

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF THE APPLICATION )  
OF PACIFICORP, DBA ROCKY MOUNTAIN ) CASE NO. PAC-E-11-12  
POWER, FOR APPROVAL OF CHANGES )  
TO ITS ELECTRIC SERVICE SCHEDULES ) ORDER NO. 32432  
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On May 27, 2011, PacifiCorp dba Rocky Mountain Power (“Rocky Mountain Power” or “Company”) filed an Application with the Commission seeking approval to increase its rates for electric service to its retail customers in Idaho by approximately \$32.7 million, or an overall average rate increase of 15%. On June 8, 2011, the Commission issued a Notice of Application and Notice of Intervention Deadline and suspended the proposed rates for a period of thirty (30) days plus five (5) months from June 27, 2011, or until such time as the Commission entered an Order accepting, rejecting or modifying the Company’s Application. *See Idaho Code* § 61-622; Order No. 32263.

On August 3, 2011, the Commission issued a Notice of Schedule and Notice of Technical Hearing that included a settlement conference. Order No. 32309. Thereafter, all of the parties participated in settlement conferences on August 23, 2011, and September 22, 2011. Following the settlement conferences all of the parties, except one,<sup>1</sup> entered into a Settlement Stipulation that proposes a two-year rate plan. The signing parties agreed to an annual revenue increase of \$17.0 million beginning on January 1, 2012, and \$17.0 million on January 1, 2013. On October 18, 2011, Rocky Mountain Power filed the Stipulation and exhibits with the Commission. On November 2, 2011, the Company and Staff filed testimony in support of the Stipulation.

Following public workshops and public hearings the Commission convened its technical hearing on December 19, 2011. Pursuant to *Idaho Code* § 61-622, the Commission then issued an Order extending the allowable statutory period for deliberation regarding Rocky Mountain Power’s request for a rate increase by “up to an additional 21 days, or until January 17, 2012, unless the final Order is issued sooner.” Order No. 32420 at 2.

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<sup>1</sup> On October 14, 2011, Idaho Conservation League (“ICL”) filed a Notice of Withdrawal from the instant case. Accordingly, ICL is not a signatory to the Stipulation.

As outlined in greater detail below, the Commission approves the Settlement Stipulation, with one condition, and issues this Order.

**BACKGROUND**

***A. Rocky Mountain Power’s Initial Application***

Rocky Mountain Power provides electricity to approximately 72,400 customers in southeastern Idaho. Rocky Mountain Power proposed to use a test year of 12 months including known and measurable adjustments throughout the 2011 calendar year. The table below outlines the original proposed average increase for each customer class:

<b>CUSTOMER GROUP</b>	<b>PROPOSED INCREASE</b>
Residential- (Schedule 1)	7.2%
Time of Use Residential- (Schedule 36)	15.9%
General Service- (Schedule 23/23A)	11.8%
(Schedule 6/6A)	10.8%
(Schedule 19)	9.7%
Medium and Large General Service- (Schedule 9)	11.2%
Irrigation- (Schedule 10)	19.9%
Large Industrial/Special Contracts- (Schedule 400)	18.7%
(Schedule 401)	19.9%
<b>TOTAL AVERAGE INCREASE</b>	<b>15%</b>

In its Application, Rocky Mountain Power requested that the Commission grant the Company a return on equity of 10.5%. The Company estimated an overall cost of capital of 8.25%. The Company claims that its net power costs have increased by approximately \$287 million above the costs “currently included in customers’ rates.” Additionally, Rocky Mountain Power cites certain “capital additions” and “incremental operating costs associated with added generation and environmental facilities” as cost-drivers of its proposal for an increase in rates. The Company’s Application also includes additional information regarding its investment in the Populus to Terminal Transmission Line. Rocky Mountain Power attached the testimony of 14 separate witnesses in support of its Application.

### ***B. Procedural Background***

Following the Commission's issuance of a Notice of Application and Notice of Intervention Deadline, the following parties formally requested and were granted intervention: Monsanto Company (Monsanto), Idaho Irrigation Pumpers Association, Inc. (IIPA), PacifiCorp Idaho Industrial Customers (PIIC), Community Action Partnership Association of Idaho (CAPAI), and Idaho Conservation League (ICL).

Commission Staff conducted two public workshops on October 26 and October 27, 2011, in Grace and Rexburg, Idaho, respectively. The Commission also held public hearings to elicit public testimony on December 7 and December 8, 2011, in Downey and St. Anthony, Idaho, respectively. On December 19, 2011, the Commission convened a telephonic public hearing to enable all Rocky Mountain Power customers to offer comments on the rate proposal.

The Commission received approximately 75 written comments from the public regarding Rocky Mountain Power's Application to increase its rates for electric service. These comments were nearly unanimous in their opposition to the Company's Application. Additionally, the two public hearings in Downey and St. Anthony, Idaho were very well attended with approximately 60 persons attending the Downey hearing and approximately 115 customers attending the St. Anthony public hearing. Five persons called into the toll-free telephone number and two customers ultimately testified at the December 19, 2011, telephonic public hearing. On December 19, 2011, the Commission convened a technical hearing.

### ***C. Proposed Settlement***

Pursuant to the settlement discussions, Rocky Mountain Power, Commission Staff, Monsanto, IIPA, and PIIC ("Parties") entered into a negotiated settlement and Stipulation that seeks to resolve all of the outstanding issues in this proceeding. CAPAI did not endorse the Stipulation and filed testimony in opposition to the proposed settlement.

The following is a summary of the substantive terms included in the Stipulation proposed for approval by the Commission:

1. A two-year rate plan with annual rate increases of \$17.0 million per year, resulting in an overall average annual revenue increase of approximately 7.8% in 2012 and 7.2% in 2013. The first increase to base rates will occur January 1, 2012. The second increase to base rates will occur January 1, 2013. The Company will make a compliance filing on November 1,

2012, to implement the second year increase of \$17.0 million effective January 1, 2013, and will include revised tariffs.

2. The settlement does not constitute an agreement or acceptance by the Parties of any specific revenue requirement adjustments, cost allocation or cost-of-service methodology. The Parties agree that the starting point of the Stipulation was to accept all Commission-ordered adjustments from Case No. PAC-E-10-07, Order No. 32196.

*Power Costs*

3. The Parties agree that based on the revenue requirement split specified in paragraph 1, net power costs in base rates will increase from the current level of \$1.025 billion to \$1.205 billion in 2012, and from \$1.205 billion to \$1.385 billion in 2013. These amounts will become the total Company base net power costs for tracking in the Company's energy cost adjustment mechanism ("ECAM").

4. The Parties agree that \$78.8 million, on a total Company basis, or \$6,526,622 allocated to Idaho (RMP Exhibit 2 page 3.5) of renewable energy certificate ("REC") revenue is included in rates in 2012 and 2013. The Idaho allocated amount will become the base for purposes of tracking at 100 percent in the Company's ECAM mechanism.

5. The Parties agree to update the Idaho load in the 2012 ECAM load change adjustment revenue ("LCAR") calculation to the 2010 actual load included in PAC-E-11-12 for the 2012 ECAM deferral calculation and use 2011 actual load reported in the Annual Results of Operations Report for the 2013 ECAM deferral calculation. The LCAR unit value would be frozen over the rate plan period at the current rate of \$5.47 per MWh, pursuant to Commission Order in Case No. PAC-E-10-07.

6. The Parties agree that the Company shall amortize and collect Agrium and Monsanto's share of Commission-approved ECAM balances, which includes deferred net power costs, deferred RECs, LCAR adjustments and other ECAM components, including the irrigation load control credit as specified in paragraph 10, over the following periods:

- (a) The 2012 ECAM balance (2011 deferrals) over a period of three years;
- (b) The 2013 ECAM balance (2012 deferrals) over a period of three years;
- (c) The 2014 ECAM balance (2013 deferrals) over a period of two years;
- (d) Beginning with the 2015 ECAM balance (2014 deferrals), Monsanto and Agrium will pay new ECAM costs based on a 12-month collection period.

Any over-collection or under-collection at the end of the amortization periods identified in paragraphs 6(a) through 6(c) above will be trued up for each contract customer and refunded or collected as part of a subsequent ECAM collection period from these contract customers and not from other retail customers. All other customers will continue to pay ECAM changes on the 12-month collection period as they currently do during the rate plan.

7. The Parties agree that Idaho's share of the customer load control service credit will be tracked in the ECAM. The Parties agree that \$1,045,423 (RMP Exhibit 2 page 4.4.1) is Idaho's base amount to be tracked in the ECAM for 2012 and 2013.

*Rate Spread and Rate Design*

8. The rate spread, based upon \$17.0 million in annual increases for 2012 and 2013, is described in detail in Attachment 1 to the Stipulation.

9. The Parties agree that the design of rates by rate schedule (rate design) shall be consistent with the Company's proposals filed in its Application and adjusted for the revenue requirement specified in this Stipulation. See Stipulation, Attachment 2; PAC-E-11-12 Technical Hearing Transcript, Exhs. 49, 101.

10. The Parties agree that the Company's residential customer service charge for Schedules 1 and 36 will remain at \$5.00 per month and \$14.00 per month, respectively, during the time period covered by the Stipulation.

*Other Items*

11. The Parties agree that the value of Monsanto's curtailment products will be increased from \$[redacted] million in 2011, to \$[redacted] million in 2012, and \$[redacted] million in 2013. Monsanto and the Company will execute a new energy service agreement for 2012 and 2013 in order to reflect the terms of the Stipulation.<sup>2</sup>

12. The Parties agree that this Stipulation does not change or alter the irrigation load control service credit in 2012 or prior agreements governing the irrigation load control program that require the irrigation load control service credit to be renegotiated for the 2013 season and beyond.

13. The portion of the Populus to Terminal transmission line determined by the Commission in Case No. PAC-E-10-07 to be plant held for future use (PHFU) is now used and

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<sup>2</sup> On December 23, 2011, Rocky Mountain Power and Monsanto submitted a new Energy Service Agreement incorporating the curtailment values found in the Stipulation.

useful. The Parties agree that the Commission should make a specific finding that the entire Populus to Terminal transmission line is now used and useful. The portion of the transmission line deemed PHFU in Case No. PAC-E-10-07 shall not be included in rates until on or after January 1, 2014. As called for in the Stipulation, Staff and the Company have filed a Joint Motion to Suspend the Appeal now pending in the Idaho Supreme Court, Docket No. 38930-2011. Upon receipt of a final Order from the Commission approving the Stipulation, the Company agrees that it will, within 10 days thereof, file a stipulation for dismissal of the appeal with each party to bear its own costs.

14. The Parties agree that the Company will continue to defer the depreciation expense associated with the Populus to Terminal transmission line, pursuant to Order No. 32224, until it is included in rates on January 1, 2014, and that the accumulated deferral balance will be amortized over three years from the date the costs are included in rates.

15. The Parties agree that the Company will work with the Parties to establish hedging limits consistent with workgroup processes established in Utah and Oregon for costs beginning January 1, 2013, and forward.

16. The Parties agree that, in recognition of the two-year rate plan covered by this Stipulation, Rocky Mountain Power will not file another general rate case before May 31, 2013, with new rates not effective prior to January 1, 2014. Rocky Mountain Power will continue to file annual Results of Operations Reports with the Commission to enable the Commission to ensure that rates during the two-year rate plan continue to be just and reasonable. This Stipulation does not prohibit the Company from revising rates due to the ECAM, which will still occur April 1 each year.

The chart below outlines the percentage increase for each customer class envisioned by the Parties to the Stipulation for the calendar years of 2012 and 2013:

CUSTOMER GROUP	COMPANY'S INITIAL PROPOSED INCREASE FOR 2012 ONLY	SETTLED INCREASE FOR 2012	SETTLED INCREASE FOR 2013
Residential- (Schedule 1)	7.2%	5.88%	5.43%
Time of Use Residential- (Schedule 36)	15.9%	7.96%	7.39%
General Service- (Schedule 23/23A)	11.8%	6.88%	6.38%
(Schedule 6/6A)	10.8%	6.7%	6.21%
(Schedule 19)	9.7%	6.4%	5.93%
Medium and Large General Service- (Schedule 9)	11.2%	7.02%	6.51%
Irrigation- (Schedule 10)	19.9%	8.91%	8.25%
Large Industrial/Special Contracts- (Schedule 400)	18.7%	8.91%	8.25%
(Schedule 401)	19.9%	8.91%	8.25%
TOTAL AVERAGE INCREASE	15%	7.79%	7.23%

## TECHNICAL HEARING

### *A. The Proposed Settlement Stipulation*

A technical hearing was convened on December 19, 2011, wherein testimony was presented by Rocky Mountain Power and Commission Staff in support of the Stipulation. CAPAI presented testimony in opposition to the Stipulation.

1. Rocky Mountain Power: Witness Ted Weston, Rocky Mountain Power's Manager of Idaho Regulatory Affairs, testified in support of the Stipulation. Mr. Weston averred that the Stipulation reached by the Company, Monsanto, IIPA, PIIC and Staff represented "a fair, just and reasonable compromise" of the contested issues in this rate case. Tr. at 188. Weston explained that "the starting point of the Stipulation was to accept all Commission ordered adjustments from Case No. PAC-E-10-07, Order No. 32196." Tr. at 190. The Company states that the average Idaho residential customer would see a \$4.84 increase in their monthly bill for electricity. Tr. at 201.

Mr. Weston pointed out two key issues the Stipulation sought to address: customer rate impact and potential changes from ECAM surcharges. Tr. at 192-193. According to the Company, net power costs were the single largest cost driver in this case. Tr. at 193-194. Thus, the Stipulation contemplates that each increase in 2012 and 2013 will consist of \$6.0 million in non-net power costs (capital, operations and maintenance, and other) and \$11.0 million in net power costs. Tr. at 190-191. The Stipulation helps mitigate the rate impact to customers by spreading the increase over a two-year period and, for tariff contract customers like Agrium and Monsanto who will be exposed to the ECAM for the first time in 2012, amortizing the deferred net power cost in the ECAM. Tr. at 193-196. The Stipulation dictates that the Company will collect Agrium and Monsanto's share of the Commission-approved ECAM balances over a three-year period, April 1, 2012 through March 31, 2015. Tr. at 194-195. "Any over or under collection of the 2012 ECAM balance would be added to the 2015 ECAM balance." Tr. at 195.

Mr. Weston testified that absent a Stipulation in this case, the Company likely would have filed a general rate case in 2012 seeking to recover what it estimates will be a dramatic increase in its system-wide net power costs. Tr. at 194, 202. Customers will benefit from the Stipulation because the Company recovers only 90% of the actual increase in net power costs deferred through the ECAM process. Tr. at 194.

The Stipulation also directs that the portion of the Populus to Terminal transmission line that is currently deemed PHFU will now be deemed "used and useful" by the Commission but recovery will be deferred until the Company's next general rate case, or January 1, 2014. Tr. at 197-198. In exchange for the Commission's finding that the Populus transmission line is currently "used and useful," the Company agrees to file a stipulation to dismiss its appeal, Docket No. 38930-2011, currently pending before the Idaho Supreme Court. Tr. at 198.

Per the Stipulation, the Company also commits to establishing "hedging limits" for natural gas and/or market purchases for Idaho consistent with the results reached in ongoing workgroups established in Utah and Oregon regarding the Company's hedging practices. Tr. at 199. Finally, the Company agrees to abandon its pursuit of an increase in the customer service charge for Schedule 1 and Schedule 36 residential customers. *Id.* The customer service charges will remain at \$5.00 and \$14.00 per month, respectively. *Id.*

2. Staff: Witness Randy Lobb, Utilities Division Administrator, filed testimony in support of the Stipulation. Staff supports the Stipulation because the two-year rate plan outlined



in the Settlement Stipulation represents a reasonable compromise of the Parties' positions. The agreed upon increase of \$17 million in 2012 constitutes a 48% decrease of the Company's original request for 2012. Tr. at 339. Mr. Lobb remarked that the Stipulation "does not provide agreement or acceptance of specific revenue requirement adjustments or cost of service methodology." *Id.*

Staff's focus in evaluating the Stipulation "was to assure the best deal for customers." Tr. at 345. As part of the settlement process leading to the Stipulation, "Staff identified a broad range of adjustments, starting with adjustments previously approved by the Commission in the Company's last rate case, Case No. PAC-E-10-07[,]" amounting to "\$14.3 million, \$5 million of which were power supply costs subject to recovery through the ECAM." *Id.*

Mr. Lobb stated that Staff gave serious consideration to prosecuting all of its proposed adjustments through the technical hearing process. Tr. at 346. In Staff's view, even if all of Staff's proposed adjustments to the Company's Application were approved by the Commission, the "best case scenario at hearing would have been an increase in the range of \$18.5 million (8.5%) achieved in part by pushing \$5 million in net power supply expense ("NPSE") to the ECAM for later recovery." Tr. at 347. Because such a large portion of the Company's request for an increase in this case is tied to an increase in NPSE, "failure to recover legitimate NPSE in base rates as part of this case pushes recovery of the expenses to the ECAM in 2013." *Id.* Thus, Mr. Lobb noted that "cost recovery decisions in this case have a multi-year impact on customer rates." *Id.*

Concerning non-NPSE costs, Mr. Lobb remarked that because those costs "can only be recovered through base rates," Staff sought to achieve "a lower level of recovery for this category of costs and a better deal for customers through settlement. . . ." Tr. at 349. Staff identified approximately \$9.3 million in proposed adjustments to the Company's original request for an increase of approximately \$16 million in non-NPSE costs. *Id.* Thus, if all of Staff's proposed adjustments were accepted by the Commission, "the best outcome that could be expected at hearing was an increase of approximately \$6.7 million." Tr. at 349-350. The Stipulation agreed to by the Company allows for a \$6 million increase in non-NPSE costs. Tr. at 349. In other words, the Stipulation agreed to by the Parties represents an acceptance of "every adjustment proposed by the Staff plus an additional \$700,000." Tr. at 350.

Staff determined that the proposed increase for 2013 was reasonable. According to Staff's analysis, the \$12 million in total NPSE costs for 2012-2013 found in the Stipulation "represents a fraction of the non-NPSE that the Company has requested in this case and would request in a filing next year." Tr. at 351. Staff estimated that, based on the Company's recent rate case filing in Utah where it utilized a 2012 forecasted test year, "the Company could and likely would file for a rate increase [in Idaho] in 2012 exceeding \$30 million, with more than \$12 million of the request increase for non-NPSE." *Id.* A two-year rate plan approach is justified in this case because actual power supply expenses are paid by customers through either base rates or deferred to the ECAM process through 2014. *Id.* The Stipulation spreads those NPSE costs over a two-year period and thus mitigates the rate impact to customers. *Id.* Staff believes that the NPSE levels found in the Settlement Stipulation "are consistent with stipulated NPSE revenue requirement increases for those years." Tr. at 354.

Addressing the class cost-of-service ("COS") and revenue spread issues, Mr. Lobb noted that the Stipulation outlines that the "revenue spread to customer classes in each year of the rate plan will include a 25% move toward the Company's proposed COS in this case." Tr. at 352. A 50% move toward full COS for each customer class over the two-year period covered by the Settlement Stipulation represents a step toward each class paying its fair share of the costs while "mitigating an even greater rate impact that would otherwise occur with a full COS move." Tr. at 353. This approach allows the Parties to move gradually toward full COS without endorsing a specific COS approach or study. Tr. at 352-353.

Staff explained that revenue from renewable energy credits ("RECs") is within a reasonable range and "will be tracked through the ECAM and trued up each year." Tr. at 355. The LGAR<sup>3</sup> amount of \$5.47 per MWh was ordered by the Commission following the Company's last rate case, PAC-E-10-07, and Staff supports the "continued use of the previously approved LGAR level through 2013." *Id.* The Irrigation Load Control program credit level of \$1.05 million is consistent with the Stipulation reached in PAC-E-11-06. *Id.* Ultimately, the Multi-State Process (MSP) "will determine during the rate plan period if Idaho Irrigation Load Control program costs will be accepted by other . . . jurisdictions as a system resource." *Id.* The terms of the Stipulation allowing Agrium and Monsanto to defer and amortize their ECAM

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<sup>3</sup> LGAR, or Load Growth Adjustment Rate, refers to the rate used during the Company's ECAM process in order to offset the net power costs actually incurred by the Company by the revenues attributable to load growth or decline.

balances through 2015 will help “mitigate the much larger rate impact that would otherwise occur” and will not adversely impact other customers. Tr. at 356.

Staff considers the Stipulation provision to deem the 27% of the Populus to Terminal transmission line currently classified as PHFU as “fully used and useful” to be a reasonable compromise. Tr. at 357. In exchange for that finding, the Company agreed to file a motion to dismiss its appeal to the Idaho Supreme Court regarding the Commission’s decision to exclude that portion of the transmission line from rate base. *Id.* The Company also agreed to defer rate recovery until on or after January 1, 2014. *Id.*

Staff views the Company and Monsanto’s agreement as to the value of Monsanto’s curtailment products as a “reasonable resolution of an otherwise contentious issue during the period of the rate plan.” Tr. at 358. Per the Stipulation, the Parties will participate in “workshops and collaborative discussions to address cost of service methodologies as applied to Monsanto” and “terms of the irrigation load control program for the 2013 season and beyond and hedging limits consistent with workgroup processes established in Utah and Oregon.” *Id.*

3. CAPAI: Witness Teri Ottens, CAPAI Policy Director, filed testimony in opposition to the proposed Stipulation.<sup>4</sup> In her testimony, Ms. Ottens conceded that she has no specific “expertise in utility ratemaking, including revenue requirement issues or rate spread issues.” Tr. at 274. Thus, Ms. Ottens’ testimony does not, “in the technical sense,” take any specific position on revenue requirement issues. *Id.* Ms. Ottens offered that “Staff always conducts a very thorough analysis of specific revenue requirement issues.” *Id.*

Nevertheless, Ms. Ottens voiced general concerns held by CAPAI regarding, inter alia, “Rocky Mountain’s rapidly rising rates. . . .” Tr. at 268. CAPAI believes that any Stipulation endorsing an increase in rates should include an “offsetting provision for low-income customers.” Tr. at 269. Ms. Ottens noted that CAPAI saw “positive value” in several aspects of the Stipulation, including the reduction in non-net power supply costs and the denial of an increase in the customer charge for Schedule 1 residential customers. *Id.* The organization could not endorse the Stipulation in its entirety because it “would not be in the best interests of low-income customers or residential customers on the whole.” *Id.*

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<sup>4</sup> Much of Ms. Ottens’ testimony relates specifically to CAPAI’s proposal to increase the current allocation to the LIWA program and will be addressed in the following section of this Order.

Ms. Ottens stated additional objections to the Stipulation relating to “certain fundamental principles” such as: (1) the frequency of rate case filings by Idaho electric utilities; (2) the “confusing” and “compounding” effect of increases processed through the ECAM and/or PCA process; and (3) the perceived lack of transparency of settlement stipulations. Tr. at 271, 273-274.

**Commission Findings:** Rules 271-280 outline the procedures regarding any settlement agreement presented for Commission approval. IDAPA 31.01.01.276-280. Rule 276 provides that the Commission is not bound by settlement proposals introduced by the Parties and that the Commission “will independently review any settlement proposed to it to determine whether the settlement is just, fair and reasonable, in the public interest, or otherwise in accordance with law or regulatory policy.” IDAPA 31.01.01.276. The parties presenting the stipulation for Commission approval “carry the burden of showing that the settlement is reasonable, in the public interest, or otherwise in accordance with law or regulatory policy.” IDAPA 31.01.01.275.

If any party, such as CAPAI in this case, opposes the proposed settlement, the Commission may convene an evidentiary hearing during which said party is offered the opportunity to examine witnesses supporting the settlement, introduce testimony from their own witnesses, and present argument against the proposed settlement. *Id.* Having reviewed all of the testimony in support of and opposed to the Stipulation, the Commission finds that the Stipulation is fair, just, and reasonable and in the public interest. *Id.* The Commission recognizes that the Stipulation constitutes a substantial reduction of the Company’s original rate case filing.

The Commission finds that the Stipulation, signed by the Company, PIIC, Monsanto, IIPA and Staff, is a reasonable compromise with substantial benefits to all customer classes. The Commission finds that customers will benefit from the institution of the multi-year rate plan outlined in the Stipulation because it mitigates the impact of the rate increase by spreading out the forecasted increase in the Company’s net power supply expenses (“NPSE”) over a longer time period. In addition, the two-year rate plan offers a measure of certainty that allows residential and business customers to plan for future costs.

The Stipulation also settles the legal issues pending before the Idaho Supreme Court involving the Populus to Terminal transmission line. In exchange for the Parties agreeing that the entire transmission line, including the portion (27%) deemed PHFU following the

Company's last rate case, is currently "used and useful," the Company agrees to dismiss its lawsuit and forego rate recovery on that portion of the line until on or after January 1, 2014. Tr. at 198. The Commission finds that this concession benefits customers because it eliminates the uncertainty inherent in litigation and postpones cost recovery.

The Commission's decision to exclude 27% of the transmission line from rate recovery was greatly disputed during the Company's last general rate case, PAC-E-10-07. Order No. 32196 at 35-38. However, as we made clear in our Order on Reconsideration following that case, the classification of 27% of the transmission line as PHFU was only a temporary condition. Order No. 32224 at 11-12. Based on the Parties' agreement in the Stipulation, we find that the remaining 27% of the Populus to Terminal transmission line is currently "used and useful" for purposes of rate recovery on or after January 1, 2014.

Next, the Commission directs the Company to address certain persistent concerns raised by customers in the form of written comments and public testimony. There appears to be a great deal of confusion among a significant portion of Rocky Mountain Power's customer base as to why the Company's Application, as well as the Parties' Stipulation, calls for a greater percentage increase for Schedule 36 (Time of Use) residential customers. According to customers, this approach acts as a disincentive to participate in the Time of Use Program.

Responding to an inquiry by Commissioner Smith regarding the rationale for the greater percentage increase for Schedule 36 customers, Company witness Weston responded that the current average rate for Schedule 1 is 9.6 cents per kWh while the rate for Schedule 36 is less than half that amount, 4.2 cents per kWh. Tr. at 217. Thus, while the Stipulation calls for a smaller overall increase, three-tenths of a cent per kWh, for Schedule 36 than Schedule 1, half a cent per kWh, the percentage increase for Schedule 36 would still be slightly higher because the current Schedule 36 average rate is significantly lower than Schedule 1. Tr. at 218. In other words, a smaller increase applied to a smaller base rate still yields a larger percentage increase. *Id.* (emphasis added). If customers compare the actual rates of Schedule 1, and Schedule 36, they will see the substantial value of Schedule 36, if they are able to shift their electrical consumption to off-peak hours.

We also note that during the technical hearing Company witness Weston explained that only 26% (15,000 of approximately 57,000 residential customers in the Company's Idaho service territory) of Rocky Mountain Power's residential customers are taking advantage of

Schedule 36 service. Tr. at 219. We can only surmise that this relatively low percentage of participation is at least partially attributable to the lack of information about the cost-savings potential of Schedule 36 participation. During the technical hearing, the Company admitted that it does not market its Schedule 36 Time of Use Program to its customers. *Id.* Currently, only new residential customers are even informed of the option to enroll in Schedule 36 while existing customers are not informed of that option. Tr. at 219-220. We order Rocky Mountain Power to provide us with a plan for a more concentrated and focused effort to educate its Idaho customer base. The Company should consider how to raise the knowledge base of its customers regarding service options that are available and advise the Commission of its proposal to enhance customer education.

The Commission also heard many complaints during the public hearings regarding the prevalence of momentary outages. The Commission orders Rocky Mountain Power to continue its service and performance quality reporting requirements, adopted in PAC-E-99-01, including those associated with momentary and longer-term service interruptions occurring in its Idaho service territory. *See* Order No. 28213 at 45. The bi-annual reports submitted to us regarding performance and service quality issues and established as part of PacifiCorp's, Rocky Mountain Power's parent company, merger commitments have been very useful. Although the merger commitments made by the Company expired on December 31, 2011, the Commission finds that the information provided in those reports has been vital in efforts to assess reliability and service quality issues. Therefore, Rocky Mountain Power shall continue to submit bi-annual reports regarding service and performance quality issues, including momentary service interruptions, with an enhanced emphasis on options for improvement.

### ***B. Low-Income Weatherization***

The other disputed issue before the Commission pertained to the appropriate funding level of Rocky Mountain Power's Low Income Weatherization Assistance (LIWA) Program. Following the Company's last general rate case, the Commission issued Order No. 32196 and directed an increase in the annual contribution to the LIWA Program from \$150,000 to \$300,000, a 100% increase. In its testimony, CAPAI proposes a 26% annual increase to the program. The Company and Staff oppose CAPAI's request for an increase in funding.

1. CAPAI: Witness Teri Ottens addresses CAPAI's concerns regarding the level of funding the Company directs to the LIWA Program. Tr. at 279. CAPAI believes that Rocky

Mountain Power's contribution to the program should be on "parity" with Idaho's other large electric utilities, Idaho Power and Avista Corporation. Tr. at 280, 282. CAPAI calculated the funding on a "per capita level" by dividing "the total program funding by the number of each utility's Idaho electric residential customers." Tr. at 281. CAPAI asserts that any disparity in the funding level on a per capita basis is arguably discriminatory. *Id.*

CAPAI requests an increase of \$77,517 in the annual allocation made by the Company to the LIWA Program for a total annual funding level of \$377,517. Tr. at 282. CAPAI emphasized what it characterized as a "widening gap between need and resources for LIWA" and estimated that the waiting list for participation in the LIWA Program is approximately eight years. Tr. at 282-283. CAPAI concluded its remarks by offering general commentary on its active participation in Rocky Mountain Power's LIWA Evaluation Case, PAC-E-11-13, and conservation education. Tr. at 283-287.

2. Rocky Mountain Power: Witness Rebecca Eberle, Low Income Program Manager, submitted rebuttal testimony of CAPAI witness Terri Ottens. Ms. Eberle suggested that CAPAI's LIWA Program requests would be more appropriately considered within the context of the Company's request to discontinue low-income program evaluations made in PAC-E-11-13. Tr. at 229. The Company opposes CAPAI's request to increase the current funding level of the LIWA Program from \$300,000/year to \$377,517/year. Tr. at 235.

Ms. Eberle states that CAPAI's comparison of Rocky Mountain Power's per customer LIWA expenditures with Avista is flawed. Tr. at 230. CAPAI's analysis fails to take into account that Rocky Mountain Power provides electric service only and Avista's expenditures include low-income weatherization measures offered to its gas and electric service customers. Tr. at 230-231. Rocky Mountain Power doubts CAPAI's claim that the average low-income customer waits eight years to participate in the LIWA Program. Tr. at 231. Ms. Eberle remarked that CAPAI was unable to estimate how many qualifying customers were on the waiting list as of December 31, 2010, and October 31, 2011. *Id.* Ms. Eberle did not object to the \$50,000/year allocation toward conservation education but did express some concerns about the speed and efficacy with which CAPAI agencies distribute the energy efficiency kits to qualifying low income customers. Tr. at 232-234.

3. Staff: Witness Stacey Donohue, Staff Utilities Analyst, submitted rebuttal testimony disputing several of Ms. Ottens' assertions regarding the funding level of the LIWA

Program. Staff believes that CAPAI's "definition of low income funding level 'parity' among Idaho electric utilities does not justify the \$77,517 funding increase she recommends for Rocky Mountain Power." Tr. at 307. Staff asserted that "uncertainty regarding both [LIWA] program cost effectiveness and overall need makes significant low income weatherization funding increases premature in this case." *Id.* Staff suggests that public workshops be convened so that interested Parties can work toward the development of "consistent cost effectiveness criteria, identify appropriate methods for measuring need, and establish proportional funding levels." *Id.* Staff supported CAPAI's assertion that the \$50,000 allocation ordered by the Commission following Rocky Mountain Power's last general rate case, PAC-E-10-07, should be considered an annual allocation. Tr. at 308. However, Staff recommended that all expenditures should be suspended after the end of the current program year in March 2012, "until the parties have agreed to a program implementation plan for the Con-Ed program during the [recommended] workshops." *Id.*

Ms. Donohue refuted CAPAI's calculation of the per customer expenditures made for Avista and Rocky Mountain Power. Tr. at 308-310. In addition, Staff does not believe that "parity" should be the sole determinant of the appropriate funding level for low-income programs. Tr. at 309. Rather, "it makes more sense to provide similar funding based on relative need." *Id.* Staff opined that additional criteria such as "the number of low income customers, number of homes needing weatherization, and poverty rates" should be included in the analysis. Tr. at 310.

Staff remarked that its recommendation in this case is consistent with its recommendation made in rebuttal testimony in Idaho Power's rate case, IPC-E-11-08, comments submitted in Rocky Mountain Power's pending low-income evaluation case, PAC-E-11-13, and ordered by the Commission in Avista's recent general rate case, AVU-E/G-11-01. Tr. at 316. Thus, Staff recommended that representatives of all three main electric utilities should be ordered to participate in the workshops. *Id.*

**Commission Findings:** The Commission has reviewed all of the testimony, exhibits and related filings in this case and finds that CAPAI's request for additional funding for the LIWA Program is not warranted at this time. We find that CAPAI, in its various pleadings to the Commission, has failed to provide an adequate accounting of the previous allocations to the LIWA Program. While CAPAI is under no legal requirement to disclose to the Commission a



full accounting of its LIWA Program distributions, the Commission has a fiduciary duty to ensure that all of the allocations it directs the Company to make to CAPAI are appropriately spent.

The Commission is not persuaded by CAPAI's argument that the mathematical calculation of a per customer contribution should be the determining factor for funding levels of low-income programs amongst the three main electric utilities (Rocky Mountain Power, Idaho Power Company, and Avista Corporation) regulated by the Commission. The three major electric utilities in Idaho, Avista, Idaho Power and Rocky Mountain Power, "have very different standards for measuring energy savings, recording measure level data, providing oversight of Community Action Partnership ("CAP") agencies, and calculating cost effectiveness." Tr. at 311. Each of these utilities measures energy savings differently and there is no consensus concerning the role non-energy benefits should play in the analysis of program cost effectiveness. *Id.*

We find that relative parity of funding level is only one factor to consider within a broader analysis to ascertain the appropriate funding level for each company's low-income programs. The Parties have presented the Commission with a myriad of recommendations for the determination of need, including: unemployment rates, poverty rates, the number of electrically-heated homes, the CAP agency waiting list, and the cost-effectiveness of weatherization measures. We believe that each of these factors is useful in arriving at an ultimate determination of need.

Thus, consistent with our ruling in IPC-E-11-08, the Commission finds that it is reasonable to open a separate docket for all stakeholders and interested Parties to participate in public workshops with a goal of determining appropriate criteria for establishing funding levels for the utilities' low-income weatherization programs. In the public workshops, the Commission envisions that the Parties will examine and discuss various methodologies and tools to assess program cost-effectiveness, including the appropriate measurement of non-economic benefits associated with the programs, and submit a report to the Commission outlining their findings and recommendations.

### **INTERVENOR FUNDING**

At the conclusion of the December 19, 2011 technical hearing, Chairman Kjellander directed the Parties to prepare and submit their various Petitions for Intervenor Funding. Tr. at

378. Thereafter, the Commission received Petitions for Intervenor Funding from CAPAI and IIPA. The Commission also received Rocky Mountain Power's filing in opposition to CAPAI's request for intervenor funding.

#### ***A. Legal Standards for Intervenor Funding***

Intervenor funding is available pursuant to *Idaho Code* § 61-617A and Commission Rules of Procedure 161 through 165. It is the “policy of (Idaho) to encourage participation at all stages of all proceedings before this Commission so that all affected customers receive full and fair representation in those proceedings.” *Idaho Code* § 61-617A(1). The statutory cap for intervenor funding that can be awarded in any one case is \$40,000. *Idaho Code* § 61-617A (2). Accordingly, the Commission may order any regulated utility with intrastate annual revenues exceeding \$3.5 million “to pay all or a portion of the costs of one or more parties for legal fees, witness fees, and reproduction costs not to exceed a total for all intervening parties combined of \$40,000. . . .” *Id.*

Rule 162 of the Commission's Rules of Procedure provides the form and content requirements for a petition for intervenor funding. The petition must contain: (1) an itemized list of expenses broken down into categories; (2) a statement of the intervenor's proposed finding or recommendation; (3) a statement showing that the costs the intervenor wishes to recover are reasonable; (4) a statement explaining why the costs constitute a significant financial hardship for the intervenor; (5) a statement showing how the intervenor's proposed finding or recommendation differed materially from the testimony and exhibits of the Commission Staff; (6) a statement showing how the intervenor's recommendation or position addressed issues of concern to the general body of utility users or customers; and (7) a statement showing the class of customer on whose behalf the intervenor appeared. The Petitions for Intervenor Funding filed by CAPAI and IIPA comport with the procedural and technical requirements of the Commission's Rules.

1. CAPAI: CAPAI is a “non-profit organization overseeing a number of agencies who fight the causes and conditions of poverty throughout Idaho.” CAPAI Petition at 7. In this case, CAPAI's Petition for Intervenor Funding included the following itemized fees and costs: \$21,232 – legal fees and costs; \$3,000 – consultant fees.

In its Petition, the organization noted that it “participated in every aspect of this case from its review of the Company's original filing through settlement negotiations to full technical

hearing . . . covering a period in excess of seven months.” *Id.* CAPAI noted that it was the only party to challenge the proposed Stipulation and “litigate contested issues before the Commission at hearing.” *Id.* CAPAI witness Teri Ottens presented written testimony in opposition to the Stipulation and was subjected to cross-examination by the parties at the December 19, 2011 technical hearing. Ms. Ottens’ testimony offered brief comments on the propriety of Rocky Mountain Power’s request for an increase but focused primarily on the funding level of the Company’s Low Income Weatherization Assistance (LIWA) Program and its recommendation that LIWA funding be increased by \$77,517.00 annually.

CAPAI argued that it stands in a unique position as the only intervenor party advocating exclusively on behalf of the interests of the residential class of customers. CAPAI posits that it is “representing an important and otherwise unrepresented segment of regulated public utility customers.”

According to CAPAI, the simultaneous general rate case filings made by Idaho’s four largest public utilities (Rocky Mountain Power, Idaho Power Company, Avista Corporation, and United Water), as well as the Company’s request to discontinue future evaluations of its LIWA Program, PAC-E-11-13, have caused the organization to incur significant financial hardship. CAPAI states that it “must pay its expenses as they are incurred. . . .” Reimbursement through intervenor funding is essential to CAPAI’s continued participation in proceedings before the Commission. Moreover, CAPAI believes that its funding request is reasonable and notes that it has taken measures to minimize its costs and expenses by pricing the rates of its legal counsel and retained expert witness at below market rates “for their respective fields and levels of expertise.”

2. Rocky Mountain Power: The Company filed an Opposition to CAPAI’s Request for Intervenor Funding in this case. The Company stated that CAPAI did not offer substantive comment or expert testimony relating to the Company’s general rate case Application. According to the Company, any grant of intervenor funding would be more properly awarded in its PAC-E-11-13 case which is currently pending before the Commission.

3. IIPA: IIPA is a non-profit corporation representing the “irrigation class of customers under Schedule 10.” IIPA Petition at 4. Exhibit A of IIPA’s Petition for Intervenor Funding lists the following summary of fees and costs: \$11,282.96 – legal fees and costs;

\$25,125 – consultant fees. IIPA is a party to the Stipulation and urged the Commission to adopt the Stipulation as a fair, just and reasonable resolution of all issues represented therein.

Legal counsel for IIPA attended the December 19, 2011 technical hearing but did not submit written testimony in support of the Stipulation. In its Petition, IIPA noted that it was an active participant in the various settlement discussions leading to the Stipulation. IIPA submitted a total of 74 data requests, reviewed the Company’s corresponding data responses, and the data responses submitted by the Company to the data requests presented by the other parties in this case. IIPA asserted that its proposed revenue adjustments for the irrigation and residential customer classes, presented to all the parties, aided in the formation of a reasonable settlement in this case. IIPA stated that it prepared as if this case would ultimately conclude with a “full-blown technical hearing.” IIPA noted that the frequency of general rate cases brought forth by the electric utilities in Idaho has been financially “taxing” for the organization.

**Commission Findings:** The Commission has reviewed the Petitions for Intervenor Funding filed by CAPAI and IIPA, as well as the Company’s Opposition to CAPAI’s Petition and CAPAI’s Response to the Company’s Opposition.

The Commission finds that both CAPAI and IIPA contributed to the reasonable resolution of this matter and presented important perspectives that materially contributed to the Commission’s decision making in this case. Specifically, CAPAI presented testimony and prompted meaningful discussion regarding the Company’s LIWA Program. Although the Commission ultimately rejected CAPAI’s request for a 26% increase in LIWA funding, the Commission finds that CAPAI’s participation in the process contributed to our deliberations in this matter. CAPAI presented prefiled direct testimony, and examined witnesses from the Company and Staff.

While IIPA did not present formal testimony in this case, we find that IIPA was an active participant in the settlement discussions that ultimately led to the Stipulation that we accept in this order. IIPA employed the services of legal counsel as well as a ratemaking expert who submitted and reviewed the Company’s responses to data requests during the discovery phase of this case.

Therefore, we find that it is just and reasonable to grant CAPAI intervenor funding in the amount of \$14,000. The Commission finds that IIPA shall recover intervenor funding in the amount of \$18,000. Pursuant to *Idaho Code* § 61-617A(3), the amount awarded to CAPAI

shall be recovered from the residential class of customers and the amount directed to IIPA shall be recovered from the irrigation class of customers.

**ULTIMATE FINDINGS OF FACT  
AND CONCLUSIONS OF LAW**

The Idaho Public Utilities Commission has jurisdiction over PacifiCorp dba Rocky Mountain Power, an electric utility, and the issues presented in this case, pursuant to the powers granted it under Title 61 of the Idaho Code and pursuant to the Commission's Rules of Procedure, IDAPA 31.01.01.000 *et seq.*, including specifically Rules 272 through 280 as they pertain to settlements.

Based upon the record established in this case, the Commission finds that the present rates do not provide the Company with an opportunity to earn a fair and reasonable return on its investment. *Idaho Code* § 61-122. We find that increasing Idaho base rates by \$17 million in 2012 and by \$17 million in 2013 for electric service will allow Rocky Mountain Power to earn a fair and reasonable return. *Id.* We find that the Settlement Stipulation filed by the Parties is fair, just and reasonable and in the public interest.

Further, the Commission finds that \$1,045,423 shall be Idaho's base amount to be tracked in the ECAM for 2012 and 2013, and that net power costs in base rates shall increase from the current level of \$1.025 billion to \$1.205 billion in 2012 and from \$1.205 billion to \$1.385 billion in 2013. The Commission finds that the remaining issues, including rate design, rate spread, ECAM amortization, and classification of the Populus to Terminal transmission line as "used and useful," outlined in the Settlement Stipulation are fair, just and reasonable.

**ORDER**

IT IS HEREBY ORDERED and the Commission herein, with one exception, approves the terms and conditions of the Parties' Stipulation, put forth in Case No. PAC-E-11-12, approving a two-year rate plan resulting in a \$17.0 million (7.8%) annual increase to base rates for electric service in 2012 for non-contract customers of Rocky Mountain Power.

The Commission amends the proposed effective date found in the Stipulation for the 2012 increase from January 1, 2012, to the service date of this Order. The Commission also approves a \$17.0 million (7.2%) increase in base rates for electric service beginning January 1, 2013. Inasmuch as the Company has submitted new tariffs reflecting the express terms of the

Stipulation approved by this Order (excluding the proposed 2012 effective date) those tariffs are approved effective on the service date of this Order.

IT IS FURTHER ORDERED that Rocky Mountain Power shall continue its service quality and performance reporting requirements, established as part of the merger commitments made by the Company in association with PAC-E-99-01, and examine the issue of momentary outages with an emphasis on possible options for improved service.

IT IS FURTHER ORDERED that Rocky Mountain Power shall improve efforts to educate its customers regarding general industry standards and practices, specifically addressing customer education issues pertaining to Schedule 36 (Time of Use).

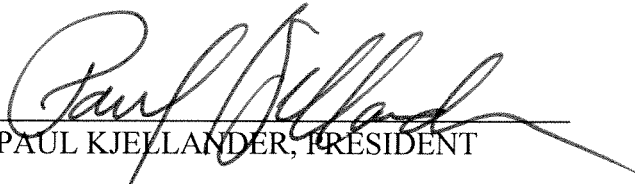
IT IS FURTHER ORDERED that Community Action Partnership Association of Idaho's request for an annual increase in funding for Rocky Mountain Power's Low Income Weatherization Program is denied. The program shall continue at its current funding level. The Commission has ordered a generic investigation with public workshops to examine the common issues of need and determine the appropriate mechanisms to measure the cost-effectiveness of low-income weatherization programs.

IT IS FURTHER ORDERED that Community Action Partnership Association of Idaho's Petition for Intervenor Funding is granted in the amount of \$14,000. *See Idaho Code* § 61-617A. Rocky Mountain Power is ordered to remit said amount to CAPAI within 28 days from the date of this Order. IDAPA 31.01.01.165.02. Rocky Mountain Power shall be permitted to recover the cost of this intervenor funding in its next general rate case from the residential customer class. *See Idaho Code* § 61-617A(3).

IT IS FURTHER ORDERED that Idaho Irrigation Pumpers Association, Inc.'s Petition for Intervenor Funding is granted in the amount of \$18,000. *See Idaho Code* § 61-617A. Rocky Mountain Power is ordered to remit said amount to IIPA within 28 days from the date of this Order. IDAPA 31.01.01.165.02. Rocky Mountain Power shall be permitted to recover the cost of this intervenor funding in its next general rate case from the residential and irrigation customer class. *See Idaho Code* § 61-617A(3).

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 10<sup>th</sup>  
day of January 2012.

  
PAUL KJELLANDER, PRESIDENT

  
MACK A. REDFORD, COMMISSIONER

  
MARSHA H. SMITH, COMMISSIONER

ATTEST:

  
Jean D. Jewell  
Commission Secretary

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