

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)
TO APPROVE THE ASSET PURCHASE) **CASE NO. PAC-E-16-16**
AGREEMENT BETWEEN ROCKY)
MOUNTAIN POWER AND THE CITY OF) **ORDER NO. 33714**
IDAHO FALLS)

On December 21, 2016, Rocky Mountain Power (“Company”) filed an Application requesting authority to sell/transfer certain electric facilities to the city of Idaho Falls, Idaho (“City”), to supply electric service to 6786 South 5th West, in the City’s boundaries. The Application falls under the Electric Supplier Stabilization Act (ESSA), *Idaho Code* §§ 61-332 *et seq.* The Commission issued a Notice of Application and Notice of Modified Procedure. Order No. 33684. Staff timely filed comments. Rocky Mountain did not file a reply. We now approve the Application.

BACKGROUND

In August 2005, the Company and the City entered into an allocation agreement (“2005 Agreement”) “to reduce duplication of service and promote stability of their respective service areas.” Application at 2; Exhibit 1. Although the Company and the City terminated the 2005 Agreement in 2015, they “have agreed to utilize the terms of [the 2005 Agreement] to govern this asset exchange.” Application at 2. Among other terms, the 2005 Agreement allowed for the transfer of a customer’s electric service from the Company to the City upon the customer’s written request for such transfer, and upon the City’s agreement to pay the Company “just compensation for lost revenues and [for] the facilities utilized to serve that customer.” *Id.* at 3. Under the 2005 Agreement, “just compensation for lost revenues” meant “an amount equal to 167 percent of the total of the respective customer’s electric bills from the prior twelve month period.” *Id.* In the event of such transfer, the 2005 Agreement provided that the City “would purchase the poles, wires, cross arms, insulators, guys and other facilities no longer needed or required by [the Company] to service that customer.” *Id.*

APPLICATION

The Company and City have entered into an Asset Purchase Agreement that comports with their 2005 Agreement. *Id.* Consistent with terms of the 2005 Agreement, the owner and developer of the property at 6786 South 5th West in Idaho Falls (i.e., the customer) made a written request to transfer electric service from the Company to the City. *Id.* In the Asset

Purchase Agreement, the Company and City agreed to transfer service, and the City agreed to pay 167 percent of the previous customer's electric bills for the prior twelve month period, and to purchase "one transformer, three poles and approximately 1,850 feet of conductor from the Company." *Id.* Further, the City agreed to pay the Company for legal and transaction costs. *Id.* The agreed purchase price is \$4,850.67. Exhibit D. In the Application, the Company and City jointly requested the Commission's approval of their service area exemption and Asset Purchase Agreement. Application at 3.

STAFF COMMENTS

Upon its review, Staff believes that the \$4,850.67 purchase price is "just, fair, and reasonable, and that the transaction is consistent with the purposes of the ESSA." Comments at 3. Staff therefore recommended that the Commission approve the Rocky Mountain's Asset Purchase Agreement with Idaho Falls.

COMMISSION FINDINGS

Under the ESSA, the Company and the City are electric suppliers, and the Commission has jurisdiction to determine whether the requested service area exemption and Asset Purchase Agreement are appropriate. *Idaho Code* §§ 61-332A(4) ("Electric supplier" means any public utility . . . or municipality supplying or intending to supply electric service to a consumer."); 61-334B (re: Commission supervision and authority).

The ESSA was passed to: (1) discourage duplication of facilities; (2) prohibit "pirating" of consumers; (3) stabilize electric suppliers' service territories and consumers; and (4) promote harmony between electric suppliers. *Idaho Code* § 61-332(2). As such, the ESSA prohibits an electric supplier from furnishing electric service to a consumer that is or has been "lawfully connected for electric service to facilities of another electric supplier except as provided in this act." *Idaho Code* § 61-332B. However, the ESSA provides an exemption to this prohibition: that electric suppliers may contract to allocate "territories, consumers, and future consumers . . . and designat[e] which territories and consumers are to be served by which contracting electric supplier." *Idaho Code* § 61-333(1). These service allocation contracts, also called service area exemption agreements, must be approved by the Commission "upon finding that the allocation is in conformance with the purposes of the ESSA." *Id.*; Order No. 32646.

We previously approved Rocky Mountain's service allocation agreement (2005 Agreement) with Idaho Falls. Order No. 29895. Given the record before us, we now find that

the service area exemption for the property located at 6786 South 5th West in Idaho Falls is consistent with the 2005 Agreement, and with the purposes of the ESSA. We thus approve the transfer of electric service for that location from Rocky Mountain to Idaho Falls. We further find that the proposed Asset Purchase Agreement conforms to the 2005 Agreement and the ESSA, and that the purchase price of \$4,850.67 is just, fair, and reasonable. We thus approve the Asset Purchase Agreement between Rocky Mountain and Idaho Falls.

ORDER

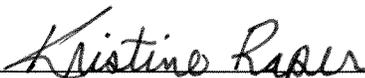
IT IS HEREBY ORDERED that Rocky Mountain's Application is approved as set forth above.

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. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. *See Idaho Code § 61-626.*

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this *7th* day of February 2017.



PAUL KJELLANDER, PRESIDENT



KRISTINE RAPER, COMMISSIONER



ERIC ANDERSON, COMMISSIONER

ATTEST:



Diane M. Hanian
Commission Secretary

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