

## BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION	)	
OF ROCKY MOUNTAIN POWER FOR	)	CASE NO. PAC-E-14-10
APPROVAL OF A TRANSACTION TO	)	
CLOSE DEER CREEK MINE AND FOR A	)	ORDER NO. 33304
DEFERRED ACCOUNTING ORDER	)	

On December 15, 2014, PacifiCorp dba Rocky Mountain Power (“Rocky Mountain” or “Company”) filed an Application, pursuant to *Idaho Code* § 61-328, for approval of a transaction to close the Deer Creek Mine located near Huntington, Utah, and for a deferred Accounting Order. The mine is currently operated by Energy West Mining Company (“EW”), a wholly owned subsidiary consolidated with PacifiCorp for regulatory purposes. This Application is filed by PacifiCorp, on behalf of itself and EW. The Company requested that the Commission issue its Order in this case no later than May 27, 2015. *Application* at 3.

On February 6, 2015, the Commission issued a Notice of Modified Procedure and Notice of Schedule. The Notice established a 14-day deadline to intervene, an April 24, 2015 comment deadline and a May 8, 2015 deadline for the Company’s reply comments. On March 19, 2015, the Commission granted Petitions to Intervene filed by Monsanto Company (“Monsanto”) and PacifiCorp Idaho Industrial Customers (“PIIC”). Commission Staff (“Staff”), Monsanto and PIIC filed written comments.

On May 8, 2015, the Company filed a “Petition to Amend Schedule Extending Filing Date of Reply Comments and for Expedited Consideration.” Rocky Mountain’s Petition included a request for a seven-day extension of the Company’s deadline to file reply comments in order to facilitate a potential settlement of the issues. The Commission issued a Notice of Settlement Conference on May 11, 2015. A settlement conference was convened on May 13, 2015, and the parties participated. No settlement was reached and the Company filed its reply comments on May 15, 2015.

### THE APPLICATION

The Company’s Application dictated that the closure of the Deer Creek Mine consists of four main aspects: (1) the Company will permanently close the Deer Creek Mine and incur direct closure costs (Closure); (2) EW will withdraw from the United Mine Workers of America (UMWA) 1974 Pension Trust, incurring a withdrawal liability; (3) the Company will sell certain

mining assets as defined later in the Application (Mining Assets); and (4) the Company will execute a replacement coal supply agreement (CSA) for the Huntington power plant and an amended CSA for the Hunter power plant. EW also settled its retiree medical obligation related to EW union participants (Retiree Medical Obligation). Together, the components of the Closure and settlement of the Retiree Medical Obligation constitute the transaction to close the Deer Creek Mine (hereinafter referred to as “Transaction”).

Rocky Mountain seeks approval from the Commission for an Accounting Order authorizing the Company to: (1) defer the costs associated with the Closure for future recovery; (2) transfer the remaining plant balances for the Deer Creek Mine and Mining Assets from electric plant-in-service and establish a regulatory asset to recover these costs for continuing recovery; (3) defer all payments associated with the withdrawal from the 1974 Pension Trust for future recovery; (4) defer any settlement losses associated with the Retiree Medical Obligation for future recovery; and (5) defer the difference between the costs associated with the status quo (operating the Deer Creek Mine) currently reflected in rates through base net power costs (NPC) and the incremental costs associated with the new Huntington power plant and amended Hunter power plant CSAs, including any fuel costs to supply the Huntington and Hunter power plants.

The Company requests that the Commission determine that the Company’s decision to consummate the Transaction is “prudent.” The sale of the Mining Assets and the execution of the CSAs are contractually contingent upon regulatory approval and Transaction closure on or before May 31, 2015. The Company requests that the Commission issue its Order by May 27, 2015, allowing the Company two business days prior to the deadline for closing the Transaction, as Commission approval represents the last expected regulatory action needed to complete the Transaction.

#### **STAFF COMMENTS**

1. Public Interest. Staff believes that the proposed Transaction is prudent and in the public interest due to increased costs from the pension plan and the decrease in coal quality. Escalating labor costs emanating from Rocky Mountain’s labor negotiations with United Mine Workers of America (UMWA) eventually led the Company to evaluate closure of the Deer Creek Mine and the sale of mining assets to Bowie Resource Partners (“Bowie”). Relatedly, Staff noted that coal supplies in the Deer Creek Mine are expected to be depleted by 2019.

Staff noted that the new CSA proposed by the Company with Bowie extends for 15 years and provides a reliable coal supply with steady prices. The contract is effective for an additional 10 years (2029) beyond the expected depletion of reserves. Staff believes that the cost of and rates for supplying service will not be increased by the new CSA.

The sale of the coal preparation plant, as well as the central warehouse property, to Bowie would enable the Company to avoid coal blending costs for the Hunter power plant, reduce inventory, and eliminate the liabilities for the reclamation and other retirement obligations of those assets. *See* Staff Confidential Atch. A. The transfer of the Trail Mountain Mine will also transfer future obligations to Bowie and reduce costs to customers. Staff also maintains that increased pension contributions would undoubtedly raise the cost of coal from the Deer Creek Mine.

Staff believes that Bowie has the bona fide intent and financial ability to operate and maintain the Deer Creek Mine. Staff believes that the Transaction is a lower cost option than continuing to invest and operate the Deer Creek Mine through 2019. The Company has been negotiating with the United Mine Workers of America (UMWA) since 2012. Negotiations have been very contentious. The Company and the UMWA reached a partial labor settlement on October 31, 2014, but did little to limit the escalating cost of the Deer Creek Mine. Accordingly, the Company explored opportunities to limit its escalating costs associated with the continued operation of the mine. Staff agrees that Rocky Mountain's agreement with Bowie offers the most benefit to customers.

*Retiree Medical Obligation:* As part of the settlement reached October 31, 2014, between Energy West and the UMWA, Rocky Mountain agreed to transfer its Retiree Medical Obligation to UMWA, a transfer of [REDACTED] from its trust to the UMWA's trust. This transfer reduces the existing unrecognized actuarial loss that would otherwise have been amortized to Financial Accounting Standards (FAS) 106 expenses. When the remaining actuarial loss is accelerated, an additional [REDACTED] would also have been amortized to FAS 106 expense. Staff believes that this settlement amounts to considerable savings and therefore it is appropriate to defer the [REDACTED] settlement loss.

*Withdrawal from UMWA 1974 Pension Trust:* Staff confirmed that closure and cessation of mining operations is the only option for the Company in order to withdraw from the UMWA 1974 pension plan. Staff stated that withdrawal from the pension plan continues to

expose the employer, EW, a PacifiCorp subsidiary, to a liability for three years based on its unfunded vested benefits in the plan. Staff warned that the financial condition of the 1974 Pension Trust has deteriorated dramatically over the last several years. The Company included the most current valuation of the plan (June 30, 2013) estimating that the trust was underfunded by \$5.5 billion. Later, union actuaries completed a new valuation of the Pension Trust, and the financial condition of the trust improved slightly, a \$4.4 billion shortfall. It is expected that beginning in 2017 participating employers will be required to increase their contribution rates to the plan.

Mass withdrawal of participating employers would expose any remaining participating employers, including any employers that have withdrawn within the previous three years, to the unfunded liability. Remaining employers may be allocated a share of a defaulting employer's obligation for the unfunded vested benefits. EW will be obligated to pay a withdrawal liability equal to its proportionate share of the unfunded vested benefits as of the last valuation date. As of the date of the Application, the projected withdrawal liability was approximately [REDACTED]. Improved market conditions have decreased the withdrawal liability to approximately [REDACTED]. Staff explained that an exact amount of the withdrawal liability will be established at the date of the sale of the mine and the last UMWA hour worked.

EW's current contributions total approximately \$3 million per year. These contributions are included in EW's operating costs and included in Rocky Mountain's base Net Power Supply Costs. Absent sale or closure of the mine, customers would pay for the increased costs through the Company's annual Energy Cost Adjustment Mechanism (ECAM). The Company is proposing to continue to recover the ongoing \$3 million annual payment (interest on withdrawal liability) already included in rates. The Company would defer the estimated \$98 million<sup>1</sup> accounting loss associated with the withdrawal liability. If the Company is successful in negotiating a one-time prepayment of the annual installments that is more economical to customers, the Company proposes that the amount of the prepayment be deferred until the next rate case, at which point the Company can request recovery of that deferred amount.

2. Deferred Accounting Order. In order for a deferred expense to be considered in a general rate case, a utility generally must have an Accounting Order from the Commission

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<sup>1</sup> GAAP Principles require that these types of losses be recorded at their present value using a risk-free rate. \$98 million is the net present value of the \$126 million withdrawal liability discounted at the 30-year treasury rate.

allowing it to defer the costs for possible future recovery. Staff endorsed the Company's request for a deferred Accounting Order. However, Staff recommended that the Commission separate any unamortized investment in the mine and related assets from all other NPC-related expenses. Staff believes that Rocky Mountain should be allowed to recover the separate deferral for unamortized mine assets, without carrying charge, without application of the ECAM's 90/10 sharing band and without additional return.

Staff asserted that the Deer Creek NPC, minus depreciation of unamortized amounts, and the Bowie CSAs should be included in the annual ECAM deferral as a NPC-related expense, with 90/10 sharing and over/under-recovery of actual cost due to change in load.

Staff believes that Rocky Mountain should be allowed to account for the results of the Transaction in the following manner: record any loss on the sale of assets as a regulatory asset, without carrying charge (see below) (expected to be [REDACTED]); interest on any notes from the Transaction should be subtracted from the regulatory asset with a corresponding adjustment to the amortization recovery period; construction work in process should be recorded as a regulatory asset without carrying charge (\$5 million); closure costs should be recorded as a regulatory asset without carrying charge (expected to be \$74 million) and trued up as costs are actually incurred; the retiree medical obligation settlement should be recorded as a regulatory asset without carrying charge (\$4 million); five-year amortization periods beginning with the next rate case.

3. Carrying Charge. As stated above, Staff objected to Rocky Mountain's proposal for a carrying charge on the deferral amount resulting from the proposed Transaction. Staff referenced several cases establishing the Commission's discretionary authority to allow/disallow a carrying charge on a deferral account. *See Idaho Power Company v. Idaho State Tax Commission*, 141 Idaho 323 and Order No. 30235 at 3 (Case No. IPC-E-06-06); Order No. 30638 at 4 (Case No. AVU-E-08-03). Approval of a carrying charge for a deferred expense has typically been allowed at the customer deposit rate. The customer deposit rate for 2015 is 1%. *See* Order No. 33187 (Case No. GNR-U-14-02).

4. Ratemaking Treatment. Staff remarked that the cost of coal from the Deer Creek Mine to fuel the Hunter and Huntington plants is already recovered through NPC currently embedded in base rates and adjusted annually through the ECAM to reflect actual costs.

Staff agrees that the Company is currently authorized to recover 100% of depreciation expense in base rates related to Deer Creek and the Mining Assets outlined in the Company's Application. *See Rocky Mountain Application* at 16. Staff agreed with the Company that applying the 90/10 sharing band to Deer Creek depreciation expenses would not allow the Company to fully recover an expense it is authorized to recover and therefore it is not equitable. Nonetheless, Staff believes the extraordinary variable operation and purchase fuel cost associated with the Deer Creek mine closure should be subjected to sharing in the ECAM similar to all other variable NPC expenses not currently recovered in base rates. Staff opined that it is common for utilities to shift fuel supply from internal to external sources (or vice versa) and negotiate new fuel supply contracts while remaining subject to sharing.

Staff proposes that remaining Deer Creek NPC-related expenses be treated as part of the next ECAM deferral in the same manner as all other NPC-related expenses. As proposed by the Company, the Deer Creek NPC base-to-actual amount would need to be separated from other Hunter and Huntington NPC deferral expenses and calculated on a dollar per million British thermal unit (MMBtu) basis instead of a dollar per Megawatt-hour (MWh) basis.

Staff believes that the methodology proposed by Rocky Mountain<sup>2</sup> fails to account for changing load since base rates were last established. Staff proposed that the difference in the unit price of coal be multiplied by the actual amount of coal consumed by the two plants during the deferral period. This approach is consistent with Commission-authorized ECAM methodology and accurately represents the portion of the Deer Creek deferral costs subject to 90/10 sharing.

Staff recommended the resulting ECAM deferral amount (minus unamortized asset depreciation amounts) be subject to 90/10% sharing. Staff estimates that ECAM sharing could reduce customer costs by as much as \$150,000 annually until Bowie CSA's are included in base rates.

Staff does not support Rocky Mountain's request to earn its authorized rate of return or any other interest on the proposed sale during the deferral period. Staff believes that because Deer Creek assets are no longer "used and useful," the Company is no longer eligible to earn a return on any remaining unamortized Deer Creek amounts. The ability to defer the expenses for

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<sup>2</sup> Total MMBtu consumed for the two plants included in base NPC times the difference between the weighted average cost per MMBtu (consumed) included in the base NPC for the Huntington and Hunter power plants and the actual weighted-average cost per MMBtu (consumed) during the deferral period (See Crane Di. at 25).

future recovery when they would likely otherwise be unrecoverable is sufficient relief to the Company.

Staff commented that the Company's request to defer mine closure costs and unrecovered investment in the Deer Creek Mine and Mining Assets is a deviation from normal accounting procedures. If normal accounting procedures are followed, the costs of the unrecovered investment and mine closure will be credited to the electric plant in which it is included. Generally accepted accounting principles (GAAP) require the recording of depreciation to be rational and systematic.

The Company proposes to establish several regulatory assets and to transfer the unrecovered investment (Deer Creek Mine and Mining Assets) from the relevant subaccounts of Plant in Service. According to Staff, the Company's Deer Creek Mine and Mining Assets consist of approximately [REDACTED] in plant-in-service. Of this amount, Staff stated that \$21 million will be sold to Bowie in return [REDACTED]. Staff recommended the loss of [REDACTED] and the remaining assets of [REDACTED] for a total of [REDACTED] be recorded as a regulatory asset and be subject to the Staff-proposed treatment for regulatory assets and amortization. Staff recommended that any salvage value recognized be used as an offset to the regulatory asset and all interest earned from the note be reflected for ratemaking purposes as a reduction to the regulatory asset with the amortization period shortened as appropriate.

Staff addressed the \$5 million in construction work in progress (CWIP) the Company noted in its Application. Staff recommended that this \$5 million currently in CWIP be categorized as a regulatory asset, subject to the Staff-proposed treatment for regulatory assets and amortization.

The Company will also be incurring significant closure costs, including [REDACTED] in materials and supplies, [REDACTED] in taxes, [REDACTED] in retirement obligations, [REDACTED] in severance and unemployment costs, [REDACTED] in royalties, and [REDACTED] in other costs associated with closing the mine. Staff recommended the total amount of [REDACTED] be recorded as a regulatory asset and be subject to the Staff-proposed treatment for regulatory assets and amortization. Staff recommended a true-up to actual costs. Finally, Staff recommended that the [REDACTED] liability due to the settlement of the retiree medical benefits amount be recorded as a regulatory asset, subject to Staff's proposed treatment for regulatory assets and amortization.

5. Amortization. Staff recommended the Commission approve a minimum five-year amortization period, beginning with the Company's next general rate case, for all approved regulatory assets associated with this Transaction. Staff believes that a longer amortization period is needed to recognize the long-term nature of these obligations. Staff stated that a five-year amortization period matches that approved in Case No. PAC-E-01-02, Order No. 28700, wherein PacifiCorp applied for an Accounting Order to defer costs associated with its Trail Mountain Mine. Thus, Staff recommended the Commission approve a minimum five-year amortization period beginning with the next rate case to recognize the longer term nature of these obligations.

6. Miscellaneous. Once the Transaction is finalized, Staff recommended that Rocky Mountain file all closing documents, journal entries, workpapers and the true up of estimated costs to actual costs, within 45 days.

#### **MONSANTO AND PIIC JOINT COMMENTS**

PIIC and Monsanto ("Joint Parties") filed comments and recommendations regarding Rocky Mountain's Application. The Joint Parties included a summary of their recommendations and adjustments to the Company's accounting and ratemaking proposals.

1. Public Interest. The Joint Parties believe that it is premature for the Commission to make a prudency finding apart from a general rate case and prior to ascertaining all actual costs.

2. Deferred Accounting Order. The Joint Parties believe that a determination regarding deferred accounting treatment for withdrawal from the UMWA pension plan is unnecessary. If the Commission does allow a deferral of the withdrawal payment, the Joint Parties assert that the Company should not be allowed to recover a lump sum settlement amount exceeding the current perpetuity value to ratepayers of the annual withdrawal payments at the current authorized rate of return, [REDACTED].

The Joint Parties object to the deferred accounting treatment for the following expenses: Union Supplemental Unemployment and Medical Costs, Non-Union Severance Costs, and Miscellaneous Closing Costs Including Labor. Joint Parties state that these costs are estimated to be [REDACTED]. They argue these expenses are discretionary, foreseeable, unknown and immeasurable, and do not materially impact the Company's finances.



The Joint Parties do not oppose deferment and recovery of certain inventory write-offs resulting from the proposed Transaction, so long as it is accompanied by a corresponding reduction in fuel inventory that Rocky Mountain is projected to experience during 2015, estimated to be approximately [REDACTED] (Total Company).

The Joint Parties do not object to deferment of the Retiree Medical Obligation, Regulatory Asset – Income Tax, and Unrecovered ARO Costs.

3. Carrying Charge. The Joint Parties oppose the allowance of a carrying charge. The Joint Parties believe the Company should not be allowed to earn a return on assets that are no longer in rate base. Alternatively, if a carrying charge is approved, it should only be allowed at the customer interest on deposit rate.

4. Amortization. The Joint Parties point out that Rocky Mountain's deferral request is premised on the receipt of benefits accrued after the useful life of the Deer Creek Mine. The Commission should allow an amortization period on the deferred balance over a period equal to the period of benefits received by ratepayers, approximately seven years or nine years if the Commission does not use the depreciation reserve methodology.

5. Ratemaking Treatment. The Joint Parties argue the Commission has historically required the use of the depreciation reserve methodology to allocate gains from the disposition of electric plant. Accordingly, the Joint Parties state that ratepayers should only be responsible for 62.2% of any losses associated with the disposition of the Deer Creek Mine.

The Joint Parties believe that these costs, [REDACTED] on an Idaho-allocated basis, should reduce the amount amortized in the annual ECAM.

The Joint Parties also object to the Company's proposal to defer \$3.5 million in CWIP expenditures (Total Company), \$0.5 million in CWIP (Total Company) associated with the Preparation Plant and \$1.6 million in PS&I expenditures, not currently recovered in rates. They argue that CWIP expenditures should be disallowed because they are, by definition, not "used and useful." Similarly, the PS&I expenditures do not provide customer benefits.

The Joint Parties argue that the Hunter generating facilities, served by the mine, are not owned exclusively by the Company. Any regulatory assets established due to the Transaction should be adjusted to remove the share attributable to non-Company ownership.

The Joint Parties believe that the Company's estimates of royalty costs are highly uncertain and any recovery of royalty costs should be based on actual costs and not the Company's estimate.

The Joint Parties state their support for a one-time exception allowing the Company to flow any change in coal supply costs and amortization expenses associated with the Deer Creek Mine and Mining Assets (only the portion of the Mining Assets that represents the loss on the sale of those assets) through the ECAM without 90/10 sharing.

### **ROCKY MOUNTAIN REPLY COMMENTS**

In its reply, Rocky Mountain addressed the several objections to its proposed Transaction presented by Staff and the Joint Parties. Rocky Mountain repeated its request to establish regulatory assets for costs, balances and losses that are related to the Transaction that the Company believes is prudent and in the public interest. Rocky Mountain noted that Staff did not recommend offsetting the regulatory assets with the return on any unrecovered investment in the Deer Creek Mine or for the change in fuel inventory.

***Rebuttal of Staff Comments:*** The Company opposes Staff's recommendation that the Commission should not allow a return on the unamortized investment in the Deer Creek Mine and related assets until the conclusion of a future general rate case. Rocky Mountain determined that, absent the Transaction at issue in this case, the Company would continue to earn a return on the Deer Creek Mine assets and the other Transaction-related Mining Assets and would fully recover the investments through depreciation. The Company believes that it should not be penalized for a decision that benefits customers either through reduced recovery of investment or through a lack of return on investment where owners basically are financing the benefits of the Transaction for customers over time.

Rocky Mountain insists that Staff's recommendation opposing carrying charges for all deferrals and extending amortization periods for the regulatory assets over a five-year period beginning with the next general rate case are unreasonable and arbitrary. Alternatively, if no return is allowed, Rocky Mountain requests that ratemaking treatment of the regulatory assets be determined in the next general rate case.

***Rebuttal of Joint Parties' Comments:*** Rocky Mountain addressed the Joint Parties' recommendation that the Commission should refrain from making a prudency finding and that the Company "move forward" with the Transaction without obtaining Commission approval.

Rocky Mountain stated that this recommendation ignores the requirement of Commission approval found in *Idaho Code* § 61-328. The Company averred that it has provided evidence demonstrating that the Transaction results in over [REDACTED] in net benefits to customers. The Company believes that the analyses are reasonable and reliable and support the overall benefits calculation. Rocky Mountain reiterated that the Transaction is contingent upon regulatory approval.

Rocky Mountain contends that the Joint Parties' "Depreciation Reserve Methodology" should be rejected by the Commission as punitive. The Company argues that the Joint Parties want 100% of the future benefits of the Transaction but none of the costs incurred in order to achieve those benefits. The Company insists that the Joint Parties' recommendation to take all of the benefits for customers while recommending that the Company absorb a significant portion of the unrecovered mine investment and/or costs incurred to facilitate the Transaction is inequitable. However, the Company stated that if the Commission adopts the Joint Parties' recommendation it should then also allow the Company to share in the Transaction benefits by the same percentages offered by the Joint Parties.

Rocky Mountain believes that the amortization periods for the recovery of the unrecovered investment in the Deer Creek Mine and the Mining Assets should be no longer than the assets' current rate of depreciation reflected in base rates. Rocky Mountain opposes the Joint Parties' recommendation for a seven-year amortization if the depreciation reserve methodology is used, or nine years if the methodology is not used, and Staff's recommendation for a five-year amortization beginning once rates are reset in the next general rate case.

Rocky Mountain asks the Commission to approve the Company's proposal to amortize the Deer Creek Mine and the Mining Assets, as set forth in its Application, and allow continued rate base treatment of the unrecovered investments throughout the recovery period.

Rocky Mountain reiterated its request for a carrying charge. Rocky Mountain believes that disallowing a carrying charge would dissuade utilities from undertaking similar actions in the future and limit the Company's ability to fully recover the costs of financing the Transaction.

Rocky Mountain argued that it acted proactively, in a diligent and methodical manner in planning the components of the Transaction. According to Rocky Mountain, denying the Company a carrying charge would be punitive. Alternatively, the Company seeks a carrying

charge at the Company's cost of debt for all deferral balances during the period when the balances are awaiting review and collection, as well as rate base treatment of any unamortized balances during the collection period.

The Company disagrees with the Joint Parties' recommendations to deny recovery of CWIP and PS&I costs. Rocky Mountain remarked that if the Company were not pursuing the Transaction, these costs would have been incurred, placed in plant-in-service and recovered in the normal course of business. The Company says that it acted reasonably by putting projects on hold in order to limit costs during negotiations between the union and Bowie. The Company believes that it should not be penalized for having made the prudent decision to reduce costs. The Company also believes that the Commission should allow the Company to accrue a carrying charge on the CWIP regulatory balance at the Company's overall rate of return or, alternatively, at the Company's authorized cost of debt until it is included in base rates with rate base treatment upon the effective date of the next general rate case.

Rocky Mountain claims that the Joint Parties' recommendation to disallow the deferral of closure costs related to labor is unreasonable. According to Rocky Mountain, the labor costs required to close the Deer Creek Mine and trigger withdrawal from the 1974 Pension Trust are reasonable and necessary. Supplemental unemployment, medical and severance benefits for those employees are not discretionary. They are mandated by the Company's labor agreement with UMW.

Rocky Mountain believes that the Commission should reject the Joint Parties' recommendations to deny deferral of supplemental unemployment and medical benefits for union employees, severance for non-union employees and the ongoing labor and other closure costs related to the Transaction. Rocky Mountain alleges that these costs are a necessary prerequisite to trigger withdrawal from the 1974 Pension Trust.

Rocky Mountain objected to the Joint Parties' argument that deferral of the Company's pension withdrawal liability is unnecessary and that the Company should continue paying the approximate \$3 million annual payments in perpetuity. If the pension liability is not deferred, the Company must immediately record the full liability as a fuel expense. That expense would be captured in the ECAM and reimbursed by customers. The Company recounted its proposal to defer the liability and continue paying the \$3 million annual payments until the earlier of (1) the Company negotiating a prepayment of the 16 annual installments in a

lump sum at a favorable value to customers; or (2) the plan terminates and the liability and associated regulatory asset can be finally quantified and amortized.

Rocky Mountain contends that the Joint Parties' recommendation requiring a reduction of the Transaction costs that flow through the ECAM in an amount equal to the Idaho-allocated return on the mining assets already reflected in rates is arbitrary and asymmetrical. The Company argued that the Joint Parties are engaging in "single-issue ratemaking." According to the Company, isolating costs or revenues, as the Joint Parties recommend for the return on mining assets, fails to recognize counterbalancing savings in other areas. Similarly, Rocky Mountain objects to the Joint Parties' recommendation that any reduction in fuel inventory be deferred and credited against any inventory write-off, and that any excess be credited against the remaining regulatory assets. Rocky Mountain stated that inventory levels and plant-in-service balances fluctuate naturally. Singling out the return on the Deer Creek unrecovered plant and fuel inventory while completely ignoring all other capital investments made by the Company since rates were last set is single-issue ratemaking. The Company remarked that the Transaction at issue in this case is a unique and beneficial opportunity for customers and merits unique treatment. The Company seeks equitable and reasonable treatment that will not negatively impact the Company's earnings. Consequently, the Company encourages the Commission to reject the Joint Parties' recommendation and leave the ratemaking treatment of the return on the mining assets and the reduction of fuel inventory until the next general rate case.

Finally, Rocky Mountain does not oppose: (1) a reduction of the Company's recovery reflecting the portion of the assets required to serve the non-Company-owned portion of the Hunter Plant; (2) final recovery for royalty costs associated with the mine closure should be based on the royalties actually charged, rather than estimates; and (3) a single, non-precedential exception granting Rocky Mountain's request to subject any change in coal supply costs associated with the Transaction through the ECAM without the 90/10 sharing mechanism, along with the amortization expense associated with the Deer Creek Mine and the Mining Assets.

Rocky Mountain noted that neither Staff nor the Joint Parties dispute the Company's assertion that the Transaction is the most beneficial for customers because it will save hundreds of millions of dollars.

## COMMISSION DISCUSSION AND FINDINGS

The Commission has reviewed Rocky Mountain's Application, including prefiled witness testimony and exhibits, as well as the extensive written comments filed by Staff, the Joint Parties, and Rocky Mountain's reply comments. Prior to approval of the sale of property owned by a utility, the Commission is charged by Idaho law to make the following findings:

- (a) That the transaction is consistent with the public interest;
- (b) That the cost of and rates for supplying service will not be increased by reason of such transaction; and
- (c) That the applicant for such acquisition or transfer has the bona fide intent and financial ability to operate and maintain said property in the public service.

*Idaho Code* § 61-328.

1. Public Interest. The Commission grants Rocky Mountain's Application for approval of the proposed Transaction to close Deer Creek Mine, incur certain closure costs, sell Mining Assets, enter into CSAs with a third-party to obtain coal for its Hunter plants, and settle the Company's pension and medical obligations. The Commission acknowledges the Company's concerted effort to protect customers from rising costs and risks associated with the Deer Creek mine. The Commission finds that the Transaction outlined in the Company's Application is reasonably intended to mitigate the Company's potential exposure to significant pension and medical costs in the future. Accordingly, the Commission further finds that the Transaction is consistent with the public interest. The Commission finds that costs and rates for supplying electric service will be less going forward than they otherwise would have been without the Transaction.

Indeed, the Commission agrees with Staff's assessment that the Transaction represents "a lower cost option than continuing to invest in and operate the Deer Creek Mine through 2019." *Staff Comments* at 4. Further, the Commission finds that the record in this case reveals that Bowie possesses the requisite expertise and financial capability to supply fuel to the Company's Hunter and Huntington Coal Plants.

2. Deferred Accounting Order. Idaho law provides the Commission with wide discretion in establishing a utility's system of accounting. *Idaho Code* § 61-524. The Commission recognizes that no party opposes the deferral of expenses associated with the Deer

Creek Mine and hereby approves the Company's request for a deferred Accounting Order and the establishment of "regulatory assets for the unrecovered investment on the Deer Creek Mine, related assets, the loss of the sale of the Mining Assets, CWIP and PS&I costs, Transaction closure costs, the 1974 Pension Trust Withdrawal Liability, and the Retiree Medical Obligation." *Rocky Mountain Reply Comments* at 5.

The transaction as a whole is prudent and under the normal course of events, the expectation is that recovery of reasonably incurred and prudent costs will be allowed for recovery. The Commission notes the actual deferral amounts will be audited and recommendations made on recovery in the next general rate case. As such, the Commission's approval of a deferred Accounting Order in this case will not have an immediate impact on customer rates.

While the Commission finds the Transaction to be in the public interest and prudent overall, we reserve a final ruling regarding the prudence of specific costs associated with the proposed Transaction until such time as the actual costs are established and presented to the Commission by the Company in its next general rate case.

3. Carrying Charge. In its Application, Rocky Mountain entreats the Commission to allow the Company to apply a carrying charge equal to the Company's authorized rate of return on the amount of unrecovered investment in the Deer Creek Mine that would otherwise qualify as NPC under the ECAM through 2019. *See id.* at 6-7. Alternatively, Rocky Mountain requests a carrying charge commensurate with the Company's cost of debt for all deferral balances until rates are reset following the Company's next general rate case. *Id.* The Commission finds that because the Deer Creek assets are no longer "used and useful" or in rate base, the Company is no longer eligible to earn a return on the unamortized Deer Creek amounts.

It is within the Commission's discretion to determine whether a carrying charge is warranted on deferred account balances. *See* Order No. 30638 at 4. The Commission finds that a carrying charge on Rocky Mountain's deferral balances is not appropriate in this case. The Commission finds that allowing a deferral of expenses for future recovery when they would likely otherwise be unrecoverable is sufficient relief. It is evident that entering into the proposed Transaction is beneficial to both customers and the Company. The Commission is not persuaded by Rocky Mountain's assertion that approval of a carrying charge is necessary to incentivize well-reasoned and cost-effective business decisions, such as the decision to close the Deer Creek

Mine. *See Rocky Mountain Reply Comments* at 11-12. The record in this case has established, and the parties do not dispute, that the Transaction offers significant benefits over and above the status quo. Utilities should not have to be “incentivized” to act rationally in order to limit their losses.

Consequently, the Commission finds it fair and reasonable to separate all expenses related to the Deer Creek Mine from base NPSE in the ECAM mechanism. Unrecovered Deer Creek investment shall be placed in a deferred account, without carrying charge. The Company will continue to amortize the unrecovered investment at current depreciation rates, and recover those costs in rates as depreciation had been in the past. In addition, Bowie coal supply contract costs in excess of current expenses relating to Deer Creek Mine embedded in base NPSE should be shared 90/10 with customers. This accounting treatment will assure that the Company has a reasonable opportunity to recover its undepreciated investment in Deer Creek Mine assets.

Similarly, the Commission approves deferred accounting treatment for all other regulatory assets, without carrying charge, until the next general rate case.

4. Ratemaking Treatment. In addition to continued depreciation of Deer Creek investment with return prior to the Company’s next general rate case, Rocky Mountain petitioned the Commission for rate base treatment of any unamortized balances as part of the next rate case. The Commission denies Rocky Mountain’s request to earn a carrying charge on deferred regulatory assets related to the Deer Creek Mine approved by this Order prior to the next general rate case. As previously stated, Rocky Mountain’s decision to undertake the proposed Transaction was reasonable and beneficial to all parties in this case, including the Company. The Commission finds that approval of the Company’s deferral request to recover investment and expenses that would otherwise not be recoverable is fair, just and reasonable without carrying charge prior to the next general rate case. The Company will be permitted at that time to renew its request for rate base treatment or application of other carrying charges on unamortized deferral balances during the amortization period. This course of action is reasonable because it will enable the Commission to fulfill its statutory duty to scrutinize and evaluate the actual costs of the Transaction prior to making its decision regarding a reasonable return for those costs.

The Commission declines to utilize the depreciation reserve methodology to allocate the loss on the mining asset as proposed by the Joint Parties. The Commission views the loss on



the sale of the asset as just one piece of the whole transaction. Because the sale of the asset and thus the loss was necessitated to obtain the overall transaction benefit, it would be inappropriate to single it out for disparate treatment in this case.

Consistent with the Commission's decision to allow deferred accounting treatment for the Transaction costs, any proposed offsets shall also be accumulated in a separate regulatory account for final determination in the next general rate case. This includes the Staff recommendation to offset the interest on the Bowie note against the regulatory asset, the Joint Parties' recommendation that any reduction in fuel inventory occasioned by the Transaction be deferred and credited against any inventory write-off, and that any excess be credited against the remaining regulatory assets.

Finally, the following items are not at issue and are approved: (1) a reduction of the Company's recovery reflecting the portion of the assets required to serve the non-Company-owned portion of the Hunter plant; (2) final recovery for royalty costs associated with the mine closure should be based on the royalties actually charged, rather than estimates; and (3) deferral of the Retiree Medical Obligations, the unrecovered ARO costs and the proposed income tax regulatory asset deferral.

5. Amortization Period. The Commission grants Rocky Mountain's request for approval of the Transaction. The Company will establish deferred regulatory accounts for costs and benefits as outlined above associated with the Deer Creek Mine closure. The Commission directs the Company to begin amortization of unrecovered plant assets at the currently-approved depreciation rate. All other regulatory accounts will be amortized at the conclusion of the next general rate case. At this time, the Commission declines to issue a ruling regarding the appropriate amortization period for recovery of specific costs, balances and losses attributable to the Transaction. The Commission will entertain subsequent filings by Rocky Mountain, and those of interested parties, seeking to recover or assign said costs in the context of the Company's next general rate case.

### **CONCLUSIONS OF LAW**

Rocky Mountain Power is an electric corporation within the definition of *Idaho Code* § 61-119, and a public utility within the definition of *Idaho Code* § 61-129. The Idaho Public Utilities Commission has jurisdiction over this matter pursuant to *Idaho Code* § 61-328.

## **ORDER**

IT IS HEREBY ORDERED that Rocky Mountain's Application seeking Commission approval of a proposed Transaction to close the Deer Creek Mine, for a deferred Accounting Order allowing the Company to defer its costs, balances and losses related to the Transaction and establish regulatory assets associated with the Transaction, more fully described above, is approved. In doing so, the Commission reserves a final ruling regarding the prudence and ratemaking treatment of specific Transaction costs, balances and losses until the Company's next general rate case.

IT IS FURTHER ORDERED that the Company shall file the final closing documents and schedules delineating and describing the actual costs, balances and losses associated with the Transaction once they are known and established.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order. Within seven (7) days after any person has petitioned for reconsideration any other person may cross-petition for reconsideration. *See Idaho Code* § 61-626.

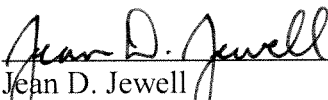
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 27<sup>th</sup>  
day of May 2015.

  
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PAUL KJELLANDER, PRESIDENT

  
\_\_\_\_\_  
MACK A. REDFORD, COMMISSIONER

  
\_\_\_\_\_  
KRISTINE RAPER, COMMISSIONER

ATTEST:

  
\_\_\_\_\_  
Jean D. Jewell  
Commission Secretary

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