

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF ROCKY MOUNTAIN) CASE NO. PAC-E-23-15
POWER’S APPLICATION FOR APPROVAL)
OF THE ASSET TRANSFER AGREEMENT)
BETWEEN ROCKY MOUNTAIN POWER) ORDER NO. 35865
AND THE CITY OF IDAHO FALLS –)
PIONEER ROAD)
)

On June 2, 2023, Rocky Mountain Power, a division of PacifiCorp (“Company”), and the City of Idaho Falls (“City”) (together the “Parties”) applied to the Idaho Public Utilities Commission (“Commission”) for approval of an Asset Transfer Agreement (“Agreement”) between the Company and the City (“Application”). As proposed, the Company would transfer assets located on or near Pioneer Rd., in Idaho Falls to the City. The Application also outlined the proposed compensation for those assets. 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 (emphasis added).” The Parties requested the Application be processed by Modified Procedure.

On June 29, 2023, the Commission issued a Notice of Application, Notice of Modified Procedure, and Notice of Telephonic Hearing. Order No. 35831. The Commission held a telephonic hearing on July 11, 2023. No members of the public testified. Staff filed comments supporting the Application. No other comments were received.

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

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. *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.

THE APPLICATION

A customer (“Customer”) of the Company requested that they be served by the City. Per the 2017 Service Allocation Agreement this requires the underlying assets serving the Customer’s property be transferred. The City has agreed to purchase the relevant assets from the Company as detailed in Exhibit A of the Application.

The Company asserted that the transfer complied with the requirements of *Idaho Code* § 61-328 and is in the public interest. The Company asserted that the City has the intent and ability to provide electric service to the Customer.

The City has agreed to pay the Company 167% of the Customer’s previous 12 months electric bills, plus the value of the transferred assets, tax gross-up, separation costs, and legal and transactional costs. The total sale price in the contemplated transaction is \$16,251. Exhibit A.

THE COMMENTS

Staff analyzed the data provided by the Company and verified that the purchase price accurately reflected the book value of the assets and other associated costs. Staff concluded the asset transfer will not negatively impact other customers. Staff also verified the Company’s depreciation determinations were correct.

Importantly, Staff also evaluated the Company’s Application under the requirements of *Idaho Code* § 61-328(3) and believed (1) the proposed asset transfer promotes the public interest,

(2) will not increase customer rates, and (3) that the City has the bona fide intent and financial ability to maintain service for the Customer. Staff also believed the proposed asset transfer complied with the ESSA as well as the Company's and the City's 2017 Service Allocation Agreement.

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 Agreement and comments of Commission Staff. We find the Agreement satisfies the ESSA, *Idaho Code* § 61-332 *et seq.*, and the electric utility transfer statute, *Idaho Code* § 61-328. Specifically, as required by *Idaho Code* § 61-328(3), the Commission finds (1) the asset transfer is consistent with the public interest, (2) the transfer will not increase the cost of rates for supplying service, and (3) the City has the bona fide intent and financial ability to operate and maintain the relevant assets subject to transfer. The Commission finds the asset transfer to be consistent with the 2017 Service Allocation Agreement. The Commission also finds that reasons for approving this asset transfer are consistent with this Commission's rationale in prior orders. Based on the record, the Commission finds the Agreement conforms to the ESSA's provisions and purposes because it will avoid facility duplication and promote harmony between the electric suppliers. Accordingly, we find it reasonable to approve the Application and the Agreement.

ORDER

IT IS HEREBY ORDERED that the Company's Application is approved. The sale of electric facilities from the Company to the City is approved, effective upon the issuance date of this Order.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order regarding 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 26th day of July 2023.



ERIC ANDERSON, PRESIDENT

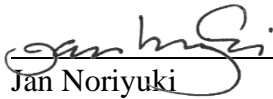


JOHN R. HAMMOND JR., COMMISSIONER



EDWARD LODGE, COMMISSIONER

ATTEST:



Jan Noriyuki
Commission Secretary

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