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Attorney for P4 Production, L.L.C., an affiliate of Bayer Corporation

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION
OF ROCKY MOUNTAIN POWER FOR A
CERTIFICATE OF PUBLIC CONVENIENCE
AND NECESSITY AUTHORIZING
CONSTRUCTION OF THE BOARDMAN-
TO-HEMINGWAY 500-KV TRANSMISSION
LINE PROJECT

CASE NO. PAC-E-23-01

BAYER'S COMMENTS

P4 Production, L.L.C., an affiliate of Bayer Corporation (referred to herein as “Bayer”), submits the following comments pursuant to the Commission’s *Notice of Modified Procedure* entered April 5, 2023, in this matter.

Background

On January 27, 2023, Rocky Mountain Power, a division of PacifiCorp (“RMP”) filed an application (“Application”) requesting an order granting a Certificate of Public Convenience and Necessity (“CPCN”) for Energy Gateway Segment H, the Boardman-to-Hemingway 500-kilovolt (“kV”) transmission line (“B2H” or “Project”). RMP will co-own B2H with Idaho Power Company (“IPC”), which filed its own CPCN application for the Project in Case No. IPC-E-23-01 before the Idaho Public Utilities Commission (“Commission”).

Bayer filed a petition to intervene on February 13, 2023, which was granted by the Commission in Order No. 35686 entered February 24, 2023.

Comments

1. Bayer notes that RMP has also requested a non-situs CPCN for B2H from the Wyoming Public Service Commission (“WPSC”) in Docket No. 20000-631-EN-23.

2. A Stipulation and Settlement Agreement between RMP and the Wyoming Industrial Energy Consumers (“WIEC”) was reached on April 17, 2023, regarding RMP’s B2H application before the WPSC to address certain issues raised by WIEC. This agreement is attached as **Exhibit 1** to these comments.

3. RMP also filed the Stipulation Testimony of Joelle R. Steward on behalf of RMP in WPSC docket on April 17, 2023. Ms. Steward’s Stipulation Testimony describes the Stipulation and Settlement Agreement between RMP and WIEC.

4. It is Bayer’s understanding that a hearing was held on May 17, 2023, before the WPSC regarding the Stipulation and Settlement Agreement between RMP and WIEC. It is also Bayer’s understanding that the WPSC has not yet approved the Stipulation and Settlement Agreement between RMP and WIEC.

5. Bayer recommends that the Commission require that RMP provide similar protections to customers in Idaho that have been proposed in Wyoming in its Stipulation and Settlement Agreement with WIEC. Specifically, Bayer respectfully requests that the Commission require at least the following of RMP regarding its Application:

a. 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.

b. 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.

c. To the extent RMP is granted a CPCN for B2H, 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, and the allocation of B2H’s costs to RMP Idaho customers.

d. 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.

DATED this 25th day of May, 2023.

RACINE OLSON, PLLP

By: 
THOMAS J. BUDGE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of May, 2023, I served a true, correct and complete copy of the foregoing document by email to each of the following:

Idaho Public Utilities Commission

Commission Secretary
P.O. Box 83720
Boise, ID 83720-0074
secretary@puc.idaho.gov

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THOMAS J. BUDGE

EXHIBIT 1

SETTLEMENT DOCUMENT DOCKET NO. 20000-631-EN-23
BEFORE THE WYOMING PUBLIC SERVICE COMMISSION

IN THE MATTER OF THE APPLICATION OF)	
ROCKY MOUNTAIN POWER FOR A)	Docket No. 20000-631-EN-23
WAIVER OF THE NON-SITUS)	(Record No. 17236)
CERTIFICATE OF PUBLIC CONVENIENCE)	
AND NECESSITY FOR GATEWAY)	
SEGMENT H, THE BOARDMAN TO)	
HEMINGWAY TRANSMISSION PROJECT)	

STIPULATION AND SETTLEMENT AGREEMENT

On February 6, 2023, Rocky Mountain Power, a division of PacifiCorp (“Company” or “Rocky Mountain Power” or “RMP”) filed with the Public Service Commission of Wyoming (“Commission”) an application (“Application”) requesting a non-situs 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”) and approval under the advanced review process set forth in the stipulation approved in Docket No. 20000-384-ER-10, Record No. 12702 (“Advanced Review Process”).

Because construction on B2H is scheduled to commence on July 1, 2023, the Company’s Application requested either a waiver of the non-situs CPCN and Advanced Review requirements or expedited review to allow a final decision by June 30, 2023. The Commission heard the Company’s request for a waiver in an open meeting on February 16, 2023, and denied this request without prejudice.

The Commission issued a Notice of Application on February 21, 2023, requiring interventions to be filed on or before March 15, 2023. The Wyoming Industrial Energy Consumers (“WIEC”) timely intervened in this docket.

On March 24, 2023, the Company filed a motion for Expedited Review of its Application.

WIEC filed a response to this motion on March 28, 2023. WIEC objected to the Company's motion, citing in part its experts' inability to conduct the necessary discovery, analysis of such discovery, and preparation of a full case in this proceeding under the timeframe RMP required; it also signaled an interest in working with the Company to resolve WIEC's concerns about the Application and the schedule.

The Commission heard the Company's motion to expedite at the Commission's March 30, 2023 open meeting. The Commission decided to table the motion for one week to give the parties an opportunity to settle their underlying dispute.

Thereafter, the Company and WIEC engaged in settlement discussions (each a "Party" and collectively the "Settling Parties") and reached a Stipulation and Settlement Agreement ("Agreement") that resolves all outstanding issues raised in this proceeding as set forth below.

SETTLEMENT TERMS AND CONDITIONS

The Settling Parties respectfully request Commission approval of the following settlement terms and conditions:

1. WIEC will serve data requests seeking the following supplemental documentation in support of the Application, which Rocky Mountain Power agrees to provide:
 - a. Analysis and documentation supporting PacifiCorp's projected need to serve up to 680 megawatts ("MW") of central Oregon load and the expected timing of that need.¹
 - b. A copy of the "non-wires analysis" with respect to obtaining 680 MW of central Oregon load service in the absence of B2H.²
 - c. Analysis and documentation supporting PacifiCorp's selection of a 725 MW eight-hour battery storage as the proxy, in its economic analysis, for 725 to 1,450 MW of

¹ See Rick T. Link's Direct Testimony at pages 25-26.

² *Id.* at page 26, footnote 14 and page 40, footnote 20.

dispatchable generation in southern Oregon.³

d. Analysis and documentation supporting PacifiCorp's projected need to serve a significantly greater amount of load in the vicinity of the Longhorn substation and the expected timing of that need.⁴

2. Rocky Mountain Power agrees to preserve all other analyses, studies and documents pertaining to the 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 which it seeks recovery of costs related to B2H.

3. Rocky Mountain Power and WIEC agree that the Advanced Review Process should not apply to the Application, and WIEC will not be bound by the Advanced Review Process in a rate case in which Rocky Mountain Power seeks to include any costs associated with B2H in rates.

4. WIEC agrees that Rocky Mountain Power should be granted a non-situs CPCN for B2H. Consistent with Wyo. Stat. §37-2-205.1(d), the Company and WIEC agree that the issuance of a non-situs CPCN for B2H will not predetermine any ratemaking issues for B2H, including the prudence of B2H's construction, the reasonableness of B2H's costs, and the allocation of B2H's costs to Wyoming customers.

5. WIEC agrees to support a schedule for the Wyoming Commission to review this settlement that will permit issuance of the non-situs CPCN for B2H by the end of June 2023.

GENERAL TERMS AND CONDITIONS

6. The Settling Parties agree that this Agreement is in the public interest. The Settling Parties agree to support all elements of this Agreement as being in the public interest in proceedings before the Commission, and to advocate in good faith that the Commission approve this Agreement in its entirety.

³ *Id.* at page 40.

⁴ *Id.* at pages 26-27.

7. The Settling Parties agree that all negotiations relating to this Agreement are privileged and confidential, and that no Party will be bound by any position asserted in the negotiations, except to the extent expressly stated in this Agreement.

8. The Settling Parties agree that this Agreement represents a compromise in the positions of all the Settling Parties. As such, evidence of conduct or statements made in the negotiation and discussion phases of this Agreement will not be admissible as evidence in any proceeding before the Commission or any court.

9. The Settling Parties agree that except as otherwise expressly noted in this Agreement: (a) the execution of this Agreement will not be deemed to constitute an acknowledgment by any Party of the validity or invalidity of any particular method, theory or principle of ratemaking or regulation, and no Party will be deemed to have agreed that any principle, method or theory of regulation employed in arriving at this Agreement is appropriate for resolving any issue in any other proceeding; (b) the execution of the Agreement, except as stated expressly otherwise, will not constitute the basis of estoppel or waiver in future proceedings by any Party; and (c) no Party will be deemed to be bound by any position asserted by any Party, and no finding of fact or conclusion of law other than those expressly stated will be deemed to be implicit in this Agreement.

10. The Settling Parties agree to the admission of all prefiled testimony and exhibits filed in this docket. The Settling Parties waive cross examination of witnesses regarding prefiled testimony and exhibits.

11. The Settling Parties may support the Agreement with testimony at the hearing. Appropriate witnesses in this docket will be made available in person or telephonically to the Commission for the purpose of responding to any questions and examination by the Commission in support of the Agreement.

12. The Settling Parties acknowledge that this Agreement represents a compromise in the

positions of the Settling Parties in this docket and has been negotiated as a packaged settlement. The Settling Parties acknowledge that their support and advocacy of the Agreement is based upon the Agreement as a whole, in its entirety, and not based upon its individual components viewed in isolation. The Settling Parties acknowledge that their support and advocacy of the Agreement may be compromised by material alterations by the Commission. In the event the Commission rejects or materially alters this Agreement, the Settling Parties agree that they are no longer bound by its terms and are not deemed to have waived any of their respective procedural or due process rights under Wyoming law.

13. If the Commission chooses to adopt and approve the Agreement, this Agreement resolves all disputed matters relative to this proceeding, except as expressly noted in this Agreement. Any disputed matters will be deemed resolved to the extent that the Agreement is not compromised by material alterations.

14. Except as otherwise expressly provided in this Agreement, the issuance of an Order approving this Agreement will not be deemed to work as an estoppel upon the Settling Parties or the Commission, or otherwise establish or create any limitation on or precedent of the Commission in future proceedings.



15. This Agreement will not become effective and will be given no force and effect until the issuance of a final Commission decision that accepts and approves this Agreement.

16. This Agreement is in the public interest and is the result of a negotiated settlement. The compromises and settlements set forth in the Agreement are consistent with the public interest and are supported by the evidence in this proceeding.

17. This Agreement may be executed in one or more counterparts and each counterpart will have the same force and effect as an original document and as if all the Settling Parties had signed the same document. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signatures thereon, and may be attached to another

counterpart of the Agreement identical in form hereto but having attached to it one or more signature page(s).

Respectfully submitted this 17th day of April 2023.

ROCKY MOUNTAIN POWER  _____ Katherine McDowell Adam Lowney McDowell Rackner Gibson PC 419 SW 11 th Ave, Suite 400 Portland, Oregon 97205 John Hutchings Carla Scarsella Rocky Mountain Power 1407 West North Temple, Suite 320 Salt Lake City, Utah 84116 <i>Attorneys for Rocky Mountain Power</i>	WYOMING INDUSTRIAL ENERGY CONSUMERS  _____ Abigail C. Briggerman Thorvald A. Nelson Austin W. Jensen Holland & Hart, LLP 555 Seventeenth Street, Suite 3200 Denver, CO 80202 <i>Attorneys for Wyoming Industrial Energy Consumers</i>
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