

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION) CASE NO. PAC-E-19-09
FOR APPROVAL OF THE SUNNYSIDE)
ASSET TRANSFER AGREEMENT)
BETWEEN ROCKY MOUNTAIN POWER) ORDER NO. 34418
AND THE CITY OF IDAHO FALLS)

On June 24, 2019, PacifiCorp dba Rocky Mountain Power (“Company”) applied to the Commission for an order approving the Sunnyside Road Asset Transfer Agreement (“Asset Transfer Agreement”) between the Company and the City of Idaho Falls (“City”). Under the Asset Transfer Agreement, the Company would transfer to the City certain electric facilities used to supply one electric service customer, along with the rights and obligations to serve that customer. The Company submitted its Application under the Electric Supplier Stabilization Act (“ESSA”), *Idaho Code* § 61-332, *et seq.*, and the electric utility transfer statute, *Idaho Code* § 61-328. The latter statute states that the Commission “shall issue a public notice and shall conduct a public hearing upon the application.”

The Commission issued a Notice of Application, Notice of Modified Procedure, and Notice of Telephonic Hearing. Order No. 34378. The Commission held a hearing on July 30, 2019. No one testified. Commission Staff then filed comments recommending the Commission approve the Application. The Company did not reply, and no other comments were filed.

Having reviewed the record, we now approve the Application as discussed below.

BACKGROUND

Public utilities cannot transfer property “used in the generation, transmission, distribution, or supply of electric power” without first being authorized to do so by the Commission. *Idaho Code* § 61-328(1). Before the Commission can approve such a transaction, it must first find: (a) the transaction is consistent with the public interest; (b) the cost of and rates for supplying service will not be increased by reason of such transaction; and (c) that the applicant for such acquisition or transfer has the bona fide intent and financial ability to operate and maintain said property in the public service. *Idaho Code* § 61-328(3).

The purpose of the ESSA is to: (1) promote harmony between electric suppliers; (2) prohibit the “pirating” of customers; (3) discourage duplication of electric facilities; (4) actively supervise the conduct of electric suppliers; and (5) stabilize service territories and customers.

Idaho Code § 61-332(2). The ESSA prohibits an electric supplier (e.g. utility, municipality, or cooperative) from serving another electric supplier’s current or former customers. *Idaho Code* § 61-332(B). However, an exception to the general rule exists within the ESSA framework allowing electric suppliers to contract for the purpose of “allocating territories, consumers, and future consumers . . . and designating which territories and consumers are to be served by which contracting electric supplier.” *Idaho Code* § 61-333(1). Allocation agreements must be submitted to the Commission for approval and will only be approved upon finding that it conforms to the provisions and purposes of the ESSA. *Id.*

THE APPLICATION

The Company entered the Asset Transfer Agreement and asked the Commission to approve it pursuant to the October 9, 2017 Service Allocation Agreement between the Company and the City. The Commission approved the Service Allocation Agreement in Order No. 33943. The Service Allocation Agreement is the framework for implementing the ESSA in transactions between the Company and the City. Under the Service Allocation Agreement, the Company and the City have agreed that compensation for transferring customer service rights and responsibilities is 167% of the transferring customer or customers’ most recent 12-months electric bills and the cost of the assets used in service of the customer or customers plus applicable legal/transactional costs, separation costs, and tax gross-up. The Application and Asset Transfer Agreement list the total value of the transaction at \$9,440.

THE COMMENTS

Upon its investigation and review, Staff believes that the \$9,440 purchase price conforms to statutory requirements and prior Commission orders. Comments at 2. Staff verified that the methodology used to calculate the value of this transaction is consistent with the method prescribed in the 2017 Service Allocation Agreement. *Id.* at 3. Staff therefore recommended that the Commission approve the Company’s Application for approval of the Sunnyside Road Asset Transfer Agreement with the City. *Id.* at 4.

COMMISSION FINDINGS AND DISCUSSION

The Commission has jurisdiction over this matter under *Idaho Code* §§ 61-328, 61-333. The Commission has reviewed the record, including the Asset Transfer Agreement and comments of Commission Staff. We find the Asset Transfer Agreement satisfies the ESSA, *Idaho Code* § 61-332 *et seq.*, the electric utility transfer statute, *Idaho Code* § 61-328, the 2017 Service

Allocation Agreement, and this Commission's prior orders. Accordingly, we find it reasonable to approve the Application and Asset Transfer Agreement.

ORDER

IT IS HEREBY ORDERED that the Company's Application is approved. The sale of electric facilities and transfer of service territory as contemplated in the Company's Asset Transfer Agreement with the City is approved, effective as of today's date.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within 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 *16th* day of August 2019.



PAUL KJELLANDER, PRESIDENT



KRISTINE RAPER, COMMISSIONER



ERIC ANDERSON, COMMISSIONER

ATTEST:



Diane M. Hanian
Commission Secretary

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