

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION) CASE NO. PAC-E-16-16
TO APPROVE THE ASSET PURCHASE)
AGREEMENT BETWEEN ROCKY) NOTICE OF APPLICATION
MOUNTAIN POWER AND THE CITY OF)
IDAHO FALLS) NOTICE OF
) MODIFIED PROCEDURE
)
) ORDER NO. 33684

On December 21, 2016, PacifiCorp dba Rocky Mountain Power (“Company”) filed an Application requesting authority to sell/transfer certain electric facilities to the city of Idaho Falls, Idaho (“City”), to supply electric service to 6786 South 5th West, in the City’s boundaries. The Application falls under the Electric Supplier Stabilization Act (ESSA), *Idaho Code* §§ 61-332 *et seq.* Rocky Mountain asks the Commission to process the Application by Modified Procedure.

BACKGROUND

The ESSA was passed to: (1) discourage duplication of facilities; (2) prohibit “pirating” of consumers; (3) stabilize electric suppliers’ service territories and consumers; and (4) promote harmony between electric suppliers. *Idaho Code* § 61-332(2). As such, the ESSA prohibits an electric supplier from furnishing electric service to a consumer that is or has been “lawfully connected for electric service to facilities of another electric supplier except as provided in this act.” *Idaho Code* § 61-332B. However, the ESSA provides an exemption to this prohibition: that electric suppliers may contract to allocate “territories, consumers, and future consumers . . . and designat[e] which territories and consumers are to be served by which contracting electric supplier.” *Idaho Code* § 61-333(1). These service allocation contracts, also called service area exemption agreements, must be approved by the Commission “upon finding that the allocation is in conformance with the purposes of the ESSA.” *Id.*; Order No. 32646. In this case, the Company and the City are electric suppliers under the ESSA. *Idaho Code* § 61-332A (4) (“Electric supplier’ means any public utility . . . or municipality supplying or intending to supply electric service to a consumer.”).

In August 2005, the Company and the City entered into an allocation agreement (“2005 Agreement”) “to reduce duplication of service and promote stability of their respective service areas.” Application at 2; Exhibit 1; *see* Order No. 29895 (approving 2005 Agreement). Among other terms, the 2005 Agreement allowed for the transfer of a customer’s electric service from the Company to the City upon the customer’s written request for such transfer, and upon the City’s agreement to pay the Company “just compensation for lost revenues and [for] the facilities utilized to serve that customer.” *Id.* at 3. Under the 2005 Agreement, “just compensation for lost revenues” meant “an amount equal to 167 percent of the total of the respective customer’s electric bills from the prior twelve month period.” *Id.* In the event of such transfer, the 2005 Agreement provided that the City “would purchase the poles, wires, cross arms, insulators, guys and other facilities no longer needed or required by [the Company] to service that customer.” *Id.*

NOTICE OF APPLICATION

YOU ARE HEREBY NOTIFIED that the Company and City have entered into an Asset Purchase Agreement for which they jointly request Commission approval. Application at 1. Although the Company and the City terminated the 2005 (Allocation) Agreement in 2015, they “have agreed to utilize the terms of [the 2005 Agreement] to govern this asset [purchase].” *Id.* at 2.

YOU ARE FURTHER NOTIFIED that consistent with terms of the 2005 Agreement, the owner and developer of the property at 6786 South 5th West in Idaho Falls (i.e., the customer) made a written request to transfer electric service from the Company to the City. *Id.* at 3. Also, the Company and City have agreed to transfer service, and the City has agreed to pay 167% of the previous customer’s electric bills for the prior 12-month period, and to purchase “one transformer, three poles and approximately 1,850 feet of conductor from the Company.” *Id.* Further, the City agrees to pay the Company for legal and transaction costs. *Id.* The agreed purchase price is \$4,850.67. Exhibit D.

YOU ARE FURTHER NOTIFIED that the Application and its attachments have been filed with the Commission and are available for public inspection during regular business hours at the Commission offices. The Application and attachments are also available on the Commission’s web site at www.puc.idaho.gov. Click on the “File Room” tab at the top of the

page, scroll down to “Electric Cases” and click on the case numbers as shown on the front of this document.

NOTICE OF MODIFIED PROCEDURE

YOU ARE FURTHER NOTIFIED that the Commission has determined that the public interest may not require a formal hearing in this matter and will proceed under Modified Procedure pursuant to Rules 201 through 204 of the Idaho Public Utilities Commission’s Rules of Procedure, IDAPA 31.01.01.201-204. The Commission notes that Modified Procedure and written comments have proven to be an effective means for obtaining public input and participation.

YOU ARE FURTHER NOTIFIED that any person desiring to state a position on this Application may file a written comment in support or in opposition with the Commission **within 21 days from the service date of this Order**. The comment must contain a statement of reasons supporting the comment. Persons desiring a hearing must specifically request a hearing in their written comments. Written comments concerning this Application may be mailed to the Commission, Rocky Mountain Power, and the city of Idaho Falls at the addresses reflected below:

Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074

Street Address for Express Mail:

472 W. Washington St.
Boise, ID 83702-5918

Ted Weston
Daniel E. Solander
PacifiCorp
1407 West North Temple, Suite 330
Salt Lake City, UT 84116
E-mail: ted.weston@pacificorp.com
daniel.solander@pacificorp.com

Janice Flowers
Idaho Falls City Power
140 South Capital Avenue
PO Box 50220
Idaho Falls, ID 83405
E-mail: ifpinfo@ifpower.org

These comments should contain the case caption and case number shown on the first page of this document. Persons desiring to submit comments via e-mail may do so by accessing the Commission’s home page located at www.puc.idaho.gov. Click the “Case Comment or Question Form” under the “Consumers” tab, and complete the form using the case number as it appears on

the front of this document. These comments must also be sent to the Company and City at the e-mail addresses listed above.

YOU ARE FURTHER NOTIFIED that the Company and City may file reply comments, if necessary, **no later than 28 days from the service date of this Order.**

YOU ARE FURTHER NOTIFIED that if no written comments or protests are received within the time limit set, the Commission will consider this matter on its merits and enter its Order without a formal hearing. If written comments are received within the time limit set, the Commission will consider them and, in its discretion, may set the same for formal hearing.

YOU ARE FURTHER NOTIFIED that all proceedings in this case will be held pursuant to the Commission’s jurisdiction under Title 61 of the Idaho Code, and specifically *Idaho Code* § 61-503. The Commission may enter any final Order consistent with its authority under Title 61.

YOU ARE FURTHER NOTIFIED that all proceedings in this matter will be conducted pursuant to the Commission’s Rules of Procedure, IDAPA 31.01.01.000 *et seq.*

ORDER

IT IS HEREBY ORDERED that this case be processed under Modified Procedure. Interested persons and the parties may file written comments no later than 21 days from the service date of this Order. The Company may file a reply no later than 28 days from the service date of this Order.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this ^{5th}
day of January 2017.




PAUL KJELLANDER, PRESIDENT



KRISTINE RAPER, COMMISSIONER



ERIC ANDERSON, COMMISSIONER

ATTEST:


Diane M. Hanian
Commission Secretary

O:PAC-E-16-16_djh