

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF ROCKY MOUNTAIN) CASE NOS. PAC-E-23-22
POWER’S APPLICATION TO REVISE)
ELECTRIC SERVICE REGULATION NO. 3-) NOTICE OF APPLICATION
ELECTRIC SERVICE AGREEMENTS)
) NOTICE OF MODIFIED
) PROCEDURE
)
) ORDER NO. 36003

On October 24, 2023, PacifiCorp dba Rocky Mountain Power (“Company”) filed an application (“Application”) with the Idaho Public Utilities Commission (“Commission”) requesting authority to update Electric Service Regulation No. 3-Electric Service Agreements (“Rule 3”). The Company requests its Application be processed by Modified Procedure.

NOTICE OF APPLICATION

YOU ARE HEREBY NOTIFIED that the Company represents that Rule 3 defines the Company’s general rules and regulations for electric service. Application at 1. The Company states that the proposed tariff amendment would update provisions regarding liability for non-economic damages. *Id.* Specifically, the proposed amendment would: (1) limit damages arising out of the Company’s provision of electric services to actual damages; (2) exclude a-typical damages (including special, noneconomic, punitive, incidental, indirect, or consequential); (3) only apply prospectively, and for actions arising out of the provision of electric service; and (4) would not apply where state law otherwise disallows the limitation. *Id.* at 1-2. The Company represents that this provision strikes a reasonable balance between enabling actual damages when appropriate, and unreasonable treble damages. *Id.* at 2.

YOU ARE FURTHER NOTIFIED that the Company’s proposed liability language provides:

LIMITATION OF LIABILITY In any action between the parties arising out of the provision of electric service, the available damages shall be limited to actual economic damages. Neither party shall be liable to the other party for special, noneconomic, punitive, incidental, indirect, or consequential damages (including, without limitation, lost profits), regardless of whether such action is based in contract, tort (including, without limitation, negligence), strict liability, warranty or otherwise. By receiving electric service, customer agrees to waive and release

Company from any and all claims for special, noneconomic, punitive, incidental, indirect, or consequential damages (including, without limitation, lost profits) as part of any claim against Company related to or arising from Company's operations or electrical facilities. This provision shall not be binding where state law disallows limitations of liability.

Id. at 8.

YOU ARE FURTHER NOTIFIED that the Application is available for public inspection during regular business hours at the Commission's office. The Application is also available on the Commission's website at www.puc.idaho.gov. Click on the "ELECTRIC" icon, select "Open Cases," and click on the case number as shown on the front of this document.

YOU ARE FURTHER NOTIFIED that all proceedings in this case will be held pursuant to the Commission's jurisdiction under Title 61 of the Idaho Code, and that all proceedings in this matter will be conducted pursuant to the Commission's Rules of Procedure, IDAPA 31.01.01.000 *et seq.*

NOTICE OF MODIFIED PROCEDURE

YOU ARE HEREBY NOTIFIED that the Commission has determined that the public interest may not require a formal hearing in this matter, and that it will proceed under Modified Procedure pursuant to the Commission's Rules of Procedure 201-204, IDAPA 31.01.01.201-.204. The Commission notes that Modified Procedure and written comments have proven to be an effective means for obtaining public input and participation.

YOU ARE FURTHER NOTIFIED that persons desiring to state a position on this Application may file a written comment explaining why the person supports or opposes the Application. Persons who would like a hearing must specifically request a hearing in their written comments and explain why written comments alone are insufficient. **Persons interested in filing written comments must do so by January 23, 2024.** Comments must be filed through the Commission's website or by e-mail unless computer access is unavailable. To comment electronically, please access the Commission's website at <http://www.puc.idaho.gov/>. Click the "Case Comment Form" and complete the form using the case number as it appears on the front of this document.

To file by e-mail, persons must e-mail the comments to the Commission Secretary and the Parties at the e-mail addresses listed below. Persons submitting a comment by e-mail must provide their name, address, and the Case Number under which they are commenting. Persons submitting

a comment by e-mail also acknowledge that submitting a comment in an open case constitutes a public record under *Idaho Code* § 74-101 (13), and all information provided by such person is available for public and media inspection.

If computer access is unavailable, then comments may be mailed to the Commission and the Parties at the addresses below. Persons submitting a comment by mail must provide their name, address, and the Case Number under which they are commenting. Persons submitting a comment by mail also acknowledge that submitting a comment in an open case constitutes a public record under *Idaho Code* § 74-101 (13), and all information provided by such person is available for public and media inspection.

**For the Idaho Public Utilities
Commission:**

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

Street Address for Express Mail:

11331 W. Chinden Blvd.
Building 8, Suite 201-A
Boise, ID 83714

For the Company:

Mark Alder
Idaho Regulatory Affairs Manager
Rocky Mountain Power
1407 West North Temple, Suite 330
Salt Lake City, UT 84116
mark.alder@pacificorp.com

Joe Dallas
Carla Scarsella
Rocky Mountain Power
825 NE Multnomah, Suite 2000
Portland, OR 97232
joseph.dallas@pacificorp.com
carla.scarsella@pacificorp.com

YOU ARE FURTHER NOTIFIED that the Company must file any reply comments **by February 6, 2024.**

YOU ARE FURTHER NOTIFIED that if no written comments or protests are received within the time limit set, the Commission will consider this matter on its merits and enter its final order without a formal hearing. If written comments are received within the time limit set, the Commission will consider them and, in its discretion, may set the same for formal hearing.

ORDER

IT IS HEREBY ORDERED that the Application be processed by Modified Procedure, Rules 201-204 (IDAPA 31.01.01.201-.204). Persons interested in filing written comments must do so by January 23, 2024. The Company must file any reply comments by February 6, 2024.

IT IS FURTHER ORDERED that parties comply with Order No. 35375, issued April 21, 2022. Generally, all pleadings should be filed with the Commission electronically and will be deemed timely filed when received by the Commission Secretary. *See* Rule 14.02. Service between parties should continue to be accomplished electronically when possible. However, voluminous discovery-related documents may be filed and served on CD-ROM or a USB flash drive.


DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 22nd day of November 2023.


ERIC ANDERSON, PRESIDENT


JOHN R. HAMMOND JR., COMMISSIONER


EDWARD LODGE, COMMISSIONER

ATTEST:


Monica Barrios-Sanchez
Interim Commission Secretary

I:\Legal\ELECTRIC\PAC-E-23-22_ESAs\orders\PACE2322_Ntc_App_Mod_cb.docx