECAM filings; and
- c. A discussion amongst the parties regarding complex issues such as “the proper split of jurisdictional load into the three customer classes (Monsanto, Agrium and tariff customers), excess outages,” etc., should take place in advance of the Company’s ECAM filing with the Commission.

Id. at 6-7.

On reconsideration, Monsanto does not request an evidentiary hearing but that the Commission issue a reconsideration Order based upon the record, including the attached testimony of Mr. Widmer and Ms. Iverson. *Id.* at 3.

Rocky Mountain responded by stating that it is generally “supportive” of Monsanto’s proposal to hold workshops to discuss the technical aspects of the ECAM. *Id.* at 12. The Company states that it is willing to provide any interested party with the quarterly ECAM updates currently provided to Staff. *Id.* at 12-13. Rocky Mountain opposes Monsanto’s proposal to extend the current review schedule for all future ECAM Applications. *Id.* at 13.

Commission Findings: The Commission acknowledges that ECAM cases (and PCA cases) are typically processed in a relatively compressed timeline. Given that this case is the first time that “Monsanto and Agrium’s loads are included in the ECAM balances . . . [.]” the Commission finds that Monsanto’s request to set an appropriate comment period for interested parties and persons to review and comment on Rocky Mountain’s future ECAM applications is reasonable. Order No. 32507 at 2; Application at 5. A full and insightful analysis of the Company’s ECAM application is a substantial undertaking, requiring both expertise and time. The Commission is encouraged that the Company has agreed to provide quarterly ECAM updates to interested parties such as Monsanto. Such open disclosure will likely facilitate a greater understanding of the ECAM and how it affects ratepayers. In addition, quarterly ECAM reports will hasten the timely processing of future ECAM cases.

Therefore, similar to our ruling above regarding the appropriate load split between Monsanto, Agrium and other general tariff customers, the Commission directs the parties to participate in public workshops wherein the parties will analyze and make appropriate recommendations regarding the scheduling and processing of Rocky Mountain's ECAM applications in the future.

CONCLUSIONS OF LAW

After fully considering the record and based upon the foregoing analysis, the Commission grants in part and denies in part, Monsanto's Petition for Reconsideration of Order No. 32507 as more fully described above. After careful consideration of the record, the Commission finds that our decision to grant in part, and deny in part, reconsideration is based upon substantial evidence and is fair, just and reasonable.

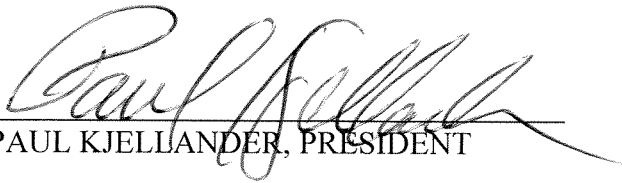
ORDER

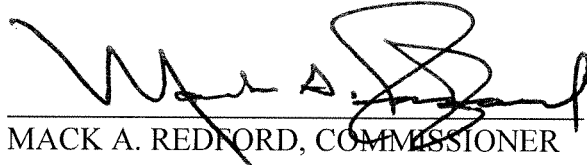
IT IS HEREBY ORDERED that Monsanto's Petition for Reconsideration of final Order No. 32507 is granted in part and denied in part. More specifically, reconsideration is denied on the issue of forced outages but granted on the issue of allocating base load and future ECAM scheduling.

IT IS FURTHER ORDERED that the parties shall participate in workshops to discuss and develop recommendations to be presented to the Commission regarding the following issues: (1) the appropriate load split percentage (normalized and actual) for Monsanto, Agrium and the Company's remaining tariff customers; (2) the proper apportionment and attribution of "line losses" occurring on Rocky Mountain's Idaho system to specific customer groups; and (3) scheduling of Rocky Mountain's future ECAM filings.

THIS IS A PARTIAL FINAL ORDER ON RECONSIDERATION. Any party aggrieved by the forced outage issue finally decided in this Order may appeal to the Supreme Court of Idaho pursuant to the Public Utilities Law and the Idaho Appellate Rules. *See Idaho Code* § 61-627. The issues of ECAM scheduling and the appropriate allocation of base load are not final.


DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 18th
day of May 2012.


PAUL KJELLANDER, PRESIDENT


MACK A. REDFORD, COMMISSIONER


MARSHA H. SMITH, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

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