

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)	
OF PACIFICORP DBA ROCKY MOUNTAIN)	CASE NO. PAC-E-16-06
POWER FOR AUTHORITY TO MODIFY)	
REGULATION NO. 9 DEPOSITS AND)	ORDER NO. 33533
ADVANCE PAYMENTS)	

On February 16, 2016, PacifiCorp dba Rocky Mountain Power (“Rocky Mountain” or “Company”) submitted an Application seeking an Order authorizing the Company to modify its Electric Service Regulation No. 9 – Deposits and Advance Payments (“Regulation No. 9”). As explained in greater detail below, the Company desires to implement additional credit risk measures for certain irrigation customers to begin in 2017, based upon their credit/payment histories in the current 2016 irrigation season. In other words, the Company seeks to have the risk mitigation measures in effect before the 2017 irrigation season.

On March 15, 2016, the Commission issued a Notice of Application and Modified Procedure. The Notice set an April 15, 2016 deadline for submitting written comments regarding the Application, and an April 21, 2016 deadline for the Company to submit reply comments. The Commission received written comments from Commission Staff and two Rocky Mountain customers within the established comment period. The Company submitted its reply comments on April 22, 2016.

APPLICATION

In its Application, Rocky Mountain explained that Regulation 9 governs the circumstances under which the Company can require a customer to: (a) pay in advance before receiving service, with the Company to credit the payment to the customer’s account at a later date; or (b) make a reimbursable deposit to secure a future payment or performance. Regulation 9 currently applies different rules to three distinct customer groups: a residential group; a small commercial group; and a group combining the large commercial, industrial, and irrigation customer classes.

The Company’s Application noted that, as of December 15, 2015, 58 irrigation customers taking service under Schedule 10 (Irrigation and Soil Drainage Pumping Power Service) had a total billing balance in arrears of about \$1.6 million. The Company is seeking authority to create a fourth irrigation-specific group under Regulation 9. The Company stated

that the fourth group would contain specific rules for irrigation customers that will help to further reduce risk and mitigate bad debt expense for the Company and its customers.

If approved, Rocky Mountain would be authorized to require advances from current, previous, or prospective customers prior to the Company providing service if the customer: (1) had a cumulative past due balance equal to or greater than \$25,000 on December 31 of the prior year; (2) had service disconnected for non-payment during the last four years; (3) sought, at any time, any form of relief under the Federal Bankruptcy Laws, or has been discharged from bankruptcy, or whose receivership proceeding has been terminated, or whose bankruptcy proceedings have been dismissed; or (4) is requesting electric service under Schedule 10 for the first time.

The Company proposed that applicable customers provide an upfront payment, guarantee of payment from a bank or financial institution acceptable to the Company, or a guarantor acceptable to the Company. The Company said that it worked with representatives of the Idaho Irrigation Pumpers Association (“IIPA”) to include the third option, “guarantor acceptable to the Company.” The Company stated that a guarantor must: (1) be an active Rocky Mountain Power customer; (2) be currently taking Schedule 10 service that is larger or comparable in size; and (3) have no more than one late notice in the previous twelve months.

The Company requested that it be allowed to require a deposit in the form of an upfront payment; a guarantee of payment from a bank or financial institution; or a guarantor acceptable to the Company for current or previous irrigation customers prior to service in certain circumstances. These circumstances include: (1) when the irrigation customer has received two or more past due notices for non-payment during the most recent irrigation season or, in the case of a previous customer, the last 12-month period during which service was received; or (2) when the irrigator was required to pay an advance prior to the previous irrigation season and the irrigator’s account balance on December 31 was less than \$25,000 for that year.

An irrigation customer with more than one Schedule 10 account may be required to pay a deposit on all Schedule 10 accounts for which the irrigation customer is financially responsible and requesting service. The Company noted that the deposit for each metered service will be equal to the estimated monthly bill for the two highest months of usage within the last two irrigation seasons. Payment of the deposit would be required prior to service for that irrigation season.

The Company stated that it will promptly return deposit(s), with accrued interest, once an irrigation customer has paid all undisputed bills and has had no more than one past due notice during the past 12 months. Interest on deposits held by the Company will be accrued at the annual rate established by Commission Order and computed from the time the deposit is made until it is returned or applied to the customer's bill. *See* IDAPA 31.21.01.106. No interest will accrue on a deposit if service is terminated temporarily at the request of a customer who leaves the deposit with the Company for future use as a deposit or if service has been permanently terminated and the Company has been unsuccessful in its attempt to refund the deposit. *Id.*

If the proposed modifications are approved by the Commission, the Company intends to send an informational letter to customers who received a past due notice during the 2015 irrigation season or had an outstanding balance of \$25,000 or more as of December 31, 2015. The letter will inform these customers that a deposit or customer advance may be required before the Company will provide service for the 2017 irrigation season if a customer receives two or more notices during the 2016 irrigation season or has a past due balance of \$25,000 or greater as of December 31, 2016. Additionally, if a first time customer receives a past due notice during 2016, the Company will send a letter explaining the amended Regulation 9 and informing the customer that a second past due notice may result in a required deposit before electric service is provided the following year.

STAFF COMMENTS

Staff reviewed the Company's Application, including information supplied through Rocky Mountain's discovery responses. Accordingly, Staff made the following recommendations regarding the Application:

1. The Company's proposal to require an advance payment for first time applicants should be denied and the Commission should retain the current deposit requirement;
2. The Commission should order the Company to clarify Regulation No. 9 to include additional criteria for the calculation of advance payments and determining the acceptable qualifications of a guarantor;
3. The Commission should approve a modification to Regulation No. 9 so as to require a deposit for customers who paid an advance in the preceding season and have an outstanding balance of more than \$1,000 but less than \$25,000 on December 31; and

4. The Commission should approve the foregoing modifications to Regulation No. 9 with an effective date of May 16, 2016.

According to Staff, a relatively small contingent of Rocky Mountain customers present an elevated credit risk to the Company. As of December 31, 2015, 58 customers owe a cumulative balance of \$1.6 million. Within that group, 15 customers have accumulated an arrearage balance of at least \$25,000. Staff pointed to an upward trend in accounts receivable from \$1,261,400 in 2013 to \$1,714,129 in 2015. Staff noted significant growth in the number of customers with two or more past due notices. The number of customers with two or more past due notices has increased from 878 in 2012 to 1,207 customers in 2015.

New Customers

Staff objected to the Company's proposal to collect an advance payment from all new applicants. According to Staff, there are relatively few new customers establishing service each year. In 2015, there were just 62 new Schedule No. 10 customers. The Company has not provided any evidence demonstrating that new customers pose a credit risk commensurate with existing customers who have a history of late payments or accumulating large arrearages. The Company's proposal would require the new customer to pay for its estimated usage during the forthcoming irrigation season in advance. A deposit simply requires the customer to pay two months of estimated usage prior to the start of the irrigation season. A deposit is less burdensome for new customers, limits the risk assumed by the Company, and allows new customers the opportunity to demonstrate their creditworthiness to the Company. Currently, the Company is permitted to collect a deposit from new applicants. Staff recommended that the current policy continue.

Company Reply Comments: According to the Company, Regulation No. 9 already authorizes the Company to require an advance for first time irrigation customers. The Company stated that it has not requested Commission approval to require an advance payment from new customers because Regulation 9 already allows it.

The Company cited subpart (c) of Section I, which states: "The Company may require a deposit or an advance payment from current and prospective industrial or large commercial customers or may require an advance payment from irrigation customers for the reasons stated in (b) above." The Company went on to mention that subpart (b) specifies that an advance may be required "when the applicant is applying for service for the first time from the Company." Thus,

the Company believes that Staff's request to eliminate customer advances for new customers should be rejected.

Clarification of Regulation No. 9

Staff recommended the revision of Regulation No. 9 to include additional information that specifically addresses how the Company calculates an advance. Responses to Staff Production Request Nos. 4 and 5 revealed that the Company bases the calculation upon the customer's usage from the preceding season. New customers with no usage history pay an advance based upon the usage of the previous customer at the new customer's location. Staff believes that further clarification is needed.

Staff expressed additional concern regarding the Company's guarantor policy. Staff stated that Regulation No. 9 mentions the option to use a guarantor but does not describe the criteria that will be used to determine if a guarantor "is acceptable to the Company." In the Company's Application, a guarantor is described as an active Rocky Mountain Power customer who's currently taking Schedule No. 10 service that is larger or comparable in size and with no more than one late notice in the previous 12 months. Staff queried how the Company determines if a guarantor is "larger or comparable in size." The Company's response to Staff's Production Request No. 8 indicated that the size of a guarantor is based upon the guarantor's usage during the preceding year for all active metered services. Staff recommended that Regulation No. 9 be revised to include additional criteria for guarantors acceptable to the Company.

Finally, Staff remarked that the Company should be ordered to elaborate further regarding the Schedule No. 10 deposit requirement. The Company's Application proposed that a Schedule No. 10 customer that was required to pay an advance in the preceding irrigation season, and had a balance on December 31 of less than \$25,000, may be required to pay a deposit prior to receiving electric service for the upcoming irrigation season. In response to Staff's Production Request No. 9, the Company stated that customers with an arrearage of more than \$50, but less than \$25,000, may be required to pay a deposit. Staff believed that the Company should be required to provide a reasonable justification for settling upon this particular range of arrearages amounts.

In contrast, Staff recommended the lower limit be raised from \$50 to \$1,000, noting that the Commission previously approved \$1,000 as the threshold for requiring a deposit from Idaho Power customers. *See* Order No. 29639 (Case No. IPC-E-04-20).

Company Reply Comments: Responding to Staff’s recommendation for clarification regarding criteria for the calculation of advance payments, the Company proposed the inclusion of additional language in Regulation 9 under the “Irrigation Advances Subpart D” section:

The advance will be equal to the estimated monthly billings for the upcoming irrigation season, based upon the previous 12 months of metered usage at each service point. If the previous 12 months includes inactivity the estimate may include earlier periods.

In response to Staff’s recommendation that Regulation 9 specify the qualifications of a guarantor, the Company proposed the inclusion of additional language in the “Irrigation Advances and Irrigation Deposits, Subpart B.2” section:

A guarantor must be: (i) an active Rocky Mountain Power Schedule 10 customer; (ii) larger or comparable in size based on previous year’s metered services; and (iii) current on all accounts at the time of the application with no more than one past due notice in the previous twelve months.

Rocky Mountain also responded to Staff’s concern regarding the Schedule No. 10 deposit requirement. The Company reiterated that irrigation customers may be required to pay a deposit before service is provided if: (1) the customer received two or more past due notices for non-payment of Schedule 10 service during the most recent irrigation season or the last 12-month period during which service was received; or (2) the Schedule 10 customer was required to pay an advance for the previous irrigation season and the balance on December 31 was less than \$525,000.

The Company believes that all customers required to pay an advance should be required to pay a deposit the following year to help establish payment history and demonstrate credit worthiness. Thus, the Company argued that Staff’s proposal to raise the lower limit for customer deposits from \$50 to \$1,000 should be deemed unnecessary.

Customer Relations and Customer Notice

Staff contacted Rocky Mountain and discussed the necessity to notify customers of its various proposals. The Company agreed to contact existing customers. On March 25, 2016, the Company mailed a letter to current Schedule No. 10 customers detailing the proposed changes to its advance and deposit policies. Upon approval of its Application, the Company stated that it will send letters to Schedule No. 10 customers most likely to be affected by the foregoing policy modifications.

PUBLIC COMMENTS

The Commission received separate comments from two individuals. The first commenter opposed the deposit requirement for customers with two or more late fees. The second commenter opposed advance payments for first time customers. This latter commenter stated that the advance payment requirement would make a young farmer take a big risk in an industry with tight margins. He stated that this is the case with his son, who is attempting to work his way into farming operations in eastern Idaho. He suggested a deposit is reasonable only for new customers and the advance is reasonable for existing customers that have been shown to be unreliable.

ROCKY MOUNTAIN REPLY COMMENTS

As mentioned above in the “Staff Comments” section, Rocky Mountain attempted to clarify how it would calculate a customer advance and describe additional criteria to determine if a guarantor is acceptable to the Company. The Company stated that Staff’s remaining recommendations should be rejected. The Company included revised tariff sheets, incorporating the clarifications and requests made in its reply comments. The Company requested that the Commission approve the revised tariff sheets as filed.

COMMISSION FINDINGS

The Commission reviewed and carefully considered Rocky Mountain’s request, including the Application, Staff comments, public comments, and the reply comments. The Commission finds that the Company’s request to authorize certain modifications to its Electric Service Regulation No. 9 is warranted. However, the Commission finds that the breadth and reach of Rocky Mountain’s proposed modifications to Regulation No. 9 go too far and exceed the limits of what the Commission has previously allowed for other electric utilities in Idaho, e.g., Idaho Power. Thus, the Commission finds that Rocky Mountain’s Application shall be granted in part and denied in part as set out below.

Reasonable Modifications to Regulation No. 9

The Commission finds that Rocky Mountain’s desire to update its Regulation No. 9 pertaining to irrigation customers is fair, just and reasonable. In particular, we find that requiring advances from current, previous, or prospective customers prior to the commencement of electric service if the customer: (1) had a cumulative past due balance equal to or greater than \$25,000 on December 31 of the prior year; (2) had service disconnected for non-payment during the last four

years; or (3) sought, at any time, any form of relief under the Federal Bankruptcy Laws, or has been discharged from bankruptcy, or whose receivership proceeding has been terminated, or whose bankruptcy proceedings have been dismissed, is reasonable and appropriate.

Additionally, the Commission finds that Rocky Mountain's proposal to modify Regulation No. 9 in a manner so that the aforementioned group of Schedule 10 irrigation customers must provide an upfront payment, guarantee of payment from a bank or financial institution acceptable to the Company, or guarantor acceptable to the Company is a rational and reasonable business practice. Customers qualifying under the foregoing criteria often present a clear and identifiable credit risk for companies. Viewed in that light, we find Rocky Mountain's proposed modifications to Regulation No. 9 are a reasonable attempt by the Company to mitigate its risk that these irrigation customers could default on their payment obligations.

Advance Payment by New Schedule 10 Customers

The Commission finds that Rocky Mountain has not provided adequate justification for its proposed modification requiring all new Schedule 10 irrigation customers to submit an advance payment for an entire irrigation season. Rocky Mountain's proposal to demand advance payment or a guarantee/guarantor from new customers who are requesting Schedule 10 service for the first time appears unreasonable. The Commission finds that singling out new customers for the imposition of additional securitization requirements is, absent additional facts demonstrating a likelihood or history of financial irresponsibility, wholly unjustified and overly burdensome. Therefore, the Commission declines to authorize the Company to modify Regulation No. 9 to require new Schedule 10 customers to provide an advance payment for the entire irrigation season.

Although we deny that part of the Application regarding new irrigation customers paying for an entire season, we have, in another case, found it reasonable for Idaho Power to require new customers taking service under its Schedule 24 Agricultural Irrigation Service to pay a deposit equal to the customers' two highest months of estimated usage. Accordingly, the Commission finds it fair and just that new customers under Rocky Mountain's Schedule 10 be subject to the same deposit requirements. Consequently, Rocky Mountain is directed to amend its revised tariff to incorporate this change for new Schedule 10 customers.

Clarification of Regulation No. 9

The Commission acknowledges that the Company agreed with Staff's recommendation, and included additional language clarifying the criteria for the calculation of advance payments. *See Rocky Mountain Reply Comments* at 3. The Commission approves the additional language included by the Company and orders its incorporation and inclusion as part of Regulation No. 9. Additionally, the Commission directs the Company to continue to work in a cooperative and transparent manner with Staff to develop further language, as deemed necessary by the parties, clarifying the exact method for the calculation of advance payments.

Finally, the Commission directs Rocky Mountain to provide notice of these modifications to ALL Schedule 10 customers—not merely the customers that Rocky Mountain deems “most likely to be affected.”

ORDER

IT IS HEREBY ORDERED that Rocky Mountain Power's Application seeking Commission authorization to modify its Electric Service Regulation No. 9, Deposits and Advance Payments, is approved in part and denied in part, as more fully detailed above. The modifications to Regulation No. 9 approved and ordered herein shall become effective for the 2017 irrigation season.

IT IS FURTHER ORDERED that, inasmuch as the Company's revised tariff sheets, included in its reply comments, do not conform exactly to the Commission's directives in this Order as more fully detailed above, the Company shall, within 14 days of the service date of this Order, file revised tariff sheets conforming to the Commission's Order.

IT IS FURTHER ORDERED that the additional language, included in the Company's reply comments, clarifying the method for the calculation of advance payments is approved. Furthermore, the Company shall work cooperatively with Staff to develop and include additional language in Regulation No. 9 to clarify how advance payments shall be calculated by the Company.

IT IS FURTHER ORDERED that the Company provide notice of these changes to all Schedule 10 customers.

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. 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 7th
day of June 2016.



PAUL KJELLANDER, PRESIDENT

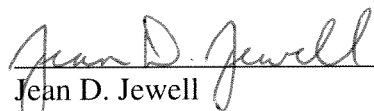


KRISTINE RAPER, COMMISSIONER



ERIC ANDERSON, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

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