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Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE APPLICATION OF)
ROCKY MOUNTAIN POWER FOR APPROVAL) CASE NO. PAC-E-12-06
OF ITS ENERGY SALES AGREEMENT WITH)
AGRIUM COMPANY.) COMMENTS OF THE
) COMMISSION STAFF
)
_____)**

COMES NOW the Staff of the Idaho Public Utilities Commission, by and through its Attorney of record, Neil Price, Deputy Attorney General, and in response to the Notice of Application and Notice of Modified Procedure in Order No. 32545 issued on May 4, 2012, submits the following comments.

BACKGROUND

On April 13, 2012, PacifiCorp dba Rocky Mountain Power (“Rocky Mountain Power” or “Company”) submitted an Application seeking Commission approval of its Electric Service Agreement (ESA) with Agrium Company (“Agrium”). Agrium is a Delaware corporation that, through its wholly owned subsidiary Nu-West Industries, owns and operates an elemental phosphorous plant at a site near Soda Springs, Idaho in Caribou County.

Following the Company’s last general rate case, PAC-E-11-12, Agrium and the Company agreed to execute a new ESA. The parties reached an agreement and a formal contract was executed on April 10, 2012. In order to avoid filing a new ESA every time the Commission approves changes

to Agrium's tariff contract, Electric Service Schedule No. 401, or the Energy Cost Adjustment, Electric Service Schedule No. 94, the parties agreed to modify their agreement to reference the appropriate service schedules rather than specific rates.

STAFF REVIEW

The proposed agreement between Rocky Mountain Power and Agrium updates the ESA approved by the Commission in Order No. 29940. *See* Case No. PAC-E-05-11. Previously, the parties entered into multi-year contracts that provided, among other items, base line monthly charges, and outlined the process of adjusting charges within the contract term (Sections 4.1 and 4.2 in prior ESAs). Contrary to other tariff customers, Agrium and Rocky Mountain Power negotiated rate adjustment schedules to reflect a portion of the identified revenue requirement, with a provision that Commission-approved rate adjustments would apply under the agreement (Section 8.3).

The previous ESA expired December 31, 2010, coinciding with Agrium's movement to a full Tariff Standard whereby its annual revenue requirement was established by the Commission. *See* Case No. PAC-E-10-07. While Electric Service Schedule No. 401 specifies the charges applicable to Agrium, it does not contain the terms for contract termination, delivery of power, minimum power factor, billing agreements, metering and operational guidelines. Staff believes it is appropriate for Agrium and the Company to maintain an ESA that provides detailed service requirements not specified under Schedule No. 401.

Aside from the three specific revisions discussed here, the general provisions of the agreement have remained relatively unchanged in the last several iterations of the ESA. The identified modifications in this filing are: 1) Revision of the termination policy (Section 1.17); 2) Removal of the monthly charges and adjustment mechanism (Sections 4.1 and 4.2); and 3) Establish procedures for routine meter testing and verification of equipment accuracy (Section 5.2). The first two modifications minimize the need for an additional filing to amend the ESA when rates for Agrium change. The parties have agreed to replace a firm termination date with a policy that allows 180 days notice if either party sought to terminate the agreement. Staff supports modifying the ESA to a more open-ended contract, especially given the removal of specific charges from the agreement. The 180-day notification provision provides both parties adequate insurance should the ESA need further revision or some unforeseen occurrence causes service to Agrium to cease.

The revised Section 4.1 incorporates the following language, which replicates the language in Schedule No. 401:

The charges specified in Section 4.1 of this Agreement shall be adjusted so that the charges equal the Commission-approved rates applicable to Nu-West, including but are not limited to, customer charges, demand charges, energy charges, surcharges, and credits, as specified in Electric Service Schedule Nos. 401 and 94 and any other applicable charges that should apply.¹

Staff believes this properly reflects Agrium's movement to a Tariff Standard, and avoids any perceived inconsistencies with Section 8.3, as noted by Staff in Case No. PAC-E-05-11. Any billing changes would only impact the tariff sheet.

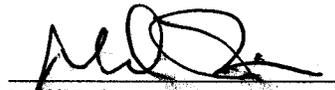
Staff does not oppose the addition of Section 5.2 in the ESA. This section provides for meter accuracy testing parameters and procedures. While there is no history of billing disputes between the parties stemming from faulty metering equipment, Staff believes it is important to insure that such equipment is properly maintained and up to current industry standards.

Staff is supportive of the amendments to the ESA. In conjunction with Electric Service Schedule 401, the rates, terms of service, operational guidelines and billing agreements between Rocky Mountain Power and Agrium are clear and thoroughly explained.

STAFF RECOMMENDATION

Staff recommends that the Commission approve the Electric Service Agreement between Agrium and Rocky Mountain Power, dated April 10, 2012.

Respectfully submitted this 25th day of May 2012.



Neil Price
Deputy Attorney General

Technical Staff: Bryan Lanspery

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¹ Staff notes that as of April 1, 2012, Agrium is subject to rates under Schedule 94, the Energy Cost Adjustment Mechanism, which it previously was not subject to.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 24TH DAY OF MAY 2012, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. PAC-E-12-06, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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