

WYOMING PUBLIC SERVICE COMMISSION

Minutes of Regular Open Meeting
Thursday, July 5, 2018
1:30 p.m.

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

Craig Johnson, Director of Gas Operations, Black Hills Energy
John Hill, Engineer, Black Hills Energy via telephone
Jana White, Counsel, Black Hills Energy via telephone

Commission Staff (CS): John Burbridge, Brad Boyles, Kaeci Daniels,
David Piroutek, Rachel Meeker, Chris Petrie

CONSENT AGENDA

- 1. Docket No. 20000-537-EK-18 (Record No. 15031). Power Purchase Agreement between Rocky Mountain Power, a division of PacifiCorp, and Simplot Phosphates, LLC. Commission to consider acceptance of the Power Purchase Agreement (Agreement) for filing and consider and act on *Petition for Confidential Treatment* (*Petition*).**
- 2. Docket Nos. 70009-485-TK-18 and 62106-2-RK-18 (Record No. 15006). Contract filing of United Telephone Company of the West d/b/a CenturyLink of the West for authority to enter into an Amendment to the Interconnection Agreement with Onvoy, LLC. Commission to consider and act on Amendment.**
- 3. Docket No. 70008-71-TT-18 (Record No. 15034). Tariff filing of Union Telephone Company to revise Access Tariffs in compliance with FCC 11-161. Commission to consider and act on Application.**

Chris Petrie, Commission Counsel, recommended Item 1 be accepted for filing and the *Petition* granted, Item 2 be approved by *Order* only, and Item 3 be approved by *Letter Order* signed by Commission Counsel. Deputy Chair Fornstrom moved to act as recommended. Commissioner Cooley seconded the motion and Chairman Russell concurred.

REGULAR AGENDA

- 1. Docket No. 90000-136-XO-18 (Record No. 15032) Commission to receive Q-1 2018 Facility Engineering Section Inspection Report and take such action as the public interest may require, including action to impose civil penalties for violations of safety requirements pursuant to Wyo. Stat. §37-2-128 and §37-2-129.**

Chris Petrie, Commission Counsel, stated that the report includes 6 inspections completed this quarter and inspections that have not been closed or completed involving instances

where violations were reported to the company. Craig Johnson, Director of Gas Operations for Black Hills Energy, advised it does not disagree with the report. Mr. Johnson, responding to a questions from Commissioner Cooley, said the Company is working to address the Mapping Programs by adding additional staff and verifying that diagrams and records match. Mr. Johnson advised the Company is addressing high impact issues first and by the end of the year will have a comprehensive risk based plan on how to address the issues Company wide. Mr. Petrie advised the Company that compliance with codes is meant to occur continuously rather than at future dates. Mr. Petrie recommended issuance of an *Order* directing the Company to complete and file a plan with the Commission to correct their mapping problems as expeditiously as possible. Deputy Fornstrom moved to act as recommended. Commissioner Cooley seconded the motion and Chairman Russell concurred.

Prepared by: Sylvia Sanchez

Date of Next Open Meeting: Thursday, July 12, 2018

ACCEPTED and APPROVED by the Commission on September 18, 2018.

Chairman William F. Russell

WYOMING PUBLIC SERVICE COMMISSION

Minutes of Regular Open Meeting
Thursday, July 12, 2018
1:30 p.m.

Commissioners:

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

Paul Jibson, Supervisor of Joint Operations and Regulatory Affairs; Wexpro
(by telephone)

Brandy Rasmussen, Vice President & General Manager, Wexpro (by
telephone)

Kelly Mendenhall, Director of Regulatory & Pricing, Dominion Energy (by
telephone)

Barrett W. Larwin, Regional Vice President, Balfour Beatty Investments

Todd Brink, Associate General Counsel, Cheyenne Light, Fuel and Power
d/b/a Black Hills Energy (BHE)

Jana Smoot White, Associate General Counsel, BHE

Shirley Welte, Vice President, Operations, BHE

Jerrad Hammer, Director of Regulatory, BHE

Ronald Lopez, Bailey Stock Harmon Cottam and Lopez, Counsel for High
West Energy

Brian Heithoff, CEO/General Manager, High West Energy

Marv Powell, WAFB Operations Manager, High West Energy (by
telephone)

Ed Prosser, President of the Board, High West Energy

Dale Steenbergen, Director, Cheyenne Chamber of Commerce

Russell Zimmer, Resident, City of Torrington

Vickie Zimmer, Resident, City of Torrington

Mary Viktorin, Resident, City of Torrington

Leroy Smith, Resident, City of Torrington

O'Kelley Pearson, Hickey and Evans, LLP, Counsel for City of Torrington

Lynette Strecker, Treasurer, City of Torrington

Mayor Mike Varney, City of Torrington

Office of Consumer Advocate (OCA): Ivan Williams, Bryce Freeman (by
telephone)

Commission Staff (CS): John Burbridge, Kara Seveland, Morgan Fish,
Rachel Meeker, and Brad Boyles

CONSENT AGENDA

1. **Docket No. 20000-499-EK-16 (Record No. 14458). Power Purchase Agreement between Rocky Mountain Power, a division of PacifiCorp, and Chevron U.S.A., Inc. Commission to consider acceptance of the Power Purchase Agreement (Agreement) for filing.**

2. **Docket No. 10012-64-CT-18 (Record No. 14973). Application of Lower Valley Energy, Inc. for approval of its Continuity of Service and Right to Discontinue tariff. Commission to consider and act on tariff filing.** Morgan Fish, CS, provided a technical *Memo* dated July 3, 2018.
3. **Docket Nos. 70003-195-TK-18 and 62106-1-RK-18 (Record No. 15004). Contract filing of CenturyTel of Wyoming, Inc. d/b/a CenturyLink for authority to enter into an Amendment to the Interconnection Agreement with Onvoy, LLC. Commission to consider and act on Amendment.** Rachel Meeker and Brad Boyles, CS, provided a technical *Memo* dated July 6, 2018.
4. **Docket Nos. 70003-194-TK-18 and 70235-5-TK-18 (Record No. 14995). Contract filing of CenturyTel of Wyoming, Inc. d/b/a CenturyLink for authority to enter into an Interconnection Agreement with Onvoy, LLC. Commission to consider and act on Agreement.** Rachel Meeker, Brad Boyles, CS, provided a technical *Memo* dated July 6, 2018.

Chairman Russell introduced the consent items. For Item #1, John Burbridge, Commission Counsel, recommended acceptance of the Agreement. For Item #2, he recommended approval of the tariff for filing. For Item #3, he recommended approval of the Amendment. For Item #4, he recommended approval of the Agreement; 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. 30010-123-GA-12 (Record 13347). Application of Questar Gas Company d/b/a Dominion Energy Wyoming for approval of the Wexpro II Agreement. Commission to consider and act on the Company's Wexpro Base Rate of Return spreadsheets and supporting documentation for the period August 1, 2017 through July 31, 2018.** Luy Luong, CS, provided a technical *Memo* with attachments dated July 5, 2018. Paul Jibson, Wexpro's Supervisor of Joint Operations and Regulatory Affairs, explained these spreadsheets document an 11.33% base rate of return for the past year. There were no questions. Lori Brand, Commission Counsel, recommended authorizing issuance of a letter concurring with the calculations of the rate of return. Deputy Chair Fornstrom moved to act as recommended. Commissioner Cooley seconded the motion and Chairman Russell concurred.
2. **Undocketed: Request of Balfour Beatty Investments for Commission assistance in determining whether Cheyenne Light, Fuel and Power (CLFP) or High West Energy possesses authority to provide electric service to 75 acres of land associated with F. E. Warren Air Force Base in the vicinity of the Missile Drive interchange on I-25 and Happy Jack Road. Commission to consider request and take such action as the public interest may require.** Barrett Larwin, Balfour Beatty Investment's representative, said Balfour Beatty was selected to develop the parcels at issue into a master plan mixed use development. He said the State, County and City approved the development, but are concerned about who has utility jurisdiction as both Black Hills Energy and High West

Energy claim authority to serve. The Air Force has left the decision up to Balfour Beatty. Mr. Larwin said Balfour Beatty wants to move forward with the project in the next year, but is concerned that the utility not selected might seek an injunction, which could delay and ultimately result in termination of the project. He said ideally, the Commission should determine jurisdiction, but both utilities must agree on its ruling or, in the alternative, sign a binding resolution allowing the developer to choose based on its requirements. Chairman Russell said utility companies have certificated territories in Wyoming and that is how service is determined.

Ronnie Lopez, Counsel for High West, argued that the 1943 certificate granting CLFP the Certificate of Public Convenience and Necessity (CPCN) to serve this area is void. He added that High West has an exclusive contract to serve F. E. Warren Air Force Base and there are broader implications since the CPCN also covers the entire Base. He provided a history of the contract and presented a map depicting the territory inside the Base. He explained the federal enclave doctrine gives Congress exclusive jurisdiction over F. E. Warren Air Force Base and, in order to defer jurisdiction to the State, Congress must clearly express the deferral. This did not happen before the 1943 CPCN was granted. Mr. Lopez cited various case law arguments and reasoned that even if the Commission found that the CPCN is not void then the language in the 1943 CPCN controls the outcome, which is the “most economical and feasible choice.” The Commission then has to make the decision. Alternatively, he thought the Commission could allow the developer to choose. Commissioner Cooley asked Mr. Lopez how the stipulated agreement of 2012 impacts this decision. He replied the contract pre-dates the stipulated agreement. Also, he said, in accordance with the stipulation, High West is not seeking to amend either utility’s certificated territory. Moreover, because High West believes the CPCN is void, it does not apply. He said the Base was able to solicit competition because it is outside the purview of the Commission. Deputy Chair Fornstrom asked if the 1943 *Order* legal description includes the property that High West serves under its contract. Mr. Lopez responded that it does. Brian Heitoff, High West’s General Manager, could not remember if the 1943 *Order* was discussed during the stipulation negotiations.

Jana White, CLFP’s Associate Counsel, referring to a letter sent by Shirley Welte, BHE’s Vice President of Operations, stating there has been no challenge to the validity of the CPCN granted to CLFP. She refuted Mr. Lopez’ claim that High West serves the entirety of the Base noting that CLFP serves the school on the Base under its CPCN. She further argued the 2012 stipulated agreement contemplated challenges not only to the currently certificated areas, including the 1943 certificate, but also to service areas. She contended this situation falls outside of the federal enclave statute because the developer is the customer, not the federal government. She responded to Deputy Chair Fornstrom that when the school was constructed there was no controversy over CLFP providing service to it and agreed that the 1943 *Order* was the basis for that service. Ms. White then responded to the Chairman that the Air Force, as a federal enclave, is the only entity that has the right to determine the utility authorized to serve and cannot defer the choice to a private entity that does not have jurisdiction. She stated both utilities have the right to serve this federal enclave. Ms. Welte was not able to provide details about how CLFP came to serve the school, but noted it serves several other locations on the Base, as well, and predates the contract with High West.

Chris Petrie, Commission Chief Counsel, asked Mr. Lopez if, after development is complete, the property would still be part of the federal enclave. He responded that the concurrent jurisdiction has been given to the State, removing its federal enclave status. Mr. Larwin agreed the property enjoys concurrent jurisdiction as authorized by the Air Force Base. Dale Steenbergen, Director of the Cheyenne Chamber of Commerce, clarified concurrent jurisdiction comes with the grant of the land. He said there are several purposes for this, including access to ambulance service, fire service, law enforcement, etc. He indicated there is a letter of acknowledgment between the Governor and the Department of Defense documenting granting of concurrent jurisdiction.

Commissioner Cooley confirmed with Ms. White that the CPCN covers a much larger area than just the Base, therefore even if the CPCN is void as to the Base, there is still a valid CPCN contiguous with this property. Mr. Lopez said High West agreed that the CPCN was only void as to the Base and that High West does not have a CPCN contiguous to the parcel in question.

Commissioner Cooley moved to grant the request recognizing CLFP possesses the authority to provide electric service for the parcel of land in question. Deputy Chair Fornstrom added because there is concurrent jurisdiction, the Commission has the conclusive authority to determine authority to serve, which is governed by statute. She said the conditions in the statute are met by CLFP and seconded the motion. Chairman Russell concurred.

BREAK

Chairman Russell announced a 5 minute recess. When the meeting reconvened, he noted Deputy Chair Fornstrom was excused from the remainder of the meeting, but there is still a quorum with two Commissioners present.

3. **Undocketed: Request of Russell Zimmer, et al., for an investigation to determine whether the electric rates charged by the City of Torrington (City) are just and reasonable. Commission to consider initiation of an investigation pursuant to Wyo. Stat. § 37-2-117 and take such action as the public interest may require.** Mary Viktorin, Resident, provided background on Mr. Zimmer's request. She said the Utilities Department is and has been transferring money to the general fund for other departments that are not self-sustaining through what was referred to as a franchise fee which, she argued, the City does not have the authority to grant itself. Ms. Viktorin said the City, after a rate case in 2011, wherein it agreed to end the practice by the end of that fiscal year, changed the name of the fees to "public access fees" and continued to charge them. She said the Commission has the power to inquire about rate related matters such as this. Chairman Russell asked Ms. Viktorin what the Commission would be ruling on in this request. Mr. Zimmer outlined what he believes the City is doing wrong and reiterated his request for an investigation. Chairman Russell said the Commission does not regulate the utility inside city limits, even if it is wrong. Therefore, the Commission can only take action as it relates to rates outside city limits.

O'Kelley Pearson, Counsel for the City, said public access fees instituted in 2012 for inside city limits have no relation to rates outside city limits, and, if there is an issue, it is not for this Commission to resolve. She stated the fee is a percentage of revenue for ratepayers inside city limits which are Commission approved rates and transparent within the City's

budget. She argued the City is not neglecting its obligations to ratepayers, there is no evidence that rates are too high outside city limits, there is no over earnings issue, and an investigation is therefore, unnecessary.

Chairman Russell said that because 100% of revenue is going to the electric fund for outside city limits, but less than that is going to the electric fund inside city limits because of the public access fee, it appears to be unfair. He said an added line item for the fee for inside city limits customers would provide transparency. Ms. Pearson commented it should be up to the City Council how the fee is spent. Bryce Freeman, OCA, thought the Chairman's line of reasoning had merit and said OCA would be willing to look into this further. Chris Petrie, Commission Chief Counsel, said that an investigation does not necessarily mean a rate case. Instead, he said, it is a proceeding to determine whether rates are just and reasonable.

Chairman Russell and Commissioner Cooley both said further discussions are warranted before a decision should be made. Chairman Russell moved to leave this undocketed item open for consideration with Commission Staff and the OCA, followed by deliberations in the near future. Commissioner Cooley seconded the motion.

Prepared by: Barbara Tomlinson

Date of Next Open Meeting: Thursday, July 19, 2018

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

Chairman William F. Russell

WYOMING PUBLIC SERVICE COMMISSION

Minutes of Regular Open Meeting
Thursday, July 19, 2018
1:30 p.m.

Commissioners: Chairman William F. Russell
Commissioner Robin Sessions Cooley

Ronnie Lopez, Bailey Stock Harmon Cottam and Lopez, LLP, Counsel for
Nordic Ranches Water, LLC

Commission Staff (CS): Steve Mink, Michelle Bohanan, John Burbridge,
Jess Bottom, Luy Luong and Chris Petrie

CONSENT AGENDA

1. **Undocketed. Minutes for review from the Open Meetings on May 24 and 29, 31 and June 14, 2018, as prepared by Barbara Tomlinson.**
2. **Docket No. 30022-314-GT-18 (Record No. 15011). Application of Black Hills Gas Distribution, LLC d/b/a Black Hills Energy for authority to update its Natural Gas Tariff with the applicable Fuel, Lost and Unaccounted for percentages to be used for pass-on cost determination. Commission to consider and act on Application.** Michelle Bohanan, CS, provided a technical *Memo* dated July 2, 2018.
3. **Docket No. 20000-531-EA-18 (Record No. 14925). Rocky Mountain Power's Report of Disposition of Utility Plant or Facilities pursuant to Commission Rule Chapter 3, Section 21 (e)(i)(C). Commission to consider and act on Report.** Jess Bottom, CS, provided a *Memo* dated June 21, 2018.

Chairman Russell introduced the consent items. For Item #1, Commissioner Cooley moved to approve the minutes as prepared and Chairman Russell seconded the motion. For Item #2, Steve Mink, Commission Counsel, recommended approval of the Application and for Item #3, he recommended acceptance of the Report for filing, by *Order* only, effective immediately. Commissioner Cooley moved to act as recommended and Chairman Russell seconded the motion.

REGULAR AGENDA

1. **Docket No. 90000-134-XO-17 (Record 14915). Commission's Consideration on Its Own Motion of the Effect of the Tax Cuts and Jobs Act of 2017 (TCJA) on the Propriety of Rates Charged by Public Utilities and Telecommunications Companies Providing Service in Wyoming. Commission to consider and act on Initial Assessments of Nordic Ranches Water, LLC, Orchard Valley Water Company, Town of Alpine, and Y-O Investments, Inc.** Luy Luong, CS, provided a technical *Memo* dated July 16, 2018. Chris Petrie, Commission Chief Counsel, explained that in this docket, the

Commission is examining the effects of the TCJA. The Commission has reviewed a number of the assessments submitted by these named water companies and determined they will not experience the effects as would the larger corporate utilities. Ronnie Lopez, Counsel for Nordic Ranches Water, LLC confirmed impact of the TCJA will not make rates unjust and unreasonable, and will, in fact, have no impact at all. Chairman Russell asked if Orchard Valley Water Company is reporting it will experience a tax rate increase. Mr. Luong confirmed he has discussed this with Orchard Valley. He said the analysis was done before the final quarter rates were set in the previous case and Orchard Valley opted to keep rates stable, declining to request another adjustment. There were no further questions. Mr. Petrie recommended the companies identified be excused from this docket by *Order* only, effective immediately. Commissioner Cooley moved to act as recommended and Chairman Russell seconded the motion.

Prepared by: Barbara Tomlinson

Date of Next Open Meeting: Tuesday, July 24, 2018

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

Chairman William F. Russell

WYOMING PUBLIC SERVICE COMMISSION

Minutes of Regular Open Meeting
Tuesday, July 24, 2018
1:30 p.m.

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

John Bumgarner, Vice President of Member Services, Powder River Energy Corporation (PRECorp) (by telephone)

James L. Mowry, Crowley Fleck, PLLP, Counsel, for Red Butte Pipe Line Company, Merit Energy Operation I, LLC, Merit Energy Partners III-C Big Horn, LLC, Merit Energy Investments Legacy Big Horn, LLC and SCM Red Butte, LLC (Joint Applicants) (by telephone)

Christopher Storey, Vice President and CFO, SCM Red Butte (by telephone)

Brian Blakeman, CFO, Tailwater Capital, LLC (by telephone)

Commission Staff (CS): Lori Brand, Chris Petrie, John Burbridge, Rachel Meeker, Michelle Bohanan, Luy Luong, Nathan Brennan, Katie Koski, Dave Piroutek, Jacob Kilmurray, James Branscomb, John Burbridge and Morgan Fish

CONSENT AGENDA

1. **Undocketed. *Minutes* for review from the Open Meeting on June 21, 2018, as prepared by Barbara Tomlinson.**
2. **Docket No. 20000-536-ER-18 (Record No. 14999). Application of Rocky Mountain Power (RMP) to decrease rates by \$26.1 million to account for the effect of the Tax Cuts and Jobs Act of 2017. Commission to consider and act on RMP's *Petition for Confidential Treatment and for a Protective Order (Petition)* filed on July 10, 2018.**
3. **Docket No. 30022-313-GA-18 (Record No. 15000). Application of Black Hills Gas Distribution LLC d/b/a Black Hills Energy for a Certificate of Public Convenience and Necessity to construct and operate a high pressure gas transmission pipeline and related facilities in Converse and Natrona Counties. Commission to consider and act on Black Hills Energy's *Petition for Confidential Treatment of Attachments JRB-3 and JRB-4 to Exhibit 9 of the Application and Attachment JSH-3 to Exhibit 11 of the Application (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. For Item #2, Katie Koski, Commission Counsel, recommended granting the *Petition and Protective Order*, and for Item #3, 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. 10014-189-CT-18 (Record No. 14930). Tariff filing of Powder River Energy Corporation to revise its Rules and Regulations pertaining to meter testing and verification. Commission to consider and act on tariff filing.** Morgan Fish, CS, provided a technical *Memo* dated June 6, 2018. Katie Koski, Commission Counsel, recommended tabling this docket item until August 14, 2018. John Bumgarner, PRECorp's Vice President of Member Services, explained the Company needs an extension of time to schedule appearances in person. Chairman Russell moved to table this item until August 14, 2018. Deputy Chair Fornstrom seconded the motion and Commissioner Cooley concurred.

2. **Docket No. 50045-25-PA-17 (Record No. 14913). Joint Application of Red Butte Pipe Line Company, Merit Energy Operation I, LLC, Merit Energy Partners III-C Big Horn, LLC, Merit Energy Investments Legacy Big Horn, LLC and SCM Red Butte, LLC (Joint Applicants) for approval of a partial reorganization of Red Butte Pipe Line Company. Commission to consider and act on:**
 - a. **Joint Application for Approval of Reorganization filed on December 15, 2017;**
 - b. ***Petition for Confidential Treatment of Exhibits B, D, E, F, G, I and J to Application filed on December 18, 2017;***
 - c. ***Petition for Confidential Treatment of Joint Responses to Wyoming Staff Information Requests - Set 1 filed on May 9, 2018;***
 - d. ***Petition for Confidential Treatment of Joint Responses to Wyoming Staff Information Requests - Set 2 filed on May 9, 2018;***
 - e. ***Petition for Confidential Treatment of Joint Responses to Wyoming Staff Information Requests - Set 3 filed on May 9, 2018;***
 - f. ***Petition for Confidential Treatment of Joint Responses to Wyoming Staff Information Requests - Set 4 filed on May 9, 2018;***
 - g. ***Petition for Confidential Treatment of Joint Responses to Wyoming Staff Investigative Requests - Set 5 filed on May 9, 2018;***
 - h. ***Petition for Confidential Treatment of Joint Responses to Wyoming Staff Investigative Requests - Set 6 filed on May 18, 2018; and***
 - i. ***Petition for Confidential Treatment of Supplement to Application filed on June 8, 2018.***

Nathan Brennan and Jess Bottom, CS, provided a technical *Memo* dated July 18, 2018. James Mowry, Counsel for the Joint Applicants, explained there was a similar application

in 2016, which was a reorganization of the entities and provided details. He also said the Joint Applicants completed responses to several sets of staff investigative requests and a supplemental filing. He stated there would be no significant change to the operation of the pipeline. Deputy Chair Fornstrom asked Mr. Mowry if the Company concurred with Commission Staff's understanding of the proper treatment under FERC accounting for the acquisition premium for a future rate case. He replied that this was a discussion point with Commission Staff and the Company concurs with their understanding. There were no further questions. Katie Koski, Commission Counsel, recommended approval of the Joint Application in #2a, noting this is not a ratemaking decision, the premium will be included in the next rate case, and the Company shall file the Adoption Notice within ten days. She also recommended granting the *Petitions* in Items #2b through #2i, all 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, July 31, 2018

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

Chairman William F. Russell