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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)	
OF ROCKY MOUNTAIN POWER FOR A)	CASE NO. PAC-E-23-01
CERTIFICATE OF CONVENIENCE AND)	
NECESSITY AUTHORIZING)	REPLY COMMENTS
CONSTRUCTION OF THE BOARDMAN-TO)	
-HEMINGWAY 500-KV TRANSMISSION)	
LINE PROJECT)	

Rocky Mountain Power, a division of PacifiCorp (“Rocky Mountain Power” or the “Company”), in accordance with the Notice of Modified Procedure issued by the Idaho Public Utilities Commission (“Commission”) on April 5, 2023, submits these Reply Comments responding to the comments filed on May 25, 2023, by Commission Staff, the Idaho Irrigation Pumpers Association, Inc. (“IIPA”), and P4 Production, L.L.C., an affiliate of Bayer Corporation (“Bayer”).¹

¹ The Company has only responded to comments filed by parties and has not responded to the public comments received from Donald Kemper and Jim Kreider.

On January 27, 2023, the Company requested that the Commission grant a certificate of public convenience and necessity (“CPCN”) for Energy Gateway Segment H, the Boardman-to-Hemingway 500-kilovolt (“kV”) transmission line (“B2H” or the “Project”), which will be co-owned with Idaho Power Company (“IPC”). IPC’s application for a CPCN is pending in Case No. IPC-E-23-01.

No party opposes the Company’s request, although certain parties suggest conditions to issuance of the CPCN. Specifically, Staff recommends the Commission grant the CPCN subject to four conditions;² IIPA supports a finding that a CPCN for B2H is in the public interest and should be issued;³ and Bayer recommends four conditions for approval.⁴ Based on the explanations set forth below, the Company largely does not object to Staff’s proposed conditions. The Company, however, does object to two of Bayer’s proposed conditions, which are contrary to Commission precedent or unclear and unsupported by evidence.

Given the lack of opposition to a CPCN for B2H, the Company requests that the Commission grant a CPCN no later than June 30, 2023, so that IPC can timely begin construction and place B2H in service in 2026.

I. ROCKY MOUNTAIN POWER REPLY

A. Reply to Staff

Staff agrees that the Company “needs to increase the capacity of its transmission system to enable it to meet loads across its east and west balancing areas and the proposed B2H project is the least-cost least-risk solution.”⁵ Staff therefore recommends the Commission grant the CPCN subject to four conditions:

1. The Commission should grant a CPCN for the Company to construct the B2H transmission line but make recovery contingent on approval of all agreements requiring Commission approval and the Commission’s determination of prudence of actual costs;

² Comments of the Commission Staff at 3.

³ IIPA’s Comments at 7.

⁴ Bayer’s Comments at 2.

⁵ Comments of the Commission Staff at 2-3.

2. When the Company files for recovery, it should include evidence of its pursuit of alternative funding sources for the project;
3. The Commission establish a soft cap for the recoverable value of the project. The soft cap should be compared to the all-in total B2H costs including non-B2H expenses that may be incurred if B2H fails to stay on schedule and needs to mitigate any capacity shortfalls; and
4. The Company should provide a detailed breakdown of the soft cap cost components in a subsequent compliance filing with input from Commission Staff on which components to include.

Based on the following understandings, the Company does not object to Staff's proposed conditions except for the soft cap. First, the B2H-related agreement that requires Commission approval will implement the asset exchanges between IPC and the Company. Those asset exchanges are integral to the overall B2H transaction and the Company's business case supporting the decision to move forward with the Project. The asset exchange agreement will take effect upon energization of B2H and therefore the Company will seek Commission approval before that point, in advance of seeking cost recovery. In addition, the Company expects to demonstrate the prudence of its actual costs when seeking cost recovery for B2H. Thus, the Company's planned regulatory filings for B2H are fully consistent with Staff's first proposed condition.

As to Staff's second condition, the Company is prepared to demonstrate that it has diligently pursued alternative funding sources for B2H. Along with IPC, the Company has consistently considered and pursued all potential alternative funding sources.⁶ Unfortunately, because B2H is already in the advanced stages of planning, it is not currently eligible for federal funding. If new funding becomes available or guidelines for existing funding sources change, however, PacifiCorp will pursue these opportunities. PacifiCorp has experience in seeking such funding; directly or as a partner, for other projects, it has submitted three full applications to the Department of Energy for the Grid Resilience and Innovation Partnership Program (GRIP) in March-May 2023.

⁶ IPC's Reply Comments filed on June 6, 2023, in Case No. IPC-E-23-01 discuss the alternative funding sources.

On Staff's third and fourth conditions related to a soft cap, the Company does not agree that a soft cap is necessary and expects to demonstrate the prudence and cost-effectiveness of the entirety of its actual investment in B2H. If the Commission chooses to impose a soft cap, however, the Company does not object to working with Staff to provide a more detailed breakdown of its cost estimate in a subsequent compliance filing.⁷ Under Staff's framework, the "soft cap will be the threshold that will require the Company to provide robust justification for construction costs over the cap to receive recovery."⁸ The soft cap is consistent with Staff's differentiation between decisional and operational prudence—decisional prudence is a determination that the decision to move forward with an investment is reasonable, while operational prudence is a determination that the Company implemented the investment in a prudent manner.⁹ Here, Staff concluded that selecting B2H was a prudent decision and therefore the Commission will examine the Company's operational prudence—by reference to the soft cap—when it seeks recovery of B2H costs.¹⁰

B. Reply to IIPA

IIPA generally supports B2H and recommends issuance of a CPCN without conditions.¹¹ IIPA provides extensive discussion of its perspective on the benefits B2H will provide to Idaho and the region, including a specific assessment of the benefits related to utility demand response programs. While the Company agrees with IIPA's overall recommendation, the Company has not independently verified IIPA's economic analysis. The Company's economic analysis is set forth in Rick T. Link's testimony and provides the Company's estimation of net customer benefits supporting the decision to move forward with B2H.

⁷ The Company's share of B2H construction costs included in Rick Vail's direct testimony (page 10, line 17) and the corresponding total soft cap set forth in Attachment A to Staff's Comments does not include the Midpoint transformer or the Kinport series capacitor additions that will provide PacifiCorp with added capacity across IPC's transmission system but are not required to complete B2H. The Company therefore understands that the costs associated with these two projects will not be included when calculating the actual costs that will be compared to the soft cap.

⁸ Comments of the Commission Staff at 9.

⁹ Comments of the Commission Staff at 8, n. 1.

¹⁰ Comments of the Commission Staff at 7-8.

¹¹ IIPA's Comments at 1.

C. Reply to Bayer

Bayer does not oppose the Company's request for a CPCN and "recommends that the Commission require that RMP provide similar protections to customers in Idaho that have been proposed" in the Company's Stipulation and Settlement Agreement ("Stipulation") with the Wyoming Industrial Energy Consumers ("WIEC").¹² While the Company partially agrees to Bayer's recommendations, there are some differences in the CPCN statutes in Idaho and Wyoming that render certain Stipulation provisions inapplicable here.

By way of background, Wyoming law requires the Company to obtain a CPCN for B2H even though the transmission line is located entirely outside the state of Wyoming.¹³ To obtain such a "nonsitus" CPCN, the Company must demonstrate, inter alia, the "present or future need for the nonsitus resource is prudent and in the public interest."¹⁴ At the same time, the statute provides that issuance of a non-situs CPCN does not predetermine ratemaking issues.¹⁵ On April 17, 2023, the Company and WIEC—the only party to the Wyoming nonsitus CPCN case—entered into the Stipulation wherein WIEC agreed that the Wyoming Public Service Commission ("Wyoming Commission") should grant a nonsitus CPCN for B2H but, consistent with Wyoming law, refrain from predetermining any ratemaking issues.¹⁶ The Wyoming Commission approved the Stipulation and granted a nonsitus CPCN for B2H at its May 16, 2023, Open Meeting.¹⁷

¹² Bayer's Comments at 2.

¹³ Wyo. Stat. §37-2-205.1.

¹⁴ Wyo. Stat. §37-2-205.1(a).

¹⁵ Wyo. Stat. §37-2-205.1(d).

¹⁶ Bayer's Comments, Exhibit 1, ¶ 4.

¹⁷ A written order is forthcoming.

The Company does not object to Bayer's first¹⁸ and second¹⁹ recommended conditions, which relate to the production and preservation of records and largely mirror a similar commitment made in the Wyoming Stipulation.

The Company does object, however, to Bayer's third recommended condition, which states: "the Commission should condition its approval such that the issuance of a CPCN will not predetermine any ratemaking issues for B2H, including the prudence of B2H's construction, the reasonableness of B2H's costs recovered from Idaho ratepayers, findings concerning the public interest or non-detriment of the provision of adequate and reliable electric service of the B2H [project], and the allocation of B2H's costs to RMP Idaho customers."²⁰

The Company objects to Bayer's condition because it asks that the Commission make no "findings concerning the public interest" even though a public interest determination is central to the Commission's review of a CPCN under Idaho Code § 61-526, where the "public interest is the paramount consideration[.]"²¹ Notably, Bayer presented no evidence that B2H is contrary to the public interest and provided no basis for the Commission to withhold a determination here.

Moreover, Bayer's recommendation goes well beyond the protections contained in the Wyoming Stipulation. By granting the Company a non-situs CPCN, the Wyoming Commission found the "present or future need for [B2H] is prudent and in the public interest."²² The Wyoming Stipulation largely mirrors Staff's recommendation here that distinguishes between decisional and operational prudence—the agreement asked the Wyoming Commission to determine that the need

¹⁸ Bayer's Comments at 2 ("RMP agrees to preserve all analyses, studies and documents pertaining to its Application, including studies related to B2H in PacifiCorp's 2021 Integrated Resource Plan ("IRP") and 2021 IRP Update, until the conclusion of the rate case in Idaho in which it seeks recovery of costs related to B2H from Idaho ratepayers.").

¹⁹ Bayer's Comments at 2 ("RMP agrees to preserve all analyses, studies and documents pertaining to its Application, including studies related to B2H in PacifiCorp's 2023 Application for Approval of 2023 Integrated Resource Plan ("IRP"), until the conclusion of the rate case in Idaho in which it seeks recovery of costs related to B2H from Idaho ratepayers.").

²⁰ Bayer's Comments at 2.

²¹ *In the Matter of Idaho Power Co. & Application for a Certificate of Public Convenience and Necessity for the Investment in Selective Catalytic Reduction Controls on Jim Bridger Units 3 and 4*, Case No. I PC-E-13-16, Order No. 32929 at 10 (Dec. 2, 2013) (quoting *Application of Kootenai Natural Gas Co.*, 78 Idaho 621, 627, 308 P.2d 593, 596 (1957)).

²² Wyo. Stat. §37-2-205.1(a) (emphasis added).

for B2H was prudent and in the public interest, while preserving the ability of WIEC to challenge the Company's actual costs to construct the project, and the ratemaking treatment of B2H, e.g., the costs allocated to Wyoming customers. Bayer's condition is inconsistent with the Wyoming Stipulation because Bayer seeks to preclude the prudence and public interest determinations required to satisfy the need standard under Wyoming's non-situs CPCN statute.

Finally, the Company objects to Bayer's fourth recommendation, which states: "To the extent the testimony of Mr. Rick T. Link is included in the Commission's review or approval of the issuance of a CPCN for B2H, the testimony concerning a forecast of the change in nominal revenue requirement due to B2H should not be applied to any ratemaking issues for B2H." Bayer provides nothing explaining what this recommendation is intended to do, how it would be applied, or why it is necessary. Because the recommendation is unclear and appears entirely unnecessary, it should be rejected. To clarify, Mr. Link's 20-year nominal revenue requirement forecast is relevant to reviewing the prudence of the Project, but the Company would not seek to include the Project in rates based on this forecast. Instead, the Company would rely on an annual revenue requirement calculation for the applicable test period when seeking to include the project in rates in a future proceeding.

II. CONCLUSION

Rocky Mountain Power requests that the Commission grant a CPCN for B2H no later than June 30, 2023. No party opposes the requested CPCN and the recommended conditions are largely acceptable to the Company, except as discussed above. By timely granting the CPCN, the Commission can enable IPC to begin construction on schedule so that B2H can be energized in 2026 to serve Idaho customers.

Respectfully submitted this 8th day of June 2023.



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