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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE JOINT)
APPLICATION OF FALL RIVER RURAL) CASE NO. PAC-E-07-12
ELECTRIC COOPERATIVE, INC. AND ROCKY)
MOUNTAIN POWER FOR AN ORDER)
APPROVING THE SALE AND TRANSFER OF) COMMENTS OF THE
PROPERTY.) COMMISSION STAFF
_____)

COMES NOW the Staff of the Idaho Public Utilities Commission, by and through its Attorney of record, Weldon B. Stutzman, Deputy Attorney General, and in response to the Notice of Joint Application and Notice of Modified Procedure issued in Order No. 30347 on June 25, 2007, submits the following comments.

BACKGROUND

On June 5, 2007, Rocky Mountain Power (RMP) and Fall River Rural Electric Cooperative, Inc. (Fall River) filed a Joint Application requesting Commission approval of the sale and transfer of property from RMP to Fall River. RMP is an electric utility authorized to do business in the state of Idaho and is subject to the regulation of the Commission pursuant to the public utility laws of the state. RMP provides electric service to approximately 912,000 customers in Idaho, Utah and Wyoming. In Idaho, RMP serves about 67,000 customers and 150 of those customers reside in Teton

County. This proposed transaction involves the transfer of 72 of those present customers in Teton County from RMP to Fall River.

Fall River is a non-profit cooperative electric corporation incorporated under the laws of the state of Idaho providing retail electric service to approximately 13,000 members in Idaho, Montana and Wyoming. In Idaho, specifically Teton County, Fall River serves about 5,400 members in and around the city of Driggs. Fall River is not subject to regulation by the Commission.

According to the Application, RMP proposes to transfer 72 of its customers, certain facilities and a portion of its certificated service territory to Fall River. Both companies submit that this sale is in the best interest of the public and cite a number of reasons in support of their claim. As the Teton County Basin continues to experience growth both companies have considered their approach to serving new customers and recognize the potential for duplication of facilities. The parties assert this Application, if approved, would allow Fall River to more efficiently serve the transferred customers and the expected new growth in this area.

RMP's service center, which supports the portion of Teton County it wishes to transfer, is located in Rexburg, Idaho, about 36 miles from the customers to be transferred, whereas the Fall River service center is located in Driggs, Idaho only 12 miles away. As stated in the Joint Application, the closer proximity will benefit the transferred RMP customers by shortening the response time for power restoration and other service calls.

Fall River maintains "it has the bona fide intent and financial ability to operate and maintain the subject Service Territory in the public service." In support of this claim Fall River presented the end results of the recent fiscal year in which it reported total annual revenues of \$19 million, a net operating margin of \$2 million, and total assets of \$70.5 million, with member equity of \$20.2 million. In addition, Fall River noted that it has been providing reliable electric service to its customers for almost 70 years.

COMMISSION RESPONSIBILITIES

Pursuant to state law, *Idaho Code* § 61-328 requires that before the Commission approves the sale or transfer of any public utility property it must determine if (1) the transaction is consistent with the public interest, (2) the cost of and rates for supplying service will not increase because of the transaction, and (3) the buyer of the electric utility's property has both the intent and the financial ability to operate the property in the public service. Further, *Idaho Code* § 61-333(1) provides that

electric suppliers may 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.” Under the Electric Supplier Stabilization Act (ESSA), both RMP and Fall River are electric suppliers as defined in *Idaho Code* § 61-332A(4). In *Idaho Code* § 61-333(1), after notice and opportunity for hearing, the Commission may approve agreements allocating service territories and customers between electric suppliers only upon finding that the allocation is in conformance with the purposes of the ESSA. In addition, as set out in *Idaho Code* § 61-332(4), the purpose of the ESSA is to discourage duplication of facilities, prohibit “pirating” of consumers, stabilize service territories and consumers and promote harmony between electric suppliers.

STAFF REVIEW

As specified in *Idaho Code* § 61-328 there are three areas the Commission must consider prior to the approval of the sale or transfer of any public utility property. First, it must determine if the sale and transfer of the public utility property is in the best interest of the public served. Staff investigated this question from the standpoint of the customers being transferred to Fall River as well as those customers remaining with RMP. For the transferred RMP customers, closer proximity to a service center will allow a faster response time for service calls and restoration of service, and should be considered a positive aspect of the transfer. The companies in their Application indicated that the transfer was expected to maintain, if not improve service reliability, and the transfer would help reduce cost for all customers by reducing duplication of facilities.

In response to Staff’s Production Data Request 1.1, RMP reports that Fall River has added, as of April 2007, one four-person crew to its service office in Driggs, Idaho, which according to Fall River and RMP, should be sufficient to provide all maintenance, outage response and new construction for the transferred customers. Staff therefore agrees that service reliability should improve with the additional staff and the transfer of the service center from its current location in Rexburg to Driggs, Idaho.

Staff analyzed the rates of both utilities to determine if customer costs would increase because of the transaction. Fall River’s residential rate is 6 ½ cents per kWh plus a \$30 monthly customer service charge as compared to RMP’s Residential Service Schedule No.1 rate, which is 10.4 cents in the summer and 7.99 cents in the winter with no monthly customer charge. This is without any BPA credit. The break-even point where a customer would pay the same under either utility rate is 776

kWh during the summer and 2034 kWh during the winter months. In other words, a customer using less than 776 kWh in the summer, or less than 2034 kWh during the winter months, will pay less under RMP's rate.

As part of the transfer, Fall River has agreed to leave the RMP rates in place for the former RMP customers for five years. After the five year period ends the current established rates of Fall River members will be applied. However, Staff recommended that the 72 RMP transferred customers be allowed to choose between keeping their current RMP rate structure and accepting the Fall River rate structure for a period of five years, and Fall River agreed. Providing these customers with clear information on both the Fall River rates and RMP rates along with information on any proposed changes will help customers choose the best rate for them for the five-year transition period.

Twenty-two of the transferred customers are billed under RMP's Schedule No. 36 time-of-day rate structure. Some of these customers have expressed concern that Fall River does not have a time-of-day rate structure in place and thus they will lose this rate as a result of the transfer. Further discussion with Fall River revealed that it plans to set up a special rate to match RMP's current time-of-day rate for these customers. In addition, the Company will have to read and record the customer's meter readings by hand for the duration of five-year period indicated in the Joint Application.

Staff supports the proposal to continue RMP rate availability and agrees with Fall River's proposed method of billing these twenty-two customers. These customers should receive a bill each month that displays sufficient information to allow them to determine that they are being charged correctly.

RMP asserts that for its remaining customers, cost of service and rates "will not increase in any material way" as a consequence of the transfer of assets and customers from RMP to Fall River. Further, in response to Data Request 1.5 the Company indicated that most of the load growth in Teton County Valley is already contracted to Fall River and RMP is expecting minimal future growth that would offset new line construction and restoration. RMP maintains that avoiding the cost of replacing aging facilities, including the principal distribution line, and the reduction in operating expenses associated with the construction, will benefit the remaining RMP customers.

Finally, Staff reviewed whether the buyer of the electric utility's property has both the intent and the financial ability to operate the property in the public service.

Fall River was formed in 1938 and is one of the oldest rural electric cooperatives in the west. The financial statements for Fall River support the Company's claim that it has the financial ability to operate and maintain the property in the public interest, as set forth in the Asset Purchase Agreement and Application. Review of customer service to existing member customers and the cooperation of Fall River during the Staff review of the sale and transfer support the claim that Fall River has the bona fide intention to operate and maintain the property.

With respect to notice to customers, one of RMP's customers commented that he did not receive the notice of the public meeting hosted by Fall River until after the meeting scheduled date of May 11, 2007. The letter prepared by RMP to the affected customers is dated May 8, 2007, and the letter states that a public meeting will take place in the Teton Middle School auditorium and that representatives from both companies will be on hand to answer questions and discuss the proposed transfer. The meeting was held on May 11, 2007, at 6 p.m.

Staff does not believe that RMP provided its customers with sufficient time for them to plan to attend this meeting. Assuming the notice, dated May 8, 2007, was mailed the same day it allowed only three days for postal service delivery prior to the day of the meeting. The only option for those customers who were not notified in time to attend the meeting was for them to file written comments with the Commission. Staff suggests that RMP provide better notice to customers if it enters into similar agreements in the future.

RMP and Fall River have agreed they will continue to work with each other to resolve any existing and future service territory alignment issues for the next twelve months.

STAFF RECOMMENDATION

Staff recommends the Commission approve the asset purchase agreement as filed by Fall River Rural Electric Cooperative, Inc. and Rocky Mountain Power under the following conditions: (1) the transferred customers be allowed the option to remain under the RMP rate structure for a period of five years or at any time during the five year period, be allowed to transfer to the Fall River rates; (2) those customers currently being billed under RMP's time-of-day rate remain at that rate for five years (unless they choose to transfer to the Fall River rates) and that these customers receive billing that is sufficiently detailed to enable customers to determine usage and appropriate rates.

Fall River and RMP, through their Joint Application and answers to all Staff's inquires in a timely manner, have demonstrated that the agreement is in conformance with the provisions and intent of the ESSA, specifically those found in *Idaho Code* § 61-333. RMP has provided a list of

assets to be transferred. Staff recommends RMP file the final accounting entries associated with the sale within 30 days of the closing.

Respectfully submitted this 16th day of July 2007.



Weldon B. Stutzman
Deputy Attorney General

Technical Staff: Dan Graves
Terri Carlock

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CERTIFICATE OF SERVICE

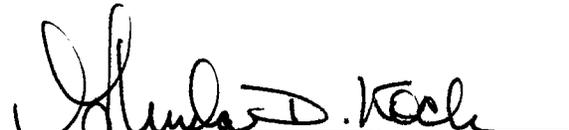
I HEREBY CERTIFY THAT I HAVE THIS 16TH DAY OF JULY 2007, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. PAC-E-07-12, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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