

# **WYOMING PUBLIC SERVICE COMMISSION**

Minutes of Regular Open Meeting  
Thursday, December 7, 2017  
1:30 p.m.

Commissioners: Chairman William F. Russell  
Deputy Chair Kara Brighton Fornstrom  
Commissioner Robin Sessions Cooley

James B. Martin, Beatty & Wozniak, PC, Counsel for BP America  
Production Company (BP America)  
Nicol Kramer, Beatty & Wozniak, PC, Counsel for BP America  
Yvonne Hogle, Assistant General Counsel, Rocky Mountain Power (RMP)  
(by telephone)  
Stacy Splittstoesser, Wyoming Regulatory Affairs Manager, RMP  
Daniel Solander, Senior Corporate Counsel, RMP (by telephone)  
James Elliott, Manager-Regulatory, Black Hills Energy (BHE)

Commission Staff (CS): Lori Brand, John Burbridge, Steve Mink, Marci  
Norby, Michelle Bohanan, Kara Seveland, Luy Luong, Perry McCollom  
and Morgan Fish

## **CONSENT AGENDA**

1. **Docket No. 74663-2-TA-17 (Record No. 14897). Notification of Pulse Telecom, LLC, to cancel its interexchange registration authority. Commission to consider acceptance of Notification for filing.** Commission Staff: John Burbridge and Thomas Wilson. (See attached Notification Letter dated November 17, 2017.)
2. **Docket No. 74294-18-TA-17 (Record No. 14881). Notification of the Indirect Transfer of Control of Securus Investment Holdings, LLC, to SCRS Acquisition Corporation. Commission to consider acceptance of Notification for filing.** Commission Staff: John Burbridge and Thomas Wilson. (No memo; See attached Notification dated November 15, 2017).
3. **Docket No. 10001-18-CK-17 (Record No. 14857.) Yampa Valley Electric Association, Inc.'s Contract with Upper Yampa Water Conservancy District. Commission to consider acceptance of contract for filing.** Commission Staff: John Burbridge and Jess Bottom. (See attached *Memo* dated November 28, 2017.)
4. **Docket No. 10001-15-CK-17 (Record No. 14837.) Yampa Valley Electric Association, Inc.'s Contract with Clean Energy Collective, Inc. Commission to consider acceptance of contract for filing.** Commission Staff: John Burbridge and Jess Bottom. (See attached *Memo* dated November 28, 2017.)
5. **Docket No. 20000-520-EA-17 (Record No. 14781). Application of Rocky Mountain Power (RMP) for Certificates of Public Convenience and Necessity and**

nontraditional ratemaking for wind and transmission facilities. Commission to consider and act on:

- a. **Anadarko Land Corp.'s Motion for Admission Pro Hac Vice of Constance E. Brooks** filed on November 21, 2017;
  - b. **Anadarko Land Corp.'s Motion for Admission Pro Hac Vice of Danielle R. Bettencourt** filed on December 4, 2017; and
  - c. **BP America Production Company's Amended Motion for Admission Pro Hac Vice of James B. Martin** filed on December 5, 2017.
6. **Docket No. 70050-18-TT-17 (Record No. 14840). Tariff filing of All West Wyoming, Inc. for authority to revise the intrastate switched access service price list. Commission to consider and act on tariff filing.** Thomas Wilson, CS, provided a technical *Memo* dated November 8, 2017.
  7. **Docket No. 70012-32-TA-17 (Record No. 14766). Informational filing of Project Telephone Company's 2017 Rate Floor Certification. Commission to consider accepting Certification for filing and act on Petition for Confidential Treatment of Documents (Petition).**
  8. **Docket No. 70000-1629-TA-16 (Record No. 14422). Petition of Qwest Corporation d/b/a CenturyLink QC, for approval of non-impaired wire center lists pursuant to the FCC'S Triennial Review Remand Order (Petition). Commission to consider and act on Petition.** Thomas Wilson, CS, provided a technical *Memo* dated November 29, 2017.
  9. **Docket No. 10015-66-CA-17 (Record No. 14804). Application of High West Energy, Inc. to approve its Service Interruption Reporting Plan. Commission to consider and act on Application.** Commission Staff: John Burbridge, Morgan Fish and Perry McCollom. (See attached *Memo* dated December 1, 2017.)

Chairman Russell introduced the consent items and moved Item #8 to the Regular Agenda as Regular Item #4 for discussion and consideration. For Item #s 1 through 4, John Burbridge, Commission Counsel, recommended acceptance of the notifications and contracts for filing, by *Letter Order*, effective immediately. For Item # 5a, b and c, he recommended granting the *Motions*, by *Order* only effective immediately. For Item # 6, he recommended acceptance of the tariff filing by *Order* only, effective immediately. For Item # 7, he recommended acceptance of the Certification for filing and granting the *Petition* by *Order* only, effective immediately. For Item # 9, he recommended approval of the Application by *Order* only, effective immediately. Deputy Chair Fornstrom moved to act as recommended on all items. Commissioner Cooley seconded the motion and Chairman Russell concurred.

## REGULAR AGENDA

1. **Docket No. 20000-520-EA-17 (Record No. 14781). Application of Rocky Mountain Power (RMP) for Certificates of Public Convenience and Necessity (CPCN) and nontraditional ratemaking for wind and transmission facilities. Commission to consider and act on:**
  - a. **BP America Production Company's *Petition for and Notice of Intervention (Petition)* filed on November 14, 2017;**
  - b. **RMP's *Response in Opposition to BP America Production Company's Petition for and Notice of Intervention (Response)* filed on November 22, 2017; and**
  - c. **BP America Production Company's *Reply in Support of Petition for and Notice of Intervention (Reply)* filed on November 28, 2017.**

James Martin, BP America's Counsel, presented BP America's argument for permission to intervene. He stated the Commission has discretion to permit late intervention and RMP would not be prejudiced by the intervention. He stated BP America pledges to adhere to the Scheduling Order and does not intend to delay proceedings. Finally, Martin stated that the Company is not taking a position on cost recovery and is seeking only to protect its property interests. BP America has 42 leases that would be traversed by RMP's proposed transmission lines. He said there are many stipulations in its leaseholds, such as sensitivity to wildlife, access roads, ability to site well pads, etc. and a transmission line will reduce access to those areas.

Yvonne Hogle, RMP's Corporate Counsel, argued the Commission should deny intervention because BP America failed to meet the intervention standard under the Wyoming Rules of Civil Procedure citing timeliness and interest. She said the Commission does not even need to consider whether RMP would be prejudiced by this intervention. Furthermore, RMP stated it opposes this intervention because mineral rights are not within the Commission's jurisdiction. Ms. Hogle stated all affected landowners were notified by regular mail and BP America is not a landowner. Therefore, RMP was not required to notify BP America. She also argued that BP America has not shown good cause why it should be allowed to intervene, is not a condemnee and it is speculative to assume RMP will initiate a condemnation proceeding as it is not required for a CPCN.

Martin responded to Hogle that BP America discovered the CPCN application very recently as no notice was given to property owners and it worked hard to file the *Petition* timely. He also said BP America submitted pre-filed testimony by the Scheduling Order deadline. He said he believes the public interest would be served and the issues should be resolved in one forum as opposed to multiple forums.

Commissioner Cooley asked if an eminent domain action would be best presented in the proper court as stated by RMP. Martin responded no, as it would prejudice BP America and would be difficult to defend a condemnation action once a CPCN is granted. Furthermore, Martin stated BP America's ability to work with the Applicant would be limited. Martin stated he believes the Commission is the appropriate forum to decide

whether this transmission corridor is the appropriate one. A discussion regarding the difference between landowner and property owner and associated appropriate notice followed. Martin argued the statute requires notice to private property owners along the path of the transmission lines. He responded to Commissioner Cooley that BP America is an Intervenor of right, but is also seeking permissive intervention. Hogle responded to Chairman Russell that BP America's interest in land would potentially be impacted by the transmission line. She said RMP would be happy to listen to the issues and work with them, but that district court is the more appropriate forum. A discussion regarding rights, condemnation action, potential prejudice, and proper notice followed. Lori Brand, Commission Counsel, confirmed that public notice appeared in 16 newspapers and specific notice was provided to all affected landowners. There were no further questions or comments. Deputy Chair Fornstrom moved to grant the *Petition*, stating she does not see any delay by the intervention and believes BP America has shown a substantial interest. Chairman Russell agreed with Deputy Chair Fornstrom and seconded the motion. Commissioner Cooley dissented. The motion was carried.

2. **Docket No. 20000-525-EA-17 (Record No. 14845). Application of Rocky Mountain Power for approval of its Customer Allocation Agreement with Garland Light and Power Company (Garland). Commission to consider and act on Application and Petition for Confidential Treatment (Petition).** Morgan Fish, CS, provided a technical *Memo* dated November 30, 2017. Stacy Splittstoesser, Wyoming Regulatory Affairs Manager, explained this agreement is between RMP, Garland Light and Power and the customer and will allow Garland to provide service to the customer within RMP's certificated territory. Garland's transmission line is closer to the customer and will result in significant cost savings to the customer. The agreement includes a provision in the event of a transfer of property. There were no questions. Steve Mink, Commission Counsel, recommended approval of the application by *Order* only, effective immediately. Deputy Chair Fornstrom moved to act as recommended. Commissioner Cooley seconded the motion and Chairman Russell concurred.
3. **Docket No. 30005-230-GA-17 (Record No. 14775). Application of Cheyenne Light, Fuel and Power Company d/b/a Black Hills Energy, for authority to revise the currently established Wobbe Indices for the Carpenter-Burns, Pine Bluffs, and Cheyenne areas. Commission to consider and act on Application.** Kara Seveland, CS, provided a technical *Memo* dated November 30, 2017. James Elliott, BHE's Manager of Regulatory, stated the Company wants to correct the Wobbe index and bring BHE into compliance with the Commission's revised Rules. BHE proposes to set a base index on the weighted average of receipt points and to establish an index for the Carpenter-Burns areas. Elliott further explained that Commission Rules indicate anything above a 4% variation is considered a change in service so BHE wants the index revised to 1370, instead of 1373, because it would not trigger inspection and adjustment requirements pursuant to Commission Rule. Deputy Chair Fornstrom clarified with Elliott the reason for the change is not just to comply with the Commission Rules, but to reflect the change in the source of supply that has occurred since the Wobbe was originally established. She noted the correct number, based on submitted data, is 1373. She also indicated that, since the Commission Rule was in forbearance, the former rule variance of 6% should be used to define a change in service. Elliott said BHE would not oppose this number. There were no further questions or comments. John Burbridge, Commission Counsel, recommended approval to revise index at 1373 for the Cheyenne area, and establish an index of 1372 for the Carpenter-

Burns and the Pine Bluffs area, by *Order* only, effective immediately. Deputy Chair Fornstrom moved to act as recommended. Commissioner Cooley seconded the motion and Chairman Russell concurred.

4. **Docket No. 70000-1629-TA-16 (Record No. 14422). Petition of Qwest Corporation d/b/a CenturyLink QC, for approval of non-impaired wire center lists pursuant to the FCC'S Triennial Review Remand Order (*Petition*). Commission to consider and act on *Petition*.** Thomas Wilson, CS, provided a technical *Memo* dated November 29, 2017. Chairman Russell asked about the timeliness of this item. Steve Mink, Commission Counsel, responded it was delayed due to discussion about notice and then forgotten. Chairman Russell asked about the purpose for the amended notice. Mink thought it might have been due to an error in the description of the item. There were no further questions or comments. Mink recommended approval of the application by *Order* only, effective immediately. Deputy Chair Fornstrom moved to act as recommended. Commissioner Cooley seconded the motion and Chairman Russell concurred.

Prepared by: Barbara Tomlinson

Date of Next Open Meeting: Tuesday, December 12, 2017

ACCEPTED and APPROVED by the Commission on January 11, 2018.

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Chairman William F. Russell

# **WYOMING PUBLIC SERVICE COMMISSION**

Minutes of Regular Open Meeting  
Tuesday, December 12, 2017  
1:30 p.m.

Commissioners: Chairman William F. Russell  
Deputy Chair Kara Brighton Fornstrom  
Commissioner Robin Sessions Cooley

Bruce Asay, Associated Legal Group, LLC, Counsel for Montana-Dakota  
Utilities Co.

Tamie Aberle, Director of Regulatory Affairs, Montana-Dakota Utilities  
Co.

Garret Fresoln, Vice President, Frannie Deaver Utility

Paul Hickey, Counsel, CenturyLink QC

William Hendricks, Senior Corporate Counsel, CenturyLink QC

Jeff Bumgarner, Vice President of Member Services, Powder River Energy  
Corporation

Joanne Kolb, Chief Financial and Administration Officer, Powder River  
Energy Corporation

James Elliott, Manager, Regulatory, Black Hills Corporation

Office of Consumer Advocates: Ivan Williams and Bryce Freeman

Commission Staff (CS): Steve Mink, Tom Wilson, John Burbridge, Pam  
Temte, James Branscomb, Kara Seveland, Nathan Brennan and Dave  
Piroutek, Rachel Meeker, Katie Koski, Chris Petrie, Marci Norby,  
Morgan Fish, Melisa Mizel

## **CONSENT AGENDA**

- 1. Docket No. 90000-133-XO-17 (Record No. 14894). Notification from the Committee on Telecommunications Services for the Communications Impaired that the monthly access line special fee shall remain at nine cents (\$0.09). Commission to consider action requiring identification and inclusion by all local exchange companies and radio communications service providers of the monthly access line special fee of \$0.09 on customers' monthly bills, effective January 1, 2018 pursuant to Wyo. Stat. § 16-9-209.**
- 2. Docket No. 74196-5-TA-17 (Record No. 14722). Notification of Network Enhanced Technologies, Inc., requesting authority to cancel Interexchange Registration and tariffs to do business in Wyoming. Commission to consider acceptance of the Notification for filing.**

Katie Koski, Commission Counsel, recommended for item 1 the Commission issue a Notice and Order requiring all local exchange companies and radio communications service providers to include and clearly identify the nine cent (\$0.09) Wyoming Relay special fee on customers monthly bills for services rendered on and after January 1, 2018, pursuant to Wyoming Statute § 6-9-209(b). For item 2, Ms. Koski recommended accepting the notification for filing by letter order only, effective immediately.

### **REGULAR AGENDA**

- 1. Docket No. 90000-126-XO-16 (Record No. 14378). In the matter of the study by the Commission on its own motion of statewide Wobbe indices. Commission to receive Staff presentation on quarterly reporting of Wobbe values by natural gas distribution utilities for the third quarter of 2017 and take such action as the public interest may require.**

Kara Seveland, Michelle Bohanan and Morgan Fish, Commission Staff, provided a technical *Memo* dated December 1, 2017.

#### **30003- Black Hills Energy, a division of Cheyenne Light, Fuel and Power Company (BHE-NE)**

Ms. Bohanan stated all reported results from the twelve gas quality sampling points in the certificated territory are within the allowable deviation, the Company has certified compliance and provided a map. The action items for BHE-NE are darkening the gray shading on the map and confirming the elevation and atmospheric pressure values reflected in the fourth quality report. James Elliott, Manager of Regulatory for BHE-NE, stated the Company is working to have the actual atmospheric pressure values to report. Deputy Chair Fornstrom reminded Mr. Elliott that the 4<sup>th</sup> quarter report is the last report falling within the forbearance before the enforcement period.

#### **30005-Cheyenne Light, Fuel and Power Company, d/b/a Black Hills Energy (BHE-CLFP)**

Ms. Seveland stated the report included seven measurement points and since the submittal of the report, the Company has received Wobbe indices for areas and are now within the allowance. She stated the Company was unable to certify compliance with Commission Rule Chapter 3, Section 1(c)(iv), but the Company provided a map. Mr. Elliott stated the Company is working with the upstream pipelines to retrieve the information for compliance with the fourth quarter report.

#### **30007-Frannie Deaver Utilities**

Ms. Bohanan stated that table five shows variability of gas. Ms. Bohanan further stated action items for the Company include determining what the Btu values for the local production wells should be in order to correct the report, if necessary, and if the volumes reported as delivered to the Deaver and Frannie areas are accurate and correct. Ms. Bohanan stated, in response to a question from the Commission, that the Wobbe Index for Frannie Deaver Utilities is interim in order to verify the model with quarterly spot samples and there is still work to determine the best measurements used. Ms. Bohanan

stated the Company is in compliance with Commission Rule Chapter 3, Section 1(c)(iv) and has provided a map.

**30009-Wyoming Gas Company**

Ms. Bohanan stated that five of the seven areas were within the 4% allowable deviation with Grass Creek and Lake Creek areas exceeding the 4%, which may be resolved with changes in the Wobbe Index. Some discussions are taking place and Staff will continue to work with the Company. Ms. Bohanan stated the Company is in compliance with Commission Rule Chapter 3, Section 1(c)(iv) and has provided a map. Mr. Neuman, stated the Company will be filing for changes in the Grass Creek and Lake Creek Wobbe Indices.

**30010- Questar Gas Company dba Dominion Energy Wyoming (Dominion Energy)**

Ms. Fish stated the Company reported 17 measurement points and all values fell within the allowed deviation. She stated the Company is in compliance with Commission Rule Chapter 3, Section 1(c)(iv) and has provided a map.

**30011-Black Hills Northwest Wyoming Gas Utility Company, LLC, d/b/a Black Hills Energy (BHE-NW)**

Ms. Bohanan stated that the Meeteetse area had a small deviation in September and all other areas are within limits. The difference between the system and reports is being addressed by the Company to certify compliance with Commission Rule Chapter 3, Section 1(c)(iv) and the Company has provided a map. Mr. Elliott stated that a small producer in Meeteetse has some deviation and the Company is working to get the area back to normal. The Company has a situation where the producers are moving gas across the system into third party storage and then back into the system therefore it is counted twice. Mr. Elliott stated that the Company would work with Staff on this issue prior to the fourth quarter report.

**30013-Montana-Dakota Utilities Co. (MDU)**

Ms. Bohanan stated the third quarter report fell within limits, is in compliance with Commission Rule Chapter 3, Section 1(c)(iv), and the Company has provided a map. Ms. Bohanan stated Staff is requesting some changes to the map to make it easier to read. Tamie Aberle, Director of Regulatory Affairs for MDU, stated the Company would modify the map to clearly differentiate between areas six and seven.

**30016-Pinedale Natural Gas Inc. (Pinedale)**

Ms. Seveland stated that all reported points were within limits, the Company is in compliance with Commission Rule Chapter 3, Section 1(c)(iv), and the Company has provided a map.

**30018-Lower Valley Energy (Lower Valley)**

Ms. Bohanan stated the third quarter report fell within limits and the Company is still working on collecting data to establish a Wobbe Index. The Company has found a streamlined method of collecting the data, certified compliance with Commission Rule Chapter 3, Section 1(c)(iv), and has provided a map.



**30019-Town of Walden (Walden)**

Ms. Fish stated the third quarter report fell within deviation, is in compliance with Commission Rule Chapter 3, Section 1(c)(iv), and the Company has provided a map.

**30022-Black Hills Gas Distribution, d/b/a Black Hills Energy (BHE-BHGD)**

Ms. Bohanan stated the third quarter report shows Midwest out of the deviation limit. The Company has filed to re-establish the Wobbe index in the Arapahoe area in time for the fourth quarter report. Ms. Bohanan stated the Company does not have available the test results for four areas specified for compliance, but currently the Company is investigating how it can acquire test results for future reports. The Company has provided a map. Ms. Bohanan stated Staff will continue to work with the Company on action items. Mr. Elliott stated the Company is working with upstream providers to get the necessary data to ensure compliance and is looking at ways to ensure compliance where feasible and expects to file next quarters report certifying in those areas. Mr. Elliott stated the Company has two measuring points at different elevations going through a single meter that the Company will correct. The reason for the difference is due to daily readings. The Company will be able to ascribe a monthly amount for the specific zones.

**30024-Fall River Enterprises (Fall River)**

Ms. Bohanan stated the Company is working to retrieve the information needed to complete the Wobbe report.

2. **Docket No. 90000-113-XI-10 (Record No. 12650) Investigation by the Commission into the quality and reliability of essential telecommunications service provided by Qwest Corporation d/b/a CenturyLink QC in its certificated territories in Wyoming.**

**Docket No. 90000-122-XI-15 (Record No. 14056): Investigation by the Commission into the quality and reliability of essential telecommunications service provided by Qwest Corporation d/b/a CenturyLink QC (CenturyLink) in Zones 2 and 3 of its Wheatland, Wyoming Exchange.**

**Docket No. 90000-128-XI-16 (Record No. 14475): Investigation by the Commission into the quality and reliability of essential telecommunications service provided by Qwest Corporation d/b/a CenturyLink QC in Zones 2 and 3 of the rural areas of Crook County, Wyoming. Commission to consider and act on *Joint Motion of Centurylink and the Office of Consumer Advocate to Suspend Procedural Schedule, or in the Alternative to Modify Schedule.*" (Motion).**

Paul Hickey, Counsel for CenturyLink, stated the Company filed the *Motion* because it is undergoing detailed negotiations to resolve the service quality complaints and the petition seeking to deregulate in zones two and three. Ivan Williams, Counsel for the Wyoming Office of Consumer Advocate (OCA), stated the OCA is in agreement with Mr. Hickey's representations and that the OCA is in the beginning of negotiations with CenturyLink to resolve service quality complaints, and additional time is warranted. Mr. Williams stated the OCA requires additional time because the OCA has a contract with Dr. Robert Loube that has exceeded funding. Accordingly, in order to include Dr. Loube's expert opinion,

the OCA needs 3 weeks to seek State of Wyoming funds to cover the additional assistance provided by Dr. Loubé. William Hendricks, Senior Corporate Counsel for CenturyLink, stated the Company is optimistic and encouraged in addressing issues with the Parties in the quality service docket.

Commissioner Cooley asked what would be included in the weekly updates as stated in the *Motion*. Mr. Hickey stated that the weekly updates are to prove the credibility of the meetings, but would prefer not to update with specifics on any possible settlement. Deputy Chair Fornstrom stated that the Commission would like a decision point regarding the Lusk area issue and other persisting issues. Deputy Chair Fornstrom asked, with negotiations just beginning, how close or realistic is a resolution when the Parties are requesting only a one-month extension. Mr. Hendricks answered that the parties need time for a settlement to be reached and the Parties will need a month and a half before resuming any procedural schedule. He said that the Parties are balancing the need and desire to move quickly, and do not believe it is unrealistic expectation for a procedural schedule to resume at the end of January. Mr. Williams stated the OCA's preference is for an indefinite suspension with weekly updates. Mr. Hickey stated that the parties have a meeting scheduled for December 18, 2017, to continue discussions and that the Company agrees with Mr. William's preference of an indefinite suspension with weekly updates. Deputy Chair Fornstrom stated that she could not support an indefinite suspension. Mr. Hickey stated the Company understands the frustration in this docket, but would prefer reaching a settlement without rushing into a compromise.

Deputy Chair Fornstrom asked about possible construction mentioned in the *Motion* when the Commission was previously informed that the Company's engineers would not be able to plan any construction until 2019. Mr. Hendricks stated the Company's resources for complex service issues were entirely devoted to the litigation, which made it difficult to devote time to a settlement. He stated the Company has an engineer and designer away from their regular duties to work solely on this project. Mr. Hendricks stated that the specifics of the construction area will take some time, but the design process has begun and the Company is continuing to work on that plan. He stated that if an agreement is reached then by sometime in the spring construction could begin.

Deputy Chair Fornstrom asked whether the linkage to the competition docket, scheduled for consideration in March, is intentional and how much the resolution of one docket will affect the resolution of the other. Mr. Hickey stated the reference was intentional and the Company is discussing with the OCA whether to consolidate the dockets. Mr. Hickey stated the dockets have overlapping areas of interest that should be similarly be resolved. Deputy Chair Fornstrom inquired whether the settlement would resolve both or neither. Mr. Hickey stated that discussions have been trying to settle both dockets. Mr. Williams stated that should be considered in tandem. He stated that discussions between the OCA and the Company for the proposed settlement have included both dockets. Deputy Chair Fornstrom asked Bryce Freeman, OCA Administrator, about his view regarding the possibility of a successful settlement. Mr. Freeman answered that the OCA has entered into the Motion and there is good cause to continue to discuss a possible resolution with the Company while making sure the customers interests are taken into account. Mr. Freeman stated that there is a good possibility for a settlement, but no guarantees of reaching it. He also stated that Crook County Officials including Joe Baron have not been consulted as a party in the deregulation case but the OCA is hopeful that a settlement can be reached

before more work is required. Deputy Chair Fornstrom asked Mr. Freeman if the six weeks timeframe is realistic. Mr. Freeman stated he agrees with Mr. Hendricks that the parties will know in six weeks if a settlement can be reached. Mr. Hickey stated that the Company meet early on with AARP to help identify issues and let them know when further discussions will be held.

Chairman Russell asked if the parties will have a settlement or would know that the settlement cannot be reached by January 22, 2018. Mr. Hickey answered yes. Mr. Williams stated he agrees that the parties would have an indication of any possible settlement by January 22. Mr. Russell asked Mr. Williams if the OCA would need to pause in discussions with the Company due to the funding of its contract with Dr. Loubé or would discussions continue. Mr. Freeman stated that the need for additional funding would not cause a pause. Chairman Russell suggested setting a date at the end of January where the parties would come back with or without a settlement to discuss with the Commission, and a possible deliberation schedule would be set. Mr. Hickey and Mr. Williams agreed. Deputy Chair Fornstrom also agreed and suggested that the parties appear at the January 18, 2018, Open Meeting and if a deliberation is needed it should take place in early February. Mr. Hendricks suggested January 29, 2018. Commissioner Cooley stated that there is no Open Meeting on January 29<sup>th</sup> but instead on January 30<sup>th</sup>. Mr. Hickey agreed to the schedule. Deputy Chair Fornstrom stated this proposed schedule causes deliberations to be held two months later than originally planned and requested that, if possible, to schedule deliberations in February. Mr. Petrie stated that informal weekly updates via email would be requested. Deputy Chair Fornstrom moved to grant the *Motion* to modify the procedural schedule, vacating the currently scheduled deliberations and asked parties to appear at the Open Meeting on January 30, 2018, and to provide weekly updates to Lori Brand and Chris Petrie. Commissioner Cooley seconded the motion. Chairman Russell concurred.

**Undocketed. Commission to receive report from Powder River Energy Corporation (PRECorp) regarding calculation of interest on customer deposits and related billing issue and to take such action as the public interest may require.**

Joanne Kolb, Chief Financial and Administration Officer for PRECorp, stated the Cooperative discovered a set up error that incorrectly calculates the interest on security deposits older than 6 months. Ms. Kolb stated that while validating deposit interest calculations on a non-residential member deposit the Cooperative discovered that interest on deposits held over 6 months were not correct. Ms. Kolb stated the Cooperative discovered that a switch was not activated when the systems were initially updated in 2004. Upon discovery, the Cooperative activated the switch and is working on discussions to review current code with the service provider to determine the magnitude of interest calculated for a credit on current member's bills. For individuals that are no longer a member of the Cooperative, PRECorp will attempt to locate each member, but if a current address is not determined the Cooperative will place the money in the Wyoming Unclaimed Properties account and file a report with the Commission. Deputy Chair Fornstrom asked whether the interest calculations will include the Commission authorized interest rate from the accumulation. Ms. Kolb is working with the provider on the code and will be looking into the interest

calculations. Mr. Petrie stated this is analogous to the charging of an excessive rate and that the Cooperative is proposing to return any money in excess of what they should have

on hand, so he stated no formal action is necessary at this time. Accordingly, Mr. Petrie stated the Cooperative should file a report with the Commission upon completion of the process in refunding any excessive charges. No further action was taken.

Prepared by: Sylvia Sanchez

Date of Next Open Meeting: Tuesday, December 19, 2017, at 1:30 p.m.

ACCEPTED and APPROVED by the Commission on February XX, 2018.

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Chairman William F. Russell

# WYOMING PUBLIC SERVICE COMMISSION

Minutes of Regular Open Meeting  
Tuesday, December 19, 2017  
1:30 p.m.

Commissioners: Chairman William F. Russell  
Deputy Chair Kara Brighton Fornstrom  
Commissioner Robin Sessions Cooley

Bruce Asay, Associated Legal Group, LLC, Counsel for Montana-Dakota  
Utilities Co. (MDU)  
Tamie Aberle, Director of Regulatory Affairs, MDU (by telephone)

Commission Staff (CS): Steve Mink, Tom Wilson, John Burbridge, Pam  
Temte, James Branscomb, Kara Seveland, Nathan Brennan and Dave  
Piroutek

## CONSENT AGENDA

1. **Docket No. 20000-526-EA-17 (Record No. 14847). Application of Rocky Mountain Power for approval of a 3-year Demand Side Management Plan. Commission to consider and act on:**
  - a. ***Issuance of a Special Order Authorizing One Commissioner and/or Presiding Officer to Conduct Public Hearing; and***
  - b. ***Wyoming Industrial Energy Consumers' Petition to Intervene and Request for Hearing (Petition).***
2. **Docket No. 70244-2-TA-17 (Record No. 14901). Notification of the Transfer of Control of WANRack, LLC to WANRack Holdings, LLC. Commission to consider acceptance of Notification for filing.**
3. **Docket No. 10001-16-CK-17 (Record No. 14838.) Yampa Valley Electric Association, Inc.'s Contract with Public Service Company of Colorado. Commission to consider acceptance of contract for filing.** Jess Bottom, CS, provided a technical *Memo* dated December 13, 2017.
4. **Docket No. 10001-17-CK-17 (Record No. 14839.) Yampa Valley Electric Association, Inc.'s Contract with Western Area Power Association. Commission to consider acceptance of contract for filing.** Jess Bottom, CS, provided a technical *Memo* dated October 18, 2017.

Chairman Russell introduced the consent items. For Item #1a and b, Steve Mink, Commission Counsel, recommended issuance of a *Special Order* and granting the *Petition*. For Item #s 2 through 4, he recommended acceptance of the notification and contracts for filing. He recommended all of this by *Order* only, effective immediately. Deputy Chair

Fornstrom moved to act as recommended. Commissioner Cooley seconded the motion and Chairman Russell concurred.

### **REGULAR AGENDA**

- 1 **Docket No. 30013-328-GA-17 (Record No. 14730). Tariff filing of Montana-Dakota Utilities Co. requesting approval to revise its natural gas tariff for partial waiver of 49 CFR Part 192.481(a). Commission to consider and act on tariff filing.** Kara Seveland and Dave Piroutek, CS, provided a technical *Memo* dated December 1, 2017. Steve Mink, Commission Counsel, recommended tabling this item for consideration at the Open Meeting on December 28, 2017. Tamie Aberle, Director of Regulatory Affairs stated the Company did not object to deferring Commission review of the item until the following week. Deputy Chair Fornstrom moved to act as recommended. Commissioner Cooley seconded the motion and Chairman Russell concurred.

Prepared by: Barbara Tomlinson

Date of Next Open Meeting: Thursday, December 21, 2017

ACCEPTED and APPROVED by the Commission on January 11, 2018.

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Chairman William F. Russell

# **WYOMING PUBLIC SERVICE COMMISSION**

Minutes of Regular Open Meeting  
Thursday, December 21, 2017  
1:30 p.m.

Commissioners:

Chairman William F. Russell  
Deputy Chair Kara Brighton Fornstrom  
Commissioner Robin Sessions Cooley

Joanne Kolb, Chief Financial and Administration Officer for Powder River Energy Corporation (via telephone)

Stacy Splittstoesser, Wyoming Regulatory Affairs Manager for Rocky Mountain Power (RMP)

Todd Brink, Associate General Counsel for Black Hills Energy (BHE)

Jason Keil, Regulatory Manager for Cheyenne Light, Fuel and Power d/b/a BHE

Jana Smoot White, Associate General Counsel, Cheyenne Light, Fuel and Power d/b/a BHE

Marne Jones, Vice President of Regulatory, Cheyenne Light, Fuel and Power d/b/a BHE

Kyle White, Vice President of Regulatory Strategy, Black Hills Corporation  
Jerrad Hammer, Regulatory, BHE

Chris Kilpatrick, Director of Resource Planning, Black Hills Corporation

Rick Thompson, Hathaway & Kunz, LLP, Counsel for Dyno Nobel, Inc.

Dale Cottam, Bailey Stock Harmon Cottam & Lopez, LLP, Counsel for HollyFrontier Cheyenne Refining, LLC.

Ronald Lopez, Bailey Stock Harmon Cottam & Lopez, LLP, Counsel for HollyFrontier Cheyenne Refining, LLC.

Kathryn Iverson, Consultant for Dyno Nobel and HollyFrontier.

Cameron Sabin, Stoel Rives, LLP, Counsel for Microsoft Corporation (via telephone)

O'Kelley Pearson, Hickey and Evans, LLP, Counsel for Microsoft Corporation

Office of Consumer Advocate (OCA): Chris Leger, Counsel and  
Denise Parrish, Deputy Administrator

Commission Staff (CS): Lori Brand, John Burbridge, Marci Norby,  
Michelle Bohanan, Kara Seveland, Luy Luong, Perry McCollom,  
Morgan Fish, James Branscomb, and Pam Temte

## **CONSENT AGENDA**

1. **Docket Nos. 70009-481-TK-17 and 70209-16-TK-17 (Record No. 14829). United Telephone Company of the West d/b/a CenturyLink of the West for authority to enter**

**into an Interconnection Agreement with Neutral Tandem-Wyoming, LLC. Commission to consider and act on Agreement.** Tom Wilson, Technical Staff, provided a *Memo* dated December 14, 2017.

2. **Docket Nos. 70231-3-TA-17 and 74081-25-TA-17 (Record No. 14905). Notification of Cincinnati Bell Any Distance, Inc. of name change to CBTS Technology Solutions, Inc. Commission to consider acceptance of Notification for filing.**
3. **\*Docket No. 20000-519-EA-17 (Record No. 14780). Application of Rocky Mountain Power for an order approving nontraditional ratemaking related to wind repowering. Commission to consider and act on Rocky Mountain Power's *Unopposed Motion to Amend Procedural Schedule (Motion)* filed on December 14, 2017.**

\*Chairman Russell moved this agenda item for discussion to be considered as the first item on the regular agenda

4. **Docket No. 20000-520-EA-17 (Record No. 14781). Application of Rocky Mountain Power for Certificates of Public Convenience and Necessity and nontraditional ratemaking for wind and transmission facilities. Commission to consider and act on *Peterson Outfitters, LLC Motion to Withdraw as Intervenor (Motion)* filed on December 14, 2017.**

Lori Brand, Commission Counsel, recommended approval of Item #1, acceptance of Item #2, and granting the motion for Item #4, all by *Order* only, effective immediately. Deputy Chair Fornstrom moved to act as recommended. Commissioner Cooley seconded the motion and Chairman Russell concurred.

### **REGULAR AGENDA**

1. **\*Docket No. 20000-519-EA-17 (Record No. 14780). Application of Rocky Mountain Power for an order approving nontraditional ratemaking related to wind repowering. Commission to consider and act on Rocky Mountain Power's *Unopposed Motion to Amend Procedural Schedule (Motion)* filed on December 14, 2017.**

Chairman Russell explained he moved this to the regular agenda to verify it was not the intent to set hearing dates as indicated by the *Motion*. Lori Brand, Commission Counsel, stated that there is no opposition from the parties or staff to vacate the currently scheduled hearing on January 9, 2018. Ms. Brand did not recommend granting any of the dates in the motion, but instead recommended granting the *Motion* to amend the procedural schedule to the extent that it vacates the hearing date of January 9, 2018, and the parties and Commission Staff will work to set a new procedural schedule by *Order* only, effective immediately. Deputy Chair Fornstrom moved to amend the recommendation to include that it is a partial grant of the *Motion* only vacating the hearing date and moved to act as recommended with that amendment. Commissioner Cooley seconded the motion and Chairman Russell concurred.

2. **Docket No. 10014-185-CT-17 (Record No. 14872). Application of Powder River Energy Corporation for authority to adjust its residential heat rate tariff. Commission to consider and act on Application. Jeff Bumgarner, Vice President of**



**Member Services, and Joanne Kolb, Chief Financial and Administration Officer, to appear by telephone for the Company. Commission Staff: John Burbridge and Kara Seveland.**

Kara Seveland, Commission Staff, provided a Technical Memo dated December 13, 2017. Joanne Kolb, Chief Financial and Administration Officer for Powder River Energy Corporation, stated the application is for the residential heat rate, which is an optional rate for residential customers. Ms. Kolb stated the heat credit provided for under this tariff is designed to equal the Cooperative's avoided cost based on the wholesale supplier's (Basin's) published heat rates. Ms. Kolb stated Basin changed the rate for 2018. Accordingly, the Cooperative is asking to change the tariff rate based on Basin's change. Ms. Kolb stated the current heat rate is \$.04198 per kWh, and the new heat rate the Cooperative proposes beginning January 1, 2018 is \$.03981 per kWh. John Burbridge, Commission Counsel recommended approval of the application for use on and after January 1, 2018, by *Notice and Order*, effective immediately. Deputy Chair Fornstrom moved to act as recommended. Commissioner Cooley seconded the motion and Chairman Russell concurred.

3. **Docket No. 20003-156-EP-17 (Record No. 14649). Application of Cheyenne Light, Fuel and Power Company d/b/a Black Hills Energy (BHE) to increase its Power Cost Adjustment by \$0.00468 per kWh for the period April 1, 2017 through March 31, 2018. Commission to consider and act on BHE's Compliance Tariffs, Interim Rate Refund Plan (Compliance Filing) and *Petition for Confidential Treatment of Customer Usage, Cost, and Revenue Data in PCA Model and Workpapers (Petition)* filed on December 8, 2017. Todd Brink, Associate General Counsel to appear by telephone for BHE. Chris Leger, Counsel, to appear in person for Office of Consumer Advocate. Rick Thompson, Counsel, to appear by telephone for Dyno Nobel, Inc. Dale Cottam and Ronald Lopez, Counsel, to appear in person for HollyFrontier Cheyenne Refining, LLC. Kathryn Iverson, Consultant, to appear in person for Dyno Nobel and HollyFrontier. Cameron Sabin, Counsel, to appear by telephone for Microsoft Corporation. Commission Staff: Katie Koski, Marci Norby, and Morgan Fish. (See attached *Memo* dated December 15, 2017, *Compliance Filing*, *Petition*, and HollyFrontier Cheyenne Refining LLC and Dyno Nobel, Inc.'s Joint Comments on Compliance Filing.)**

Todd Brink, Associate General Counsel for BHE, stated the question for the December 21, 2018, Open Meeting is whether the Company's Compliance Filing filed on December 8, 2018, effectively implements the Commission's December 18, 2018, Order. Mr. Brink stated the Company's understanding of the intent of the Commission's Order was to deny the \$705,000 of increased revenue requested in the Application. Mr. Brink stated that the \$705,000 of increased revenue is found in Exhibit 3 to the Application and in the Hearing Exhibit 4. Mr. Brink stated that the Compliance Filing has met the expectations of the Commission's Order based on page 24, ordering paragraph 4, which states that the Commission requests the Company's proposal for refunding interim rates, the 2015 government imposition costs and the proposal for resetting the PCA rate. Mr. Brink stated the Company's Compliance Filing addresses those items, specifically by removing \$705,000 from the PCA rate calculation. Jason Keil, Regulatory Manager for BHE, walked

through the Company's Compliance Filing and stated that the 2017 PCA Application request was based on calculations for accumulated costs for calendar year 2016, which are to be recovered through the period of April 1, 2017, through March 31, 2018. Mr. Keil stated when the Company prepared the Compliance Filing, the Company used a two-step process. Step one was resetting the PCA rate, which included removal of the \$705,000 increased revenue resulting in a new PCA rate of \$0.00199 per kWh and this rate is being requested for January 1, 2018, to remain in effect until the Commission orders a change in the rate. Step two was refunding the additional revenue collected based on interim rates and the 2015 governmental imposition costs collected, which results in a total refund of \$958,356. Mr. Keil stated that based on the kWh usage for the refund period the rate to credit customers for interim rates and 2015 government imposition costs during the period January 1, 2018, through March 31, 2018 is \$0.00270 per kWh, which will expire at the end of March 2018. Mr. Keil requested the Compliance Filing be approved as filed.

Dale Cottam, Counsel for HollyFrontier Cheyenne Refining LLC (HollyFrontier), stated the position of HollyFrontier is that the Compliance Filing provided by BHE does not comply with the Commission's Order nor does it comply with the Commission's decision during deliberations. Mr. Cottam stated BHE is trying to requantify the true effect of the Commission's ruling and Order by stating the denial was only for a disallowance of \$705,000, which is the difference in revenue between the years of the PCA costs and not the difference in rates. Mr. Cottam stated the Application filed by BHE was to change the rates and not to change revenue and the *Order* states in several places that "the application to change rates is denied." Mr. Cottam stated the true difference in rates is the amount of \$3.5 million and the issue of the \$400,000 customer credit and governmental imposition fees. Therefore, he argued the Compliance Filing should reflect the disallowance of those amounts, which is the true effect of denying the Application and ordering interim rates refunded to customers. The \$705,000 is not reflective of what is being requested in rates, it is instead the difference in 2016 revenues collected without Microsoft compared to the proposed revenues in this filing with Microsoft. Mr. Cottam stated the Commission did not order the disallowance of Microsoft revenues, which have nothing to do with the rates. Instead, Mr. Cottam stated the Commission denied the requested increase in PCA rates and not the difference of revenues between 2016 and 2017. Therefore, Mr. Cottam stated the Commission should direct BHE to re-calculate the change in rates to properly quantify the Commission's ruling in the denial of rates. In order to explain the math and calculations, Mr. Cottam stated Kathryn Iverson was willing to make comments.

Kathryn Iverson, Consultant for Dyno Nobel and HollyFrontier, stated that after the opportunity to review the Order and on page 23 the Order clearly directed BHE to refund the interim PCA rate increase of \$0.00468 per kWh, approved for use on and after April 1, 2017. Ms. Iverson stated that BHE's Compliance Filing shows the Company's proposal rate of \$0.00199 effectively results in an increase to the PCA rate shown in the customer impact section of \$0.00417. Accordingly, the disallowance is only \$0.00151, which is not a complete denial and is only 11% of what the Commission clearly put in its Order to refund the entire increase. In effect, BHE is recapturing 90% of what they originally asked for in the Application. Ms. Iverson stated that the Order clearly shows that there were several serious issues with the Company's Application and because of those issues the

Commission determined it was just and reasonable to deny the increase, and refund that back to customers as the Order states. Ms. Iverson stated the rate increase should be refunded to customers. However, she stated BHE is merely disallowing \$705,000, and \$450,000 of that \$705,000 is strictly related to the 2016 governmental imposition fees, and leaves only a couple hundred thousand dollars disallowed based on all other issues the Parties brought forward. Ms. Iverson stated the \$705,000 is a difference in the 2016 revenues collected without Microsoft (who was a non-participant in 2015), which were removed from 2016 and compared to the 2017 proposed revenues. Accordingly, Ms. Iverson stated it is the Joint Intervenors' position that the Compliance Filing is woefully inadequate in implementing the Commission's Order, which clearly ordered a refund of the entire rate increase. Rick Thompson, Counsel for Dyno Nobel, Inc., agreed with the comments provided by Mr. Cottam and Ms. Iverson, arguing the Commission's Order is very straightforward and clear and needs to be strictly followed.

Denise Parrish, Deputy Administrator for the Office of Consumer Advocate, stated that while reviewing the information provided in the Compliance Filing she realized there is an additional refund BHE is proposing, on top of the reduced rate, which is a credit of \$0.00270. Ms. Parrish pointed out the credit of \$0.00270 is not on the Company's tariff, but the Company proposes to provide this credit on customer's January, February, and March bills. Ms. Parrish stated the Company is going to bill the reduced PCA rate of \$0.00199 per kWh and also credit customers \$0.00270 per kWh. She stated that one of the issues the OCA would like to address is whether the additional credit should appear in the tariff even if it is a limited credit, and that the OCA is concerned with the Company billing a rate that appears nowhere in the tariff. Ms. Parrish stated the reduced ongoing rate and the credit does incorporate what the Commission directed, which was the elimination of the \$705,000 increase plus the elimination of the 2015 government imposition fees. Ms. Parrish stated another issue that has not yet come up is if Microsoft should receive any of the refund. Ms. Parrish stated the OCA's view is not whether Microsoft became a customer at the time costs were incurred in 2015, but instead it became a customer in August 2016 and the PCA rate for 2016 did not become effective until December 2016. Ms. Parrish stated that the 2015 costs did not begin to be billed until the end of 2016 by which time Microsoft was a PCA customer and would have the associated costs even if not a customer at the time the costs were incurred. Accordingly, Ms. Parrish stated the OCA is not challenging Microsoft receiving a refund of the costs because Microsoft paid those costs, even though they were not a customer when the costs were incurred.

Cameron Sabin, Counsel for Microsoft Corporation, stated Microsoft agrees with Ms. Parrish. Mr. Sabin stated there is an issue as to how an adjustment is allocated. Mr. Sabin stated there are a number of customers that come on and off a system in any given year, and treated differently each year, and that since this ruling reaches back into the 2016 PCA he wants to avoid some form of discriminatory treatment to Microsoft, and that Microsoft should not be treated any different in a refund standpoint than other customers. Mr. Sabin stated he does not agree with the other industrials view of how the allocation of the refund should be handled believing it would engender discriminatory treatment of Microsoft. Mr. Sabin stated he read the Order and listened to the deliberations and he found that he did not understand the ruling to mean that all PCA costs were denied and instead that the Commission was only denying the PCA categories that were challenged. He believed the

Company was ordered to adjust the Compliance Filing to the matters the Commission found objectionable and otherwise allow the filing to go forward. Therefore, Mr. Sabin stated that Microsoft believes the Compliance Filing is accurate for that purpose.

Ms. Iverson stated Ms. Parrish is right as to the additional refund rate but that Microsoft was not a participant on April 1, 2016, when all other participants were paying the rate of \$0.00468 per kWh. She stated Microsoft began paying the PCA rate in August 2016. Ms. Iverson stated that the suggestion customers did not start paying the 2015 PCA costs until December 1, 2016 is also incorrect. She stated the PCA rate (\$0.00250) went into effect because customers were over paying in the original few months and participants were paying a high PCA rate that BHE projected to over collect, which is why the negative rate went into effect for those periods. Ms. Iverson stated Microsoft does get special treatment and was a nonparticipant, but because of its large load at 21%, it recovers rates it did not pay. Specifically, Ms. Iverson stated BHE is refunding approximately \$433,000 in 2015 government imposition costs at today's loads, and Microsoft would get \$92,000 of that based on its loads, but it was never responsible for paying the 21% of the 2015 government imposition costs. Accordingly, Ms. Iverson re-iterated it is incorrect to say 2015 costs were not paid until late 2016. She reiterated the \$705,000 is not reflective of what the Company requested in this case, and instead the request in this case was for \$3.5 million in costs.

Mr. Brink responded, stating that the Company is in agreement with OCA's view regarding Microsoft. Mr. Brink stated Microsoft is a full participant in the PCA, has been a full participant for some time and should benefit and participate in the results from the PCA application. Mr. Brink stated the credit rate, \$0.00270, is purely for the refund of the interim rates that have been collected, plus the 2015 governmental imposition, and this refund would be reflected in bill messages and on the Company's website, consistent with how prior credits were handled last year. Mr. Brink stated it is a short-term rate therefore BHE proposed handling it through its bill message and posting of the rates on the Company's website. Mr. Brink stated the industrials' position is that BHE should have a disallowance of approximately \$3.4 million, which is not consistent with the record in this case or the Commission's Order. Specifically, paragraph 98 of the Conclusions of Law in the Order states "in light of its current and predicted over earnings, we find BHE failed to demonstrate by a preponderance of the evidence that an increase is just, reasonable, or in the public interest." Consequently, Mr. Brink stated the Commission's decision is tied to the current over earnings of approximately \$1.4 million on a normalized basis. Mr. Brink stated a \$3.4 million disallowance does not balance to BHE's overearnings of approximately \$1.4 million and is nowhere near anything that is in the record in terms of balancing any excess earnings. He stated that paragraph 104 of the Order states: "The current rates that remain in place upon the Commission's denial of the Company's application will further allow the Company to provide adequate and reliable service to its customers." Mr. Brink said disallowance of the \$3.4 would not allow BHE to earn anywhere near its authorized return and is not consistent with paragraph 104 of the Order. Mr. Brink requested the Commission clarify the Order in an order on the compliance filing, as it appears the parties are parsing the Commission's Order.

At the request from Commissioner Cooley for clarification of the total amounts, Mr. Keil stated that the \$705,000 was used in the first exhibit to actually reset the rate, which gets

the Company to a new PCA rate of \$0.00199 per kWh and in the exhibit attached to the Compliance Filing, which is the refund plan, there is \$958,356 in which BHE is anticipating refunding. Mr. Keil stated that the governmental imposition is approximately \$433,000 and approximately \$540,000 for the interim rates. Mr. Keil explained that BHE calculated the interim rates by taking the actual rates collected from January to November under the interim rates and then used the difference of what should have been collected under the reset rate of \$0.00199, which calculates the refund amount.

Deputy Chair Fornstrom requested that Ms. Parrish explain more about her interpretation of the Commission's Order and her understanding that the Commission in denying the Application was not disallowing Category 1 and Category 2 costs. Ms. Parrish admitted that she had not had a chance to fully read the Order. However, in reading the closing paragraphs of the Order, her understanding of deliberations and clear practice of the Commission she stated that she understood the Commission denied the Application. Ms. Parrish further stated that there was clarity in the deliberations and one of the issues raised, and the Commission clarified it was not resetting the PCA to 0, but only denying the \$705,000 of the request in this case. Ms. Parrish stated that it has been general practice to look at the incremental amount from PCA to PCA as the contested amount, which is how the OCA took it in this case. Deputy Chair Fornstrom asked Ms. Parrish if it is her understanding that the Commission's decision was based on the fact that because BHE was over earning the rates were not just and reasonable. Deputy Chair Fornstrom also asked Ms. Parrish if the Commission was trying to reach the number in the record of \$1.2 or \$1.4 million for over earnings, and if that is the case then the Intervenors' interpretation that results in the number of \$5 million, does that interpretation miss the mark of the Commission's decision. Ms. Parrish stated that her view of the deliberations was the three Commissioners had three approaches to the over earnings issue and the compromise was simply to deny the amount requested in the Application and that she does not know whether there was a target amount the Commission was trying to reach. Ms. Parrish said that the \$1.2 million is not familiar to her and that she simply heard the denial of the Application as the compromise of the three Commissioners to recognize the over earnings. Ms. Parrish further stated the Commission further warned of the issue and that it was going to come before the Commission again for review. Deputy Chair Fornstrom asked Mr. Cottam to explain his interpretation of the Order given her concern was the over earnings from customers in 2016, which was the number she wanted to reach for customers in some way, and the Intervenors' interpretation of the Order is much more than that. Mr. Cottam stated the biggest issues for the Intervenors' was the misapplication of the cost segment in the Wygen I contract. Mr. Cottam explained he understood from deliberations that all three Commissioners had serious concerns about the Wygen I contract. Mr. Cottam stated the Intervenors requested the Commission deny not only the amount that had been requested for Wygen I costs, but also those costs in past filings, which is a significant amount of money the Intervenors were focused on and requested disallowance through the Wygen I piece. Mr. Cottam stated the Intervenors had concerns with the overearnings, but understood the OCA was taking the lead on that issue and the Intervenors agreed with what the OCA developed. Mr. Cottam stated if you look at the quantity of disallowance for the Intervenors, the Wygen I disallowance would have been in excess of \$4 million. Ms. Iverson stated that even though the Company shows excess earnings of \$1.4 million, when

you consider that number on a rate basis it is more than that. Ms. Iverson stated she agrees with Mr. Cottam that the Intervenors were concerned by the reference to the Wygen I contract in deliberations as well as on Conclusions of Law 100 on page 23 of the Order, which states “Our denial of BHE’s Application will mitigate any potential overcharges in this PCA filing” with respect to Wygen I. She stated the Commission only disallows \$705,000 in revenues, which includes \$450,000 in governmental imposition costs, then only a couple of hundred thousand is for the mitigation of overearnings and the serious problems associated with Wygen I. Accordingly, Ms. Iverson states the \$705,000 is not close to what this Application was requesting. Ms. Iverson stated the increase requested by BHE was a serious increase, and that the impact on Dyno Nobel and HollyFrontier combined is approximately \$1.3 million based on the combined projected loads of 289 million kWh. Accordingly, Ms. Iverson stated the parties all heard the Commission deny the Application, and did not expect that the Company would just remove the 10% the Company actually asked for in a revenue increase. Mr. Cottam further emphasized if the Company wants to go back and change its rate of return and not comply with the authorized rate of return, then that is what a rate case is for, and something the Company could do going forward.

Chairman Russell stated the conversation at the end of deliberations were confusing and that he did not fully appreciate what the Company or the other parties were saying, and it took further thinking to determine what the Commission was really doing in denying the Application. Chairman Russell asked Mr. Brink if he would agree that the PCA, which is an innovative rate making device, was designed to calculate the difference between the power costs already collected in base rates and the power cost incurred by BHE in the previous calendar year? Mr. Brink stated that yes that is fairly accurate, and that year over year it is a differential and flows, first year it is the difference in the base case. The rate changes each year based on the previous year and the new rates are in effect until the Commission issues an order changing it, and sometimes the rate can be in effect for longer than 12 months. Chairman Russell stated looking at previous orders for the PCA, the rates are in effect for certain periods of time. For example, the 2016 PCA Order has rates effective starting April 1, 2016, through March 31, 2017, so the Order puts book ends on the rate because it only refers to the previous calendar year by tariff. Mr. Brink stated he reads the tariff differently because the tariff reads that the rate remains in effect until change by the Commission, and on sheet 53 the tariff states “no change in the PCA rate shall occur unless authorized by the Commission.” Mr. Brink stated part of the confusion relates to the fact in 2015 the Company had a rate that stayed in place much longer than 12 months, and the Company had requested a decrease in PCA rate. However, because the Company did not ask for interim rates the 2015 rate continued to flow through even though the Company asked for a decrease in rates. Mr. Brink stated it was not until December 2016 there was an actual change in rates, which caused the 2015 PCA rate to stay in effect for 18 months or more. Mr. Brink explained the decrease requested had to be implemented starting in December 2016, which gave the Company a very high credit rate for the 2016 PCA rate, which artificially set the rate very low, which leads to some of the confusion in this case.

Mr. Brink stated the Company understands a PCA rate remains in effect until a change is ordered by the Commission. Chairman Russell stated not requesting interim rates in 2016 led to the issue in December 2016, and that the Commission in correcting it, corrected the

PCA rate effectively back to April 1, 2016, and the Commission recognized the rate should have changed April 1. Mr. Brink stated that was the Company's request to change the rate as of April 1. Deputy Chair Fornstrom requested tabling this matter for a short period to look at the *Order* and do some additional thinking in consideration of the discussion today and concerns. Commission Cooley agreed to the suggestion and would like the additional time for review. Chairman Russell agreed with taking more time with further review. No further action was taken.

Prepared by: Sylvia Sanchez

Date of Next Open Meeting: Tuesday, December 28, 2017, at 1:30 p.m.

ACCEPTED and APPROVED by the Commission on March 27, 2018.

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Chairman William F. Russell

# **WYOMING PUBLIC SERVICE COMMISSION**

Minutes of Regular Open Meeting  
Thursday, December 28, 2017  
1:30 p.m.

Commissioners: Chairman William F. Russell  
Deputy Chair Kara Brighton Fornstrom  
Commissioner Robin Sessions Cooley

Bruce Asay, Associated Legal Group, LLC, Local Counsel for Montana-Dakota Utilities (MDU)

Tamie A. Aberle, Director of Regulatory Affairs, MDU

Gordon Neumann, Engineering Manager, Wyoming Gas Company

Janeen Capshaw, Executive Vice President, Wyoming Gas Company

Garret Frescoln, Vice President, Frannie Deaver Utilities

Joanne Kolb, Chief Financial and Administration Officer, Powder River Energy Corporation

Mike Easley, Chief Executive Officer, Powder River Energy Corporation

Stacey Splittstoesser, Regulatory Affairs Manager, Rocky Mountain Power

Joelle Steward, Vice President Regulation, Rocky Mountain Power

Steve Shute, Owner/President, Pinedale Natural Gas

Steve McDougal, Director of Finance, Rocky Mountain Power

Kelly Mendenhall, Director-Regulatory and Pricing, Dominion Energy

Todd Brink, Associate General Counsel for Black Hills Energy

Liz Zerga, Counsel, the Rural Independents phone companies

Office of Consumer Advocate (OCA): Bryce Freeman, Denise Parrish

Commission Staff (CS): Steve Mink, Marci Norby, Katie Koski, James Branscomb, Chris Petrie, Kara Seveland, Pamela Temte, John Burbridge

## **CONSENT AGENDA**

- 1. Undocketed. *Minutes* for review from the Open Meeting of October 19, 2017, as prepared by Barbara Tomlinson.**
- 2. Docket No. 20000-521-EA-17 (Record No. 14799). Rocky Mountain Power's Report of Disposition of Utility Plant or Facilities pursuant to Commission Rule Chapter 3, Section 21(e)(C). Commission to consider and act on Report.**
- 3. \*Docket No. 20000-515-EK-17 (Record No. 14697). Purchase Power Agreements between Rocky Mountain Power (RMP) and Boswell Springs, LLC. Commission to consider acceptance of agreements for filing and to consider and act on RMP's *Petition for Confidential Treatment (Petition)*.**

Chairman Russell introduced the consent items. For item 1, Deputy Chair Fornstrom moved to approve the minutes as prepared. Commissioner Cooley seconded the motion and Chairman Russell concurred. John Burbridge, Commission Counsel, recommended



approval of item 2 and, for item 3, acceptance of the filing and granting the *Petition*, all by *Order* only, effective immediately. Deputy Chair Fornstrom moved to act as recommended. Commissioner Cooley seconded the motion and Chairman Russell concurred.

### **REGULAR AGENDA**

1. **Docket No. 30009-62-GP-17 (Record No.14903). Application of Wyoming Gas Company, a division of Natural Gas Processing, for authority to pass on a wholesale natural gas cost decrease of \$0.0327 per CCF through its Commodity Balancing account. Commission to consider and act on Application, and *Petition for Confidential Treatment of Transaction Confirmation for Immediate Delivery (Petition)*.**

Kara Seveland and Pam Temte, Technical Staff, provided a *Memo* dated December 20, 2017. Gordon Newman, Engineering Manager for Wyoming Gas Company stated the purpose of the application is to reflect an anticipated increase in natural gas cost for January 1, 2018 to September 30, 2018, because of projected changes and to adjust the transportation factor of the rate. Steve Mink, Commission Counsel, recommended approval of the *Application* and granting of the *Petition* by *Notice* and *Order*, effective immediately. Deputy Chair Fornstrom moved to act as recommended. Commissioner Cooley seconded the motion and Chairman Russell concurred.

2. **Docket No. 30007-128-GP-17 (Record No. 14875). Application of Frannie Deaver Utilities for authority to pass on an increase of its natural gas cost of \$0.1137 to its customers. Commission to consider and act on Application.**

Jess Bottom, Technical Staff, provided a *Memo* dated December 14, 2017. Garret Frescoln, Vice President for Frannie Deaver Utilities stated this is a quarterly commodity balancing submittal due to the projected cost of gas increasing. Steve Mink, Commission Counsel, recommended approval of the *Application* by *Notice* and *Order*, effective immediately. Deputy Chair moved to act as recommended. Commissioner Cooley seconded the motion and Chairman Russell concurred.

3. **Docket No. 10014-186-CP-17 (Record No. 14873). Application of Powder River Energy Corporation for authority to decrease its Cost of Power Adjustment by \$4,468,797 per annum to reflect a change in average wholesale power costs. Commission to consider and act on Application.**

Morgan Fish and James Branscomb, Technical Staff, provided a *Memo* dated December 22, 2017. Joanne Kolb, Chief Financial and Administration Officer for Powder River Energy Corporation (PRECorp), stated the COPA factors reflect projected power cost for 2018 using projected billing units for that time and the applicable wholesale rate. Ms. Kolb stated the COPA factors are a reconciliation for corporate revenue June 2016 through September 2017 plus accrual of interest on any over-collected balance. Ms. Kolb further stated the calculation included an interest rate adjustment for interest January 2016 through May 2016 because, at the time of filing the COPA, the interest rate was not known. The Company proposed a rate of \$0.003806 for LPT-CBM class, \$0.000635 for LPT, and

\$0.008664 for all other classes, for usage on and after January 1, 2018. Deputy Chair Fornstrom requested more information regarding the \$19,000 monthly adder for Member's First. Ms. Kolb stated that the \$19,000 is the cost related to operating Member's First. Mike Easley, Chief Executive Officer for PRECorp, stated that those charges are costs that PRECorp builds in to provide administrative services to Member's First. Mr. Easley stated the costs are already largely collected in the existing base rates on the distribution side, but there were costs that were not anticipated at the time the rate case was developed and some revenue loss. Mr. Easley stated PRECorp is still recovering the costs through the base rate including the administrative costs it charges to Members First. Ms. Kolb stated the COPA is true and whole the way it is presented, but the administrative cost that it is charging to Members First will be reflected in the future base rate filing and once PRECorp gets to a new test year those costs will be reconciled throughout that process. Ms. Kolb stated PRECorp is not recovering the full margins that were approved in the last rate case. Mr. Easley stated that as PRECorp manages the wholesale power portfolio and charges those costs to Member's First then those costs are reallocated and the PRECorp pays for 85% with the other 15% being paid by other wholesale entities. Chairman Russell asked why PRECorp has included this in the COPA when administration costs are already included in the base rates. Mr. Easley stated that PRECorp does have higher costs that were not experienced before Member's First. PRECorp purchases its wholesale power through Member's First and there are costs that are allocated to PRECorp. Additionally, Mr. Easley stated PRECorp receives a 15% benefit due to costs being allocated back it for providing an administrative service. Mr. Easley stated that another benefit is that wholesale power costs are done on a combined system and that coincident peak is lower than if it were PRECorp's own peak, which is a net savings. Nevertheless, Mr. Easley stated these are all considered wholesale power costs. Mr. Easley stated at the wholesale level it is doing all the accounting and billing for all the members of Members First based on a contract with those members, and PRECorp does receive a benefit from providing those services. Ms. Kolb stated that PRECorp is doing the billing and accounting for Member's First along with coordinating with legal for any filing requirements, but only for generation and transmission services, not for the individual companies themselves. Ms. Kolb stated it receives payment for its services through an administrative services contract and the costs associated with the labor from completing those duties, and then payment is allocated back to PRECorp, which is a portion of that \$19,000 but not all of it. Mr. Easley stated the COPA does not show the revenue it receives from Members First because that is not a wholesale power cost; it is revenue Members First is paying PRECorp. Deputy Chair Fornstrom suggested, due to the \$19,000 being a small component of the COPA adjustment, letting the other components of the COPA be effective January 1, 2018, and keep the monthly \$19,000 adder out of the COPA at this point and have PRECorp provide additional information before that cost is recovered. Katie Koski, Commission Counsel, recommended approval of the Application, but denying recovery of the \$19,000 monthly adder (\$228,000 annually) until PRECorp can provide information showing this amount is not already collected in base rates, for use on and after January 1, 2018, and that PRECorp be required to file as compliance filing an updated COPA amount for each rate class reflecting the denial of the adder recovery, to be filed within 10 business days, effective immediately. Deputy Chair Fornstrom moved as recommended with a clarification this is not a complete denial of the monthly adder and instead the Commission wants to understand if the adder fits within the COPA as designed. Commissioner Cooley seconded the motion and Chairman Russell concurred.

**4. Undocketed: Commission to consider the effects on Wyoming utility rates of H.R.1 - An Act to Provide for Reconciliation Pursuant to Titles II and V of the Concurrent Resolution on the Budget for Fiscal Year 2018, a/k/a the "Tax Cuts and Jobs Act," and to take such action, generally or with respect to individual public utilities whose rates are subject to the Commission's jurisdiction, as the public interest may require.**

Chris Petrie, Chief Counsel, stated there are significant changes in the federal tax code as applies to corporations and pass through entities. Mr. Petrie advised that most of Wyoming's public utilities will be impacted by these tax cuts. Consequently, since the tax rates are embedded in the approved rates of investor owned entities, it is possible that these significant tax cuts could affect utilities' earnings, which could potentially result in rates that are not fair and reasonable. Accordingly, Mr. Petrie stated the purpose of this Open Meeting Item is to discuss what should be done to ensure any benefits are preserved for potential refund to ratepayers or to adjust rates.

Bruce Assay, Counsel for MDU, stated that the reduction in the national tax is such that the Commission will want to protect the consumers and must do so within a small amount of time. Mr. Assay stated that the trend is to account for the tax as of January 1, 2018, so that if there is some benefit that can be properly adjusted and suggested the utilities report to the Commission in March, 2018.

Deputy Chair Fornstrom suggested that utilities participate in a technical conference to discuss the issue and asked for input from the utilities if this would be helpful, and, if so, when such discussion could occur. Mr. Assay proposed discussions in February or March so the results of operations can be received. Stacey Splittstoesser, Regulatory Affairs Manager for Rocky Mountain Power (RMP), stated that the Company is working on impacts now and would be supportive of a technical conference possibly in March. Joelle Steward, INSERT TITLE for RMP, agrees with scheduling a technical conference to discuss how to quantify the impacts of the Act. Bryce Freeman, Administrator for Office of Consumer Advocate (OCA), agreed with the suggestion for a technical conference.. Denise Parrish, OCA Deputy Administrator, stated that one of the things the OCA is looking into are issues about computing and accounting for the changes to the rate base that impact rates and earnings. Ms. Parrish stated that the sooner the technical conference is held the better it will be for discussions about accounting and deferment. Kelly Mendenhall, Director-Regulatory and Pricing for Dominion Energy, agreed with having a technical conference. Todd Brink, Associate General Counsel for Black Hills Energy (BHE), agreed with having a technical conference and suggested two separate conferences with the first to provide companies with more of an understanding of the issues as they apply and another to follow in the spring to address specifics. Steve Shute, Pinedale Natural Gas, agreed with having a technical conference. Liz Zerga, Counsel for rural telecommunication companies, stated that the new tax act would have no effect on noncompetitive telecommunication companies, as they are not rate of return regulated and have prices that were set at a time rates were based on a modeling system. Ms. Zerga stated that noncompetitive telecommunication companies are price capped and can charge up to the cap without Commission approval. Deputy Chair Fornstrom stated the goal is to protect ratepayers given the limited time. Mr. Petrie recommended the Commission direct that, beginning January 1, 2018, all public utilities directly or indirectly subject to payment of Federal Income Taxes shall calculate on an ongoing basis the difference between the Federal Income Tax liability on December 31, 2017, and the law in effect on January 1,

2018. The difference calculated should be accounted for and recorded as a regulatory liability and each utility should be required to file based on the calculation a statement as to the effect of the Federal Income Tax deduction on the public utility's earnings. This should create an understanding that the approved rates currently in effect for each utility would become subject to a refund or adjustment, as may be necessary, to account for the change in any earnings resulting from the change in the tax law. Mr. Petrie also recommended holding two technical conferences. Deputy Chair Fornstrom amended the recommendation to include telecommunications companies to be covered by the Order and not ordering a filing of reporting at this time. Commissioner Cooley seconded the motion and Chairman Russell concurred.

Prepared by: Sylvia Sanchez

Date of Next Open Meeting: Thursday, January 4, 2018

ACCEPTED and APPROVED by the Commission on March 29, 2018.

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Chairman William F. Russell