



RECEIVED

2020 FEB 24 PM 2:05

1407 W. North Temple, Suite 330
Salt Lake City, Utah 84116

IDAHO PUBLIC
UTILITIES COMMISSION

February 24, 2020

VIA OVERNIGHT DELIVERY

Diane Hanian
Commission Secretary
Idaho Public Utilities Commission
11331 W Chinden Blvd
Building 8 Suite 201A
Boise, ID 83714

**Re: CASE NO. PAC-E-20-01
IN THE MATTER OF THE APPLICATION FOR APPROVAL OF THE
SUNNYSIDE/HOLMES STREET ASSET TRANSFER AGREEMENT
BETWEEN ROCKY MOUNTAIN POWER AND THE CITY OF IDAHO
FALLS**

Dear Ms. Hanian:

Enclosed for filing in the above mentioned matter are seven (7) copies of Rocky Mountain Power's and the city of Idaho Falls' Joint Application for approval of the asset purchase agreement and transfer of electric service on Sunnyside/25th/Holmes street as described in this Application.

Very truly yours,

Joelle Steward
Vice President, Regulation

Enclosures

RECEIVED

2020 FEB 24 PM 2:05

IDAHO PUBLIC UTILITIES COMMISSION

Richard Garlish
Yvonne R. Hogle (ISB# 8930)
Rocky Mountain Power
1407 W. North Temple, Suite 320
Salt Lake City, Utah 84116
Telephone: (801) 220-4050
Email: Richard.garlish@pacificorp.com
Yvonne.hogle@pacificorp.com

Attorneys for Rocky Mountain Power

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE)	
APPLICATION FOR APPROVAL OF)	CASE NO. PAC-E-20-01
THE SUNNYSIDE/HOLMES STREET)	
ASSET TRANSFER AGREEMENT)	APPLICATION OF
BETWEEN ROCKY MOUNTAIN)	ROCKY MOUNTAIN POWER
POWER AND THE CITY OF IDAHO)	
FALLS)	

Rocky Mountain Power, a division of PacifiCorp (the "Company"), pursuant to provisions of the Electric Stabilization Act, I.C. § 61-332, *et. seq.*, and I.C. § 61-328, hereby files this application with the Idaho Public Utilities Commission ("Commission") for approval of the Asset Transfer Agreement ("Agreement") between Rocky Mountain Power and the City of Idaho Falls, ("City"). This Agreement provides for Idaho Falls to purchase certain electric facilities currently owned and used by the Company to supply electric service to three customers: one customer on Holmes Avenue, Idaho Falls, Bonneville County; one customer on South 25th East, Idaho Falls, Bonneville County; and one customer on Sunnyside Road, Idaho Falls, Bonneville County, as more particularly described in the Agreement. In support of this Application, Rocky Mountain Power states as follows:

1. Rocky Mountain Power, a division of PacifiCorp, an Oregon corporation, located at 1407 West North Temple, Suite 320 Salt Lake City, Utah 84116, is authorized to do

and is doing business in the State of Idaho. The Company provides retail electric service to approximately 75,000 customers in the state and is subject to the jurisdiction of the Commission. The Company's retail certificated service territory encompasses portions of Fremont, Madison, Teton, Clark, Jefferson, Lemhi, Oneida, Bannock, Franklin, Caribou, Butte, Bingham, Bear Lake and Bonneville counties. Rocky Mountain Power is a public utility in the state pursuant to Idaho Code § 61-129.

2. Idaho Falls, which is located in Bonneville County, owns and operates an electric power system within the municipal boundaries of the city for the convenience of its citizens. The City's municipal service territory is surrounded by Rocky Mountain Power's service territory. The Company currently provides electric service to one or more electric customers located within the boundaries of the City and the City provides service to one or more customers within the Company's service territory.

I. BACKGROUND

3. On October 9, 2017, Rocky Mountain Power and the City entered into a Service Allocation Agreement to reduce duplication of service and promote stability in their respective service areas. The Service Allocation Agreement was approved by the Commission on December 5, 2017.

4. The Service Allocation Agreement specifies that existing customers as of the date of the agreement would continue to be served by their current electric supplier irrespective of service territory boundaries.

5. The Service Allocation Agreement provides for the transfer of a customer's electric service from one utility to the other as long as the acquiring utility agrees to pay the utility currently providing service just compensation for lost revenues and the distribution

facilities used to serve that customer. The Company and the City agreed that just compensation for lost revenues would be an amount equal to 167 percent of the total of the respective customers' electric bills from the prior twelve month period. In addition, the acquiring utility would purchase the poles, wires, cross arms, insulators, guys and other facilities no longer needed or required by the other utility to service that customer.

6. The Company and the City have agreed to transfer service and the City has agreed to pay 167 percent of the three customers' previous twelve months electric bills, as shown in Exhibit B to the Asset Transfer Agreement, in addition to purchasing the facilities described in Exhibit A to the Asset Transfer Agreement.

II. REQUEST FOR SERVICE AREA EXEMPTION

7. Rocky Mountain Power and the city of Idaho Falls hereby jointly petition the Commission for approval of the Asset Transfer Agreement, provided as an attachment to this Application, and transfer of electric service, wherein Idaho Falls agrees to serve the load of the customers described in Exhibits A and B to the Agreement, and pay the Company for the assets transferred, as well as the revenue reimbursement, legal and transaction costs.

III. COMMUNICATION

8. Communications regarding this Application should be addressed to:

If to Rocky Mountain Power:

Ted Weston
Richard Garlish
1407 W. North Temple, Suite 330
Salt Lake City, Utah 84116
Telephone: (801) 220-2963
Fax: (801) 220-2798
Email: ted.weston@pacificorp.com
Richard.garlish@pacificorp.com

If to the City of Idaho Falls:

Idaho Falls City Power
Bear Prairie
140 South Capital Avenue
Box 50220
Idaho Falls, Idaho 83405

In addition, the Company respectfully requests that all data requests regarding this matter be addressed to one or more of the following:

By e-mail (preferred)

datarequest@pacificorp.com

By regular mail

Data Request Response Center
PacifiCorp
825 NE Multnomah, Suite 2000
Portland, OR 97232

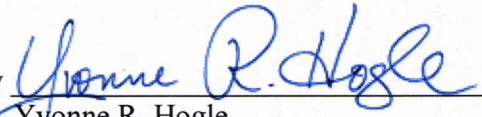
9. The Company stands ready for immediate consideration of its Application and will present testimony to support the Application at public hearing, as required by the Commission.

V. CONCLUSION

WHEREFORE, Rocky Mountain Power and the city of Idaho Falls respectfully request that the Commission: 1) issue a final order approving the Asset Transfer Agreement; and 2) authorize the transfer of electric service for the three customers as described in Exhibits A and B to the Agreement between Rocky Mountain Power and the city of Idaho Falls.

DATED this 24th day of February, 2020.

Respectfully submitted,

By 
Yvonne R. Hogle
Attorney for Rocky Mountain Power

**ASSET TRANSFER AGREEMENT
BETWEEN
ROCKY MOUNTAIN POWER
AND
CITY OF IDAHO FALLS, IDAHO**

2022 This Asset Transfer Agreement (the "Agreement"), dated this 22 day of Jan, 2019 is between City of Idaho Falls, Idaho, a municipal corporation of the State of Idaho d/b/a Idaho Falls Power, ("City"); and PacifiCorp, an Oregon corporation, d/b/a in Idaho as Rocky Mountain Power ("Rocky Mountain Power"). Rocky Mountain Power and City are sometimes referred to collectively as "Parties" and individually as "Party."

WHEREAS, Rocky Mountain Power currently serves one customer located on Holmes Avenue, one customer on South 25th East, and one customer on Sunnyside Road as more particularly described in Exhibit A, attached to this Agreement and incorporated herein; and

WHEREAS, City has agreed to purchase the Assets from Rocky Mountain Power and Rocky Mountain Power hereby agrees to sell the Assets to City in accordance with and subject to all of the terms and conditions of sale as expressed herein, and in accordance with the Service Allocation Agreement entered into by Rocky Mountain Power and City, dated October 9, 2017, and, approved by the Idaho Public Utilities Commission on December 5, 2017; and

WHEREAS, City has agreed to serve the customers after purchasing the facilities currently serving these customers, in accordance with and subject to all of the terms and conditions of sale as expressed herein; and

NOW, THEREFORE, for and in consideration of the mutual promises and covenants and conditions set forth in this Agreement, the sufficiency of which is hereby mutually acknowledged and accepted, the Parties hereto agree as follows:

1. Definitions.

For purposes of this Agreement, the following terms used herein but not otherwise defined herein shall have the following meaning when used with initial capitalization, whether singular or plural:

1.01 "Assets" means those facilities currently owned by Rocky Mountain Power, as described in Exhibit A.

1.02 "Commission" means the Idaho Public Utilities Commission.

1.03 "Transferred Customers" means the Customers that will be transferred to Idaho Falls Power as a result of this transaction and whose meter numbers are listed in Exhibit B.

1.04 "Transfer Date" means the date upon which all of the Transferred Customers shall become the customers of Idaho Falls Power.

2. Sale and Purchase of Assets.

2.01 Assets to Be Sold. The Assets that will be transferred to City as a result of the Transferred Customers being served by City are described in Exhibit A.

2.02 Purchase Price. The Purchase Price for the Assets shall be: \$14,521 for the E Sunnyside Road facilities; \$10,551 for the Holmes Avenue facilities; and \$6,699 for the 25th East facilities.

2.03 Payment. The Purchase Price shall be paid to Rocky Mountain Power by City within fifteen (15) days of the date this Agreement is executed by both Parties; such payment shall be by check.

2.04 Instruments of Conveyance and Transfer. Subject to the satisfaction of the conditions precedent set forth in Section 8 below, and pursuant to all of the terms and conditions of this Agreement, Rocky Mountain Power shall execute and deliver to City a bill of sale to vest in City good and marketable title to the Assets, subject to no security interests, liens or encumbrances, and substantially in the form of the unexecuted bill of sale attached hereto as Exhibit C.

2.05 Proration of Personal Property Taxes. Personal property taxes, if applicable, shall be prorated between Rocky Mountain Power and City as of the Transfer Date based upon days of ownership in the tax year in which the Transfer Date occurs.

2.06 Sales, Transfer and Other Taxes. Any sales, excise, transfer, purchase, use, or similar tax which may be payable by reason of the sale of all or a portion of the Assets shall be borne and paid by City.

3. Ownership; Separation and Transfer, Operation and Maintenance; Risk of Loss

3.01 Transfer of Customers. Rocky Mountain Power shall relinquish electrical service to the Transferred Customers at 11:59 a.m. Idaho Falls local time on the Transfer Date, or such other date as mutually agreed to by the parties in writing. Rocky Mountain Power shall be obligated to continue to provide service and entitled to receive payment from the sale and delivery of electric service up to the Transfer Date and City shall have the authority and the obligation to provide electric service to the Transferred Customers and shall be entitled to receive payment from any electric service from and after 12:00 p.m. Idaho Falls local time on the day after the Transfer Date, unless otherwise agreed to by the Parties in writing. From and after the Transfer Date, service to the Transferred Customers shall be provided by City.

4. Representations and Warranties of Rocky Mountain Power.

Rocky Mountain Power represents and warrants as follows:

4.01 Organization and Powers of Rocky Mountain Power. Rocky Mountain Power is an Oregon corporation, duly organized and validly existing under the laws of the State of

Oregon, and is duly qualified to do business in the State of Idaho. Rocky Mountain Power has all requisite power and authority to provide electric service to the Assets.

4.02 Authority Relative to Agreement; Governmental Authorization. Rocky Mountain Power has the power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby. This Agreement has been duly and validly authorized and constitutes the valid and binding obligation of Rocky Mountain Power enforceable in accordance with its terms, except as enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and except that the availability of the equitable remedies of specific performance and injunctive relief are subject to the discretion of the court before which any proceeding may be brought. No declaration, filing or registration with, or notice to, or authorization, consent or approval of, any governmental or regulatory body or authority is necessary for the execution and delivery of this Agreement by Rocky Mountain Power or the consummation by Rocky Mountain Power of the transactions contemplated by this Agreement, provided that Rocky Mountain Power makes no representation or warranty with respect to approvals which may be required from the Idaho Public Utilities Commission or the Federal Energy Regulatory Commission.

4.03 Non-Contravention; Approvals. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby will not violate, conflict with or result in a breach of any provision of, or constitute a default under, or result in the termination of any note, bond, mortgage, indenture, deed of trust, contract, lease or other instrument, obligation or agreement of any kind to which Rocky Mountain Power is now a Party or by which any of its assets may be bound or affected.

5. Representations and Warranties of City.

City represents and warrants as follows:

5.01 Organization and Powers of City. City is duly qualified to do business in the State of Idaho. City has all requisite power and authority provide service to the Transferred Customers.

5.02 Authority Relative to Agreement; Governmental Authorization. City has the power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby. This Agreement has been duly and validly authorized and constitutes the valid and binding obligation of City enforceable in accordance with its terms, except as enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and except that the availability of the equitable remedies of specific performance and injunctive relief are subject to the discretion of the court before which any proceeding may be brought. No declaration, filing or registration with, or notice to, or authorization, consent or approval of, any governmental or regulatory body or authority is necessary for the execution and delivery of this Agreement by City.

5.03 Non-Contravention; Approvals. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby will not violate, conflict with or

result in a breach of any provision of, or constitute a default under, or result in the termination of any note, bond, mortgage, indenture, deed of trust, contract, lease or other instrument, obligation or agreement of any kind to which City is now a Party or by which any of its assets may be bound or affected.

6. Covenants of Rocky Mountain Power.

Rocky Mountain Power covenants and agrees as follows:

6.01 Conduct of Business. Rocky Mountain Power shall provide service to the Transferred Customers for the time periods set forth in Section 3 of this Agreement in accordance with its past practices and shall engage in no material transactions relating to the Transferred Customers out of the ordinary course of business, including entering into any contract or financing arrangement that limits Rocky Mountain Power's ability to transfer the Transferred Customers to City.

6.02 Reasonable Efforts. Subject to the terms of this Agreement and fiduciary obligations under applicable law, Rocky Mountain Power shall use commercially reasonable efforts to effectuate the transactions contemplated by this Agreement and to fulfill all of the conditions of the Parties' obligations under this Agreement and shall do all such acts and things as reasonably may be required to carry out Rocky Mountain Power's obligations hereunder and to complete the transaction contemplated by this Agreement.

6.03 Notification. Rocky Mountain Power will give City prompt written notice of any event, condition or fact arising prior to the Transfer Date that would cause any of its representations and warranties in this Agreement to be untrue in any material respect.

7. Covenants of City.

City covenants and agrees as follows:

7.01 Reasonable Efforts. Subject to the terms of this Agreement and fiduciary obligations under applicable law, City shall use commercially reasonable efforts to effectuate the transactions contemplated by this Agreement and to fulfill all of the conditions of the Parties' obligations under this Agreement and shall do all such acts and things as reasonably may be required to carry out City's obligations hereunder and to complete the transaction contemplated by this Agreement.

7.02 Notification. City will give Rocky Mountain Power prompt written notice of any event, condition or fact arising prior to the Transfer Date that would cause any of its representations and warranties in this Agreement to be untrue in any material respect.

7.03 Indemnity. City shall defend, indemnify, and hold harmless Rocky Mountain Power, its officers, directors, employees, and agents, from and against any and all liability, loss, damage, claims, suit or cause of action arising out of or relating to City's service to the Transferred Customers. This obligation shall survive the termination of this Agreement and completion of the transactions contemplated by this Agreement.

7.04 Rights-of-way. Prior to the Transfer Date, City shall independently obtain at City's own expense, all easements or other real property rights, licenses or permissions, ("rights-of-way") necessary for City to lawfully serve the Transferred Customers.

8. Conditions Precedent: Bill of Sale.

All of the obligations of Rocky Mountain Power under this Agreement are subject to the fulfillment, prior to and upon the Transfer Date, of each of the following conditions:

8.01 Representations, Warranties and Covenants of City. All representations and warranties made in this Agreement by City shall be true and correct in all material respects as of the Transfer Date as fully as though such representations and warranties had been made on and as of the Transfer Date, and as of the Transfer Date, City shall have complied in all material respects with all covenants made by it in this Agreement.

8.02 Litigation. At the Transfer Date, there shall not be in effect any order, decree, or injunction of a court of competent jurisdiction restraining, enjoining, or prohibiting the consummation of the transactions contemplated by this Agreement (each Party hereby agreeing to use its reasonable efforts, including reasonable appeals to higher courts, to have any such order, decree or injunction set aside or lifted), and no action shall have been taken, and no statute, rule, or regulation shall have been enacted, by any state or federal government or governmental agency in the United States which would prevent the consummation of such transactions.

9. Survival of Representations and Warranties.

All representations and warranties of the Parties, and all liability therefor, shall survive for a period of one year past the Transfer Date, at which time the obligations under this agreement shall cease and expire. Notwithstanding the forgoing, obligations under Section 7.04 of this Agreement shall continue indefinitely.

10. Termination.

10.01 Termination. This Agreement may be terminated and abandoned at any time prior to the Transfer Date if:

(a) The Parties agree in writing to terminate this Agreement by mutual consent; or

(b) City delivers a written notice to Rocky Mountain Power to the effect that Rocky Mountain Power has defaulted in a material respect under one or more of its covenants and agreements contained herein (which shall be specified in detail in such notice), and such condition or conditions have not been satisfied or such default or defaults have not been remedied (or waived by City) within thirty (30) days after the date such notice is delivered by City to Rocky Mountain Power; or

(c) Rocky Mountain Power delivers a written notice to City to the effect that City has defaulted in a material respect under one or more of its covenants and agreements contained

herein (which shall be specified in detail in such notice), and such condition or conditions have not been satisfied or such default or defaults have not been remedied (or waived by Rocky Mountain Power) within thirty (30) days after the date such notice is delivered by Rocky Mountain Power to City; or

(d) The Transfer Date has not occurred on or before July 31, 2019 or such later date to which the term of this Agreement may be extended pursuant to mutual agreement of the Parties, provided that one of the Parties gives notice to the other so terminating this Agreement and that the Party seeking such termination has not defaulted in a manner responsible for delaying the Transfer Date past July 31, 2019.

10.02 Effect of Termination. Except where specific terms and conditions of this Agreement provide that such terms and conditions survive termination of this Agreement, any termination pursuant to this Section 10 shall relieve both Parties hereto of their obligations set forth herein, and any such termination constitutes a failure of the conditions to the obligations of the Parties to implement this Agreement, except that nothing herein will relieve any Party from liability for any breach of this Agreement.

11. Assignment.

Neither Party may assign its rights under this Agreement to any third party without the written consent of the other Party.

12. Jurisdiction of Regulatory Authorities

In the event that the Commission or any other state, federal, or municipal authority determines that any provision of this Agreement conflicts with or is in violation of applicable law, or issues any rules, regulations, or orders which require Rocky Mountain Power to alter or amend any of the provisions of this Agreement or to terminate this Agreement, or that otherwise preclude or materially interfere with or rescind the transfer of assets contemplated herein, this Agreement automatically shall be amended to comply with such determination, amendment, rule, regulation or order; or, if so ordered, this Agreement shall terminate without effecting transfer of the Transferred Customers to City; and in any of the foregoing events, Rocky Mountain Power shall not be liable to City for damages or losses of any kind whatsoever, including consequential damages, which City may sustain as a result of such determination, amendment, rule, regulation, or order, or modification or termination of this transaction.

13. Miscellaneous.

13.01 Amendment. This Agreement may be amended only by an instrument in writing executed by the Parties which expressly refers to this Agreement and states that it is an amendment hereto.

13.02 Section and Paragraph Headings. The Section and Subsection headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement.

13.03 Waiver. Any of the terms or conditions of this Agreement may be waived at any time and from time to time, in writing, by the Party entitled to the benefit of such terms or conditions.

13.04 Jury Waiver. To the fullest extent permitted by law, each of the Parties waives any right it may have to a trial by jury in respect of litigation directly or indirectly arising out of, under or in connection with this Agreement. Each party further waives any right to consolidate any action in which a jury trial has been waived with any other action in which a jury trial cannot be or has not been waived.

13.04 Limitation of Remedies. UNDER NO CIRCUMSTANCES SHALL EITHER PARTY BE LIABLE FOR ANY CONSEQUENTIAL, EXEMPLARY, PUNITIVE, SPECIAL, INDIRECT OR INCIDENTAL DAMAGES OR ECONOMIC LOSSES ARISING OUT OF ANY CLAIM, DEMAND, OR ACTION BROUGHT WITH RESPECT TO THIS AGREEMENT.

13.05 Notices. All notices, requests, demands, and other communications given by City or Rocky Mountain Power shall be in writing and shall be deemed to have been duly given when telecopied, when delivered personally in writing or when deposited into the United States mail, to the following addresses:

If to Rocky Mountain Power: Rocky Mountain Power
 Jeffrey Barrett
 1569 West North Temple
 Salt Lake City, UT 84116

With a copy to: Rocky Mountain Power
 Office of General Counsel
 1407 N. West Temple Suite 320
 Salt Lake City, Utah 84116

If to City: Idaho Falls City Power
 Bear Prairie
 140 South Capital Avenue
 Box 50220
 Idaho Falls, ID 83405

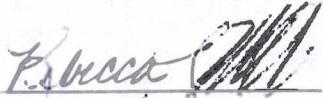
or to such other address as City or Rocky Mountain Power may designate in writing.

13.06 Integrated Agreement. This Agreement, when executed, constitutes the entire agreement between the Parties hereto with respect to the Assets defined in this Agreement, and supersedes and negates all prior line extension agreements and understandings, oral and written, between the Parties hereto with respect to the Assets.

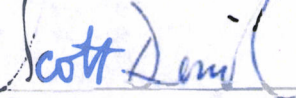
13.07 Counterparts. This Agreement may be executed in counterparts, each of which shall for all purposes be deemed to be an original and which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have signed this Agreement as of the date first above written.

IDAHO FALLS POWER

By: 
Name: Rebecca L. Noah Casper
Title: Mayor, Idaho Falls

ROCKY MOUNTAIN POWER

By: 
Name: Scott Derrick
Title: Operations Manager

CONFIDENTIAL

EXHIBIT A
DESCRIPTION OF ASSETS SERVING
TRANSFERRED CUSTOMERS

CONFIDENTIAL

**Rocky Mountain Power
Proposed Sale in Place, Idaho Falls, Idaho [REDACTED]
Value of Inventory**

**Rocky Mountain Power
Proposed Sale in Place, Idaho Falls, Idaho - [REDACTED]
Value of Inventory**

CONFIDENTIAL

EXHIBIT B
Meter Numbers and 12 Prior Months Electric Bills
For Transferred Customers

CONFIDENTIAL

Exhibit C

BILL OF SALE