DECISION MEMORANDUM

TO:COMMISSIONER NELSON

COMMISSIONER SMITH

COMMISSIONER HANSEN

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WORKING FILE

FROM:SCOTT WOODBURY

KEITH HESSING

DATE:DECEMBER 19, 1995

RE:CASE NO. UPL-E-95-4

ELECTRIC SERVICE CONTRACT–MONSANTO COMPANY

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).

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.

The New Agreement provides that it will be effective from November 1, 1995 until December 31, 2001, and will continue from year to year thereafter subject to one year notice of termination.  If the Commission does not approve the New Agreement by January 15, 1996, the New Agreement will terminate.  Service will continue to be provided under the Existing Agreement and Monsanto will 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 (attached) 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

WestOne 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 approval.  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 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 Agreement are fixed for the life of the contract.  For the Commission to change the contract rates, 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 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 not more often than once during any consecutive 12-month period.”  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 DECISION

●Should the Application in Case No. UPL-E-95-4 be approved?

●If so, does the Commission wish to qualify its approval in the manner suggested by the Irrigation Pumpers?  In the manner suggested by Commission Staff?

●The Company has requested a November 1, 1995 effective date.  The Agreement itself was not filed until November 8.  Should the Agreement and requested rates be given retroactive effect?  It is the opinion of the Staff that the Company’s other Idaho customers will not be adversely affected by a retroactive effective date.  What is the Commission’s decision?

SCOTT WOODBURY

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