

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF ROCKY MOUNTAIN) CASE NO. PAC-E-21-17
POWER’S APPLICATION FOR APPROVAL)
OF THE ASSET TRANSFER AGREEMENT)
BETWEEN ROCKY MOUNTAIN POWER) ORDER NO. 35204
AND THE CITY OF IDAHO FALLS – 733)
CUSTOMERS)

On July 20, 2021, Rocky Mountain Power (“Company”), a division of PacifiCorp, asked the Commission to approve its Reimbursement and Asset Transfer Agreement (“Asset Transfer Agreement”) with the City of Idaho Falls (“City”). Under the Asset Transfer Agreement, the City would buy Company-owned electric facilities the City needs to provide electric service to 733 customers in Idaho Falls (“Customers” or “733 customers in Idaho Falls”). 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.” *See Idaho Code* § 61-328(2) (emphasis added).

On August 19, 2021, the Commission issued a Notice of Application, Notice of Modified Procedure, and Notice of Telephonic Hearing. *See* Order No. 35142. The Commission held a telephonic hearing on September 22, 2021. No members of the public testified. The Commission Staff (“Staff”) filed comments supporting the Application. No other comments were received. The Company did not file a reply.

Based on our review of the record, the Commission now issues this final Order approving the Company’s Application as noted below.

BACKGROUND

Public utilities are statutorily prohibited from transferring any property “used in the generation, transmission, distribution, or supply of electric power” without first being authorized to do so by the Commission. *See 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. *See Idaho Code* § 61-328(3)(a-c).

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. *See 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. *See Idaho Code* § 61-332(B). However, an exception to the general rule exists within the ESSA framework allowing electric suppliers to contract for “allocating territories, consumers, and future consumers . . . and designating which territories and consumers are to be served by which contracting electric supplier.” *See Idaho Code* § 61-333(1). Allocation agreements must be submitted to the Commission for approval and will be approved only upon a finding that they conform to the provisions and purposes of the ESSA. *Id.*

THE APPLICATION

The Company and the City signed a Service Allocation Agreement in 2017 to reduce duplication of service and promote stability in their respective service areas. The Commission approved the Service Allocation Agreement in Case No. PAC-E-17-12. *See* Order No. 33943.

Under the Asset Transfer Agreement, the City will buy electric facilities from the Company to serve former customers of the Company, 733 customers in Idaho Falls. The City will also compensate the Company for the lost revenues arising from the customers’ departure. The Service Allocation Agreement defines compensation as “just compensation for the facilities” and in addition “an amount equal to one hundred sixty seven percent (167%) of the Existing Consumer’s revenue collected from the most recent twelve (12) months of active provision of electric service[.]” *See 2017 Service Allocation Agreement* at p. 2 - 3, ¶ 6, Case No. PAC-E-17-12. The total sale price for the transaction is \$4,152,351.

THE COMMENTS

Staff filed the only comments and recommended that the Commission approve the Company’s Application. Staff determined that the Application complied with the ESSA, the Idaho electric utility asset transfer statute, and previous Commission orders. Staff also determined that the funds from the transfer represent the fair market value of the assets being transferred and calculations were made using the appropriate method agreed to in the Service Allocation Agreement. Staff stated the transaction would not harm customers.

COMMISSION FINDINGS AND DISCUSSION

The Commission has jurisdiction over this matter under *Idaho Code* §§ 61-328 and 61-333. The Commission has reviewed the record, including the Asset Transfer Agreement and comments of 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 the 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.

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.

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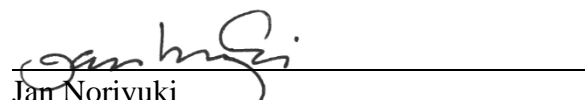
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 20th day of October 2021.


PAUL KJELLANDER, PRESIDENT


KRISTINE RAPER, COMMISSIONER


ERIC ANDERSON, COMMISSIONER

ATTEST:


Jan Noriyuki
Commission Secretary

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