BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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| IN THE MATTER OF THE APPLICATION OF PACIFICORP, DBA UTAH POWER & LIGHT COMPANY, FOR APPROVAL OF AN ELECTRIC SERVICE CONTRACT WITH MONSANTO COMPANY. | )  )  )  )  )  ) | CASE NO. UPL-E-95-4  ORDER NO.  26282 |

On November 8, 1995, PacifiCorp dba Utah Power & Light Company (Utah Power; Company) filed an Application with the Idaho Public Utilities Commission (Commission) requesting approval of a Power Supply Agreement dated November 1, 1995 (New Agreement; Agreement) with Monsanto Company (Monsanto).  The New Agreement replaces a Power Supply Agreement with Monsanto dated July 3, 1991 (Existing Agreement).  The New Agreement by its terms provides for service through December 31, 2001 and will continue from year-to-year thereafter subject to one year notice of termination.

Monsanto operates an elemental phosphorous plant near the city of Soda Springs in Caribou County, Idaho.  The electric power requirements of the plant have been supplied by Utah Power since 1952.  Monsanto is PacifiCorp’s single largest customer contributing over 28% of all Idaho retail revenues.  Monsanto’s principal competitor is FMC (Pocatello), an electric customer of Idaho Power Company.

The Existing Agreement for electric service to Monsanto’s Soda Springs plant provides for 9 MW of firm demand, 154 MW of interruptible demand, excess interruptible demand above 163 MW, and all associated energy.  The Existing Agreement is effective through June 30, 1997.  Interruptible power rates to Monsanto have increased 21% since 1991 and are scheduled to increase another 4% on July 1, 1996.  While Monsanto’s rates have been increasing, regional wholesale prices have been declining.

As represented by Utah Power, Monsanto has demonstrated that it has viable alternatives to continuing its current level of electricity purchases: i.e.

1.Annexation by municipal utility—Monsanto could displace all of its purchases from Utah Power by acquiring new electricity from the Soda Springs Municipal Electric Light & Power Department.

2.Different manufacturing process—Monsanto could displace all but approximately 45 MW of its electrical load by displacing most of its elemental phosphorous production at Soda Springs with a product produced from a purified wet acid (PWA) chemical process.

To retain Monsanto as a customer, a New Agreement was negotiated.

Under the New Agreement, Utah Power will supply Monsanto with 9 MW of firm power and up to 206 MW of interruptible power.  Utah Power may interrupt or curtail service to Monsanto at any time to maintain its system integrity.  Monsanto will pay Utah Power $30 million for the early termination of the Existing Agreement, a monthly minimum charge of $66,600, and 1.85 cents/kWh for all energy delivered.  The Agreement allows for approximately 1,656,000,000 kWh annually.

Utah Power presents a Technical Assessment Package in support of its Application describing the New Agreement and how it benefits Monsanto, PacifiCorp and other customers, and describing the negative economic impacts on PacifiCorp and the local economy if Monsanto should pursue its other alternatives.

Utah Power states that it does not seek a determination at this time on the ratemaking treatment applicable to Monsanto’s $30 million payment or the other rates and charges under the New Agreement.  The Company requests that all ratemaking issues be reserved for a rate case. Utah Power requests that the Application be processed under Modified Procedure, i.e., by written submission rather than by hearing. Reference Commission Rules of Procedure, IDAPA 31.01.01.201-.204.

On November 21, 1995, the Commission issued a Notice of Application and Modified Procedure in Case No. UPL-E--95-4.  The deadline for filing written comments with respect to the Application and/or the use of Modified Procedure was December 8, 1995.

Timely comments in Case No. UPL-E-95-4 were filed by the following parties:

Idaho State Senator Robert L. Geddes (District 32)

Idaho State Representative Robert C. Geddes (District 32)

Caribou County Commissioners

The City of Soda Springs

Monsanto Company

Commission Staff

Kerr-McGee Chemical Corporation

West One Bank (Soda Springs)

Idaho Irrigation Pumpers Association, Inc.

Caribou County Sun (Soda Springs)

Sanders Furniture, Inc. (Soda Springs)

All commenting parties support and recommend approval of the Application and Power Supply Agreement.  Most comments were in the nature of unqualified support.  The following parties express reservations and/or suggest that approval be made contingent upon suggested Commission conditions of acceptance.

Noting that there has not been a full rate case in Idaho since the merger of Utah Power with PacifiCorp, the Irrigation Pumpers express concern regarding future allocation of costs and benefits under interstate and class allocation methodologies.  The Irrigation Pumpers recommend that the Commission as a condition to approval of the New Agreement require that the Idaho customers under any allocation methodology used for jurisdictional or class separations be no worse off with Monsanto sales than if Monsanto sales were removed.  With respect to allocation, Staff in its comments states

The Monsanto interruptible load is not treated as an Idaho jurisdictional load for jurisdictional allocation purposes.  It is treated as a system load.  PacifiCorp has four other smaller loads in Utah that are also treated as system loads.  Costs and revenues associated with system loads are spread to all jurisdictions instead of just the jurisdiction in which the customer is physically located.  Four percent of Monsanto revenues are spread to Idaho based on a jurisdictional energy allocator.

Staff notes that the contract rates set forth in the New Agreement are fixed for the life of the contract.  For the Commission to change the contract rates, Staff contends that a requisite showing would need to be made that the contract rates are detrimental (unreasonable and adverse) to the public interest, the so called “Agricultural Products Standard” (Agricultural Products Corp. v. UP&L, 98 Idaho 23 (1976)).  Staff notes that the New Agreement contains two additional provisions however, that could lead to future rate changes:

Agreement Section 2.3 Significant Changes allows for renegotiation of the Agreement after December 1, 1998 if as specifically qualified, Monsanto receives a signed offer by a third-party to deliver power and energy to Monsanto at overall prices that are equal to or lower than 1.850 cents per kWh.  It also requires PacifiCorp to “negotiate terms and conditions for delivery” of third party power to Monsanto if then existing law allows retail wheeling and if PacifiCorp does not offer to meet the third party price.

Agreement Section 4.1.5 states that if after January 1, 1998, PacifiCorp gives any of its other interruptible customers a comparable or better deal than Monsanto has, PacifiCorp must also offer that deal to Monsanto.

Staff recommends that the Commission make it perfectly clear that its acceptance of the proposed Agreement in no way pre-authorizes retail wheeling, accounting, ratemaking treatment or any rates other than those specifically identified in the Agreement.  Staff also recommends that the Commission’s order in this proceeding require PacifiCorp to file a schedule identifying rates and charges for Commission approval.

Commission Findings

The Commission finds that it has authority and jurisdiction over PacifiCorp dba Utah Power & Light Company, an electric utility, and over the subject matter of the Application in Case No. UPL-E-95-4, pursuant to Idaho Code, Title 61 and the Commission’s Rules of Procedure, IDAPA 31.01.01.000 et seq.

The Commission continues to find Modified Procedure to be an appropriate method for processing the Application and related issues in Case No. UPL-E-95-4.  Reference IDAPA 31.01.01.204.

The Commission has reviewed and duly considered the filings of record in Case No. UPL-E-95-4 and related comments.  The Commission finds that the Company’s New Agreement with Monsanto reflects changes required by manufacturing and supply options available to Monsanto and market and regulatory changes within an increasingly more competitive electric industry.  We find the New Agreement and related rates to be fair, just and reasonable and approve the terms for the early termination of the existing Agreement.  The Commission notes the concerns raised by the Irrigation Pumpers but believes that jurisdictional and class allocation matters are more appropriately addressed in the context of general rate cases.  As recommended by Staff, we expressly note that our acceptance and approval of the proposed New Agreement should in no way be interpreted as pre-authorization of retail wheeling, accounting, ratemaking treatment or any rates other than those specifically identified in the New Agreement.  We further find it reasonable to require the Company to file a tariff schedule identifying rates and charges for Monsanto.

O R D E R

In consideration of the foregoing and as more particularly described and qualified above, IT IS HEREBY ORDERED that the Power Supply Agreement dated November 1, 1995, between PacifiCorp dba Utah Power & Light Company and Monsanto Company is approved.

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                  day of  December 1995.

                                                            RALPH NELSON, PRESIDENT

                 MARSHA H. SMITH, COMMISSIONER

DENNIS S. HANSEN, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

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