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Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION TO)	
APPROVE THE ASSET PURCHASE)	CASE NO. PAC-E-16-16
AGREEMENT BETWEEN ROCKY MOUNTAIN)	
POWER AND THE CITY OF IDAHO FALLS.)	COMMENTS OF THE
)	COMMISSION STAFF
)	
)	

COMES NOW the Staff of the Idaho Public Utilities Commission, by and through its Attorney of record, Daphne Huang, Deputy Attorney General, and in response to the Notice of Application and Notice of Modified Procedure issued January 5, 2017, submits the following comments.

BACKGROUND

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.

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.*

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.

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.

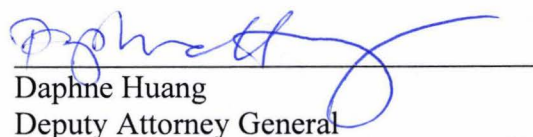
STAFF ANALYSIS

The two major components involved in this asset purchase transaction are the lost revenues and the values of the facilities utilized to serve the customer. The lost revenues are \$103.67, which would be equal to 167 percent of the total of the customer's electric bills from the prior twelve months. The facilities utilized to serve the customer include one transformer, three poles, and approximately 1,850 feet of conductor, and the values of these facilities are \$4,747. The total purchase price of the two components, therefore, is \$4,850.67. Staff believes the price is just, fair, and reasonable, and that the transaction is consistent with the purposes of the ESSA: promoting harmony between power suppliers, discouraging pirating, eliminating potential duplicative services, and stabilizing territory with proper Commission oversight.

RECOMMENDATIONS

Staff recommends that the Commission approve the Asset Purchase Agreement as consistent with the ESSA.

Respectfully submitted this 26th day of January 2017.


Daphne Huang
Deputy Attorney General

Technical Staff: Yao Yin
Kathy Stockton
Kevin Keyt

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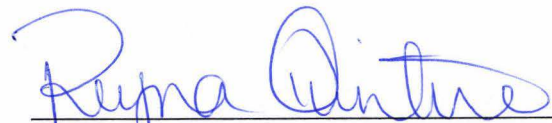
CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 26th DAY OF JANUARY 2017, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. PAC-E-16-16, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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