

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF THE APPLICATION</b>	)	<b>CASE NO. PAC-E-18-11</b>
<b>FOR APPROVAL OF THE ASSET</b>	)	
<b>PURCHASE AGREEMENT BETWEEN</b>	)	
<b>ROCKY MOUNTAIN POWER AND THE</b>	)	<b>ORDER NO. 34242</b>
<b>CITY OF IDAHO FALLS – YELLOWSTONE</b>	)	
<b>HIGHWAY</b>	)	

On November 8, 2018, Rocky Mountain Power (“Company”) filed an Application requesting approval of the Asset Purchase Agreement (“Agreement”) entered into by the Company and the City of Idaho Falls (“City”). The Agreement transfers the future electric service of eight customers and certain physical infrastructure required to serve the customers from the Company to the City. The Application is governed by *Idaho Code* §§ 61-328 and 61-333, and the Service Allocation Agreement between the City and the Company approved by Commission Order No. 33943.

On December 4, 2018, the Commission issued a Notice of Application, Notice of Modified Procedure, and Notice of Telephonic Hearing. Order No. 34199. On December 11, 2018, the Commission held a telephonic hearing on the Application. With this Order, the Commission approves the Asset Purchase Agreement.

**BACKGROUND**

Idaho Code § 61-328 governs the transfer of assets used in the generation, transmission, distribution or supply of electric power and energy to the public in Idaho. *Idaho Code* § 61-328(1). Before the Commission can approve such a transaction, it must find that (1) the transaction is consistent with the public interest; (2) the cost of and rates for supplying service will not be increased by reason of the transaction; and (3) the applicant for acquisition or transfer has the bona fide intent and financial ability to operate and maintain the property in the public service. *Idaho Code* § 61-328(3). Before making such finding, the Commission “shall conduct a public hearing on the application.” *Idaho Code* § 61-328(2).

*Idaho Code* § 61-333 is part of the Idaho Electric Supplier Stabilization Act (“ESSA”), *Idaho Code* §§ 61-332 through 61-334C. The purposes of the ESSA are to: (1) promote harmony between electric suppliers; (2) prohibit “pirating” of consumers; (3) discourage duplication of electric facilities; (4) actively supervise the conduct of electric suppliers; and (5) stabilize service

territories and consumers served by such suppliers. *Idaho Code* § 61-332(2). Any electric supplier may agree in writing with any other electric supplier to allocate service territories, consumers, and future consumers. *Idaho Code* § 61-333. The Commission shall approve agreements allocating service territories and customers between electric suppliers upon finding conformance with the purposes of the ESSA. *Idaho Code* § 61-333A(1).

On October 9, 2017, the Commission approved a Service Allocation Agreement between the City and the Company. Order No. 33943. The Service Allocation Agreement is a framework agreement that implements the ESSA between the two entities.

### **THE APPLICATION**

Under the Agreement, the Company transfers electric distribution facilities with a book value of \$8,848 and the right to serve eight customers to the City. App. at 3, Exhibit A. In exchange, the City pays 167% of the customers' prior twelve months electric bills, which equals \$17,334.58. App. at 3, Exhibit B. The total value of the transaction after all fees and costs is \$31,934. *Id.*

### **COMMENTS**

Staff filed the only comments, and recommended the Commission approve the Application. Staff determined that the sale conforms to the Idaho ESSA, *Idaho Code* § 61-328, and Commission Order No. 33943. Staff also determined that funds from the sale would offset the undepreciated rate base of assets being transferred to the City, and that the Company's accounting treatment would assure that the value of the assets is removed from rate base.

### **COMMISSION FINDINGS AND DECISION**

The Commission has jurisdiction over this matter under *Idaho Code* §§ 61-502, 61-503, 61-328, and 61-333. The Commission is empowered to investigate rates, charges, rules, regulations, practices, and contracts of public utilities and to determine whether they are just and reasonable, preferential, discriminatory, or in violation of any provision of law, and to fix the same by order. *Idaho Code* §§ 61-502 and 61-503. Commission approval is required for agreements submitted pursuant to *Idaho Code* § 61-328 and 61-333. The Commission may enter any final order consistent with its authority under Title 61.

The Commission has reviewed the record, including the Application, the Agreement, and the comments of Commission Staff. Based on our review, we find it reasonable to approve

the Agreement because the Agreement conforms with the purposes of ESSA, the requirements of *Idaho Code* § 61-328, and prior Commission orders.

### ORDER

IT IS HEREBY ORDERED that the Asset Sale Agreement between Rocky Mountain Power and the City of Idaho Falls is approved, effective on today's date.

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 14<sup>th</sup> day of February 2019.

  
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PAUL KJELLANDER, PRESIDENT

  
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KRISTINE RAPER, COMMISSIONER

  
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ERIC ANDERSON, COMMISSIONER

ATTEST:

  
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Diane M. Hanian  
Commission Secretary

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