

WYOMING PUBLIC SERVICE COMMISSION

Minutes of Regular Open Meeting
Tuesday, March 7, 2017
1:30 p.m.

Commissioners: Chairman William F. Russell
Deputy Chair Kara Brighton Fornstrom

Liz Zerga, Jubin and Zerga, LLC, Counsel for Tri-County Telephone and TCT West, Joint Applicants
Don Jackson, Tri-County and TCT West (by telephone)
Robert Pomeroy, Holland and Hart, LLP, Counsel for Wyoming Industrial Energy Consumers (WIEC)
Stacy Splittstoesser, Wyoming Regulatory Affairs Manager, Rocky Mountain Power (RMP)
Daniel Solander, Senior Attorney, RMP (by telephone)
Stephen MacDougal, Director of Revenue Requirements, RMP (by telephone)

Commission Staff (CS): Lori Brand, Dave Walker, John Burbridge, Chris Petrie, Marci Norby, Katie Koski, Thomas Wilson and Rachel Meeker

CONSENT AGENDA

1. **Undocketed: Open meeting minutes for review by the Commission for the regular open meetings of February 9 and 23, 2017, as prepared by Barbara Tomlinson and Sylvia Sanchez.**
2. **Docket No: 20003-148-EP-16 (Record No. 14324). Application of Cheyenne Light, Fuel and Power Company d/b/a Black Hills Energy for authority to pass on a power cost adjustment decrease of \$0.00214 per kWh for the period April 1, 2016 through March 31, 2017. Commission to consider and act on *Petition for Confidential Treatment of Internal Audit Report (Petition)* filed on February 15, 2017.**
3. **Docket No. 90000-125-XO-15 (Record No. 14272). Proposed adoption of Chapter 1 through 5 of the Wyoming Public Service Commission's Rules and Regulations. Commission to consider issuing an order closing the docket.**
4. **Docket No. 20000-510-EA-17 (Record No. 14644). Application of Rocky Mountain Power (RMP) to extend the 2017 Protocol through December 31, 2019. Commission to consider and act on Wyoming Industrial Energy Consumers' (WIEC) *Motion for Application For Admission of Pro Hac Vice of Robert M. Pomeroy, Jr. and Thorvald A. Nelson (Motion)*.**

Deputy Chair Fornstrom introduced the consent items. Deputy Chair Fornstrom moved to approve the minutes as written. Chairman Russell seconded the motion. For Item #2, John Burbridge, Commission Counsel, recommended granting the *Petition* by *Order* only, effective immediately. For Item #3, he recommended issuing an order closing the docket, by *Letter Order* only, effective immediately. Burbridge recommended moving Item #4 to

Regular Agenda Item #3 to consider together. Deputy Chair Fornstrom moved to act as recommended and Chairman Russell seconded the motion.

REGULAR AGENDA

1. **Docket No. 70015-97-TT-16 (Record No. 14600). Tariff filing of RT Communications, Inc., to make changes to its FCC Lifeline Rules tariff. Commission to consider and act on Application.** Thomas Wilson, CS, provided a technical *Memo* dated February 24, 2017. Deputy Chair Fornstrom recommended tabling the item as it was erroneously added to this agenda. Chairman Russell moved to act as recommended and Deputy Chair Fornstrom seconded the motion.

2. **Docket Nos. 70011-48-TA-16 and 70014-38-TA-16 (Record No. 14614). Joint Application of Tri-County Telephone Association, Inc., and TCT West, Inc. to discontinue service and relinquish TCT West's Certificate of Public Convenience and Necessity (CPCN) to provide local telecommunications services in Wyoming, and to amend Tri-County's Certificate of Public Convenience and Necessity (CPCN) to extend its certificated area. Commission to consider and act on Joint Application.** Rachel Meeker, CS, provided a technical *Memo* dated March 1, 2017. Liz Zerga, Counsel for the Joint Applicants, provided background on the application commenting both Companies have operated in separate CPCN areas in Wyoming but Tri-County is legally the parent company. She said this was set up many years ago out of the sale of US West exchanges. TCT West took out a loan in connection with this sale, which Tri-County wanted TCT West to pay off out of its own revenue and customers. The loan has been repaid. She said there is no longer a need to continue to file duplicate items and the Companies concluded there should only be one docket. To consolidate the existing two dockets, Zerga said Commission Staff indicated that typically the Commission would terminate TCT West's CPCN and amend Tri-County's certificated area to cover TCT West's territory. She stressed TCT West's customer numbers for year-end must be treated as Tri-County customers to avoid problems with Universal Service Fund calculations. Don Jackson provided additional commentary for Zerga's statements. Lori Brand, Commission Counsel, commented notice has already been sent to customers of the proposed changes. She said Commission Staff wants to ensure customers know TCT West is now Tri-County but that both companies will continue to use the trade name TCT and that this is accurately reflected in the Commission's docket files. Ms. Brand recommended approval of the joint application to discontinue service and relinquish TCT West's CPCN and to amend Tri-County's CPCN to expand its certificated area. Brand also stated the order would clearly state this affects TCT West for accounting and administrative purposes for year-end for the WUSF, by *Order* only, effective immediately. Deputy Chair Fornstrom moved to act as recommended and Chairman Russell seconded the motion.

3. **Docket No. 20000-510-EA-17 (Record No. 14644). Application of Rocky Mountain Power (RMP) to extend the 2017 Protocol through December 31, 2019. Commission to consider and act on Wyoming Industrial Energy Consumers' (WIEC) *Petition for Leave to Intervene (Petition)*.** Robert Pomeroy, WIEC's Counsel, explained the 2017 Multi State Protocol (MSP) expires at end of 2018 unless extended for a year. He provided justification for intervention in RMP's extension docket citing WIEC's concern that Wyoming customers would pay about 1.6 million dollars in future rates automatically because the allocated money goes into a deferred account due to the extension. He made it

clear this is the sole aspect of the protocol in question. Pomeroy said this is a direct cost unique to Wyoming and is added to future rates. WIEC is questioning whether this rate is just and reasonable. He asserted the Commission should give paramount consideration to customers because there is no opportunity to examine the rates after the extension is granted. WIEC requested the Commission grant partial approval of the RMP extension excepting out the issue of the appropriate treatment of the 1.6 million dollar deferred amount in the protocol for 2018. Daniel Solander, RMP's Corporate Counsel, responded to WIEC's arguments stating that RMP does not oppose WIEC's request for intervention. However, he noted that WIEC is a signatory to the protocol and believes the requested change might be seen as material by other states, creating problems for approval in those states. Solander said he does not believe the extension needs to be delayed as WIEC has all related information. In order for the extension to be effective, approval from all states must be complete by March 31, 2017. Deputy Chair Fornstrom asked WIEC why this contingency was not dealt with when the protocol was signed. Pomeroy responded that the equalization adjustment is unique to Wyoming and should have no effect on the other states. He also said no one thought there would not be a rate case filed in 2016 or 2017 and, as a result, there is some question whether RMP is already overearning, which would not be determined until the next rate case. Deputy Chair Fornstrom commented that to her there is work to do on the issue of the deferred amount, but is not in favor of a bifurcated proceeding. Pomeroy said a meaningful investigation could not be conducted in this short timeframe, nor could this issue be resolved by the end of March. Ivan Williams, counsel for OCA, commented OCA did not intervene as it had no issue with the Company's filing as submitted. Chairman Russell asked Pomeroy whether, when a rate case application is submitted, the Commission still has the opportunity for review of the disputed sums. Pomeroy said no because in his view the deferred account will become a regulatory asset and RMP will be entitled to recover it in the next rate case. John Burbridge, Commission Counsel, asked if the deferred amount was a concern then, why did it not come up until the extension was filed by RMP. Pomeroy answered the extension was not anticipated by WIEC and now the scope of what the extension covers is in question. He said this deferred accounting is unique to Wyoming and with regard to future rates there are many unknowns. Burbridge commented it would be impossible to bifurcate this proceeding without it being construed as an effective denial of the request for extension. Pomeroy said the portion being excepted out is not part of the methodology or revenue requirements, and he believed the other states would not see this as a denial. Burbridge asked if a *Petition* were granted and WIEC afforded the opportunity for a hearing, would March 30, 2017 be acceptable, with witnesses and a curtailed discovery period. Pomeroy responded neither the parties nor the Commission could do their job in such a short amount of time. Solander, RMP's Senior Corporate Counsel, reiterated the Company's extension request was filed in Oregon and Utah and their recommendations for approval are based on no departures from 2017 protocol. He read directly from the protocol, noting if the Company does not file a general rate case by January 1, 2017, the deferred amount shall be included in rates until such time as the next rate case is heard. Deputy Chair Fornstrom noted the Commission is only prepared to rule on the *Petition to Intervene* today. Stephen MacDougal for RMP agreed that bifurcating the case would be construed as an effective denial of extension. There were no further questions or comments. Deputy Chair Fornstrom concluded there is a timing issue which must be addressed and therefore the Commission will schedule this for Open Meeting on March 30, 2017. She stated Commission Staff and the parties need to work out the parameters and approach for consideration. Deputy Chair Fornstrom moved to grant the *Petition for Intervention*. Chairman Russell seconded the motion. With respect to

Consent Item #1, *Motion for Application For Admission of Pro Hac Vice of Robert M. Pomeroy, Jr. and Thorvald A. Nelson*, John Burbridge, Commission Counsel, recommended granting the *Motion by Order* only, effective immediately. Deputy Chair Fornstrom moved to act as recommended and Chairman Russell seconded the motion.

Prepared by: Barbara Tomlinson

Date of Next Open Meeting: Tuesday, March 21, 2017

ACCEPTED and APPROVED by the Commission on April 18, 2017.

Chairman William F. Russell