

# **WYOMING PUBLIC SERVICE COMMISSION**

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

Commissioners: Deputy Chair Kara Brighton Fornstrom  
Commissioner Robin Sessions Cooley

Michael Easley, Chief Executive Officer, Powder River Energy Corporation (by telephone)  
Bruce Asay, Associated Legal Group, LLC, Counsel for Montana-Dakota Utilities Co. (MDU)  
Garet Singer, Vice President of Regulatory Affairs, MDU (by telephone)  
Jonathan Dever, MDU (by telephone)  
Jerrad Hammer, Director of Rates and Regulatory, Black Hills Energy (by telephone)  
Tre Hendricks, Senior Corporate Counsel, CenturyLink QC (by telephone)  
Lisa Anderl, Senior Corporate Counsel, CenturyLink QC (by telephone)  
Ronnie Lopez, Bailey Stock Harmon, Cottam and Lopez, Counsel for AARP Wyoming (by telephone),  
Joe Baron, County Attorney, (by telephone), Crook County Board of Commissioners

Office of Consumer Advocate (OCA): Ivan Williams

Commission Staff (CS): John Burbridge, Michelle Bohanan, Pam Temte, Melissa Mizel, Luy Luong, Nathan Brennan, Rachel Meeker, Chris Petrie, Lori Brand, Shirley McCown and Tom Wilson

## **REGULAR AGENDA**

1. **Docket No. 10014-179-CK-17 (Record No. 14692). Powder River Energy Corporation's filing of wholesale electric supplier contracts. Commission to consider and act on filing and *Petition for Confidential Treatment of Contract Filing (Petition)*.** Michelle Bohanan and Pam Temte, CS, provided a technical *Memo* dated February 12, 2018. Mike Easley, PRECorp's CEO, stated this is a work in progress and provided background about the requirement to file contracts and PRECorp's determination of what is appropriately confidential. He said the Company, after discussions with Commission Staff, decided on less redaction of the two contracts and provided details. With regard to the Members First Electric Service Agreement under administration fees and Exhibit 1, he asserted certain details need to be redacted from Section 9.2. With regard to the Wholesale Power contract, he argued that having public versions of the contract could adversely impact bids, how they are prepared, and the ultimate value of the agreement for the membership, and requested redacting the entire section. A discussion followed regarding whether the title and the paragraph number should remain confidential and Mr. Easley agreed to leave it in the public version. There were no further questions or comments. John Burbridge, Commission Counsel, said he has worked with the Company to obtain the substitution of the pages. He recommended acceptance of the contracts for filing, and

granting the *Petition* with the amendments discussed, as well as working with PRECorp to determine confidentiality of the title, by *Order* only, effective immediately. Commissioner Cooley moved to act as recommended and Deputy Chair Fornstrom seconded the motion.

2. **Docket No. 90000-134-XO-17 (Record No. 14915). Commission's Consideration on its own Motion of the Effect of the Tax Cuts and Jobs Act of 2017 on the Propriety of Rates Charged by Public Utilities and Telecommunications Companies Providing Service in Wyoming. Commission to receive and consider status update from Commission Staff and take such action as the public interest may require. Such action may include, but shall not be limited to, requiring the filing of preliminary assessments, action plans, and/or applications to revise rates.** Chris Petrie, Chief Counsel, explained an *Order* produced on December 29, 2017, directing companies to start accounting for deferred regulatory liability consisting of the financial benefits that are being produced by the tax cuts. He said this *Order* was amended on January 23, 2018, to clarify its inapplicability to the majority of telecommunications companies. Following that, a technical conference was held in February 2018 from which Commission Staff developed a roadmap for proceedings that will be necessary in this matter. Mr. Petrie recommended the affected utilities that are organized as corporations be directed to file an assessment of the Tax Cuts and Jobs Act on their rates, and a statement of their intentions with respect to any anticipated rate adjustments related to the corporate tax rate change on or before March 30, 2018. Additionally, affected utilities organized as pass-through entities, such as LLCs, S Corps, partnerships, and sole proprietorships, be directed to file an assessment by April 30, 2018. Mr. Petrie specified the filings should contain an explanation of the basis the utility is using for deferral calculations, tax effects in the assessments (accumulated deferred income tax, excess deferred income tax, bonus depreciation or other similar items); how any refunds or other benefits will be allocated to customers; whether the utility is planning to request interim rates changes in the filing; and whether the utility intends to apply any carrying charges in the calculations. Some items might not be applicable, but at minimum a general explanation should be included as to why no rate changes are expected. Mr. Petrie stated that public comments will be solicited on these assessments and Commission Staff will be available for the public discussion. This process is open to OCA and other parties or customer advocate groups. Also, he recommended that affected utilities should be advised that subject to any determination by the Commission that no adjustment of rates appears necessary, they will be directed to file an application at a later date, but before the end of this year, and those individual applications should be filed in separate dockets. The recommended Order should also instruct or notify those utilities with pending rate applications that they should be addressing the effects of Tax Cuts and Jobs Act in the rate docket.

Bruce Asay, Counsel for MDU, said this procedure is consistent with the technical conference and with how MDU plans to proceed. Stacy Splittstoesser, RMP's Wyoming Regulatory Affairs Manager, stated RMP is agreeable to the schedule. Kelly Mendenhall, Dominion Energy's General Manager of Regulatory Affairs, said Dominion was also agreeable and will be ready. Jerrad Hammer, BHE's Director of Rates and Regulatory, stated BHE is also in agreement.

Deputy Chair Fornstrom clarified that during the assessment phase, the Commissioners will have no involvement. There were no further questions or comments. Commissioner

Cooley moved to proceed forward as recommended by Mr. Petrie and Deputy Chair Fornstrom seconded the motion.

**3. 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; and**

**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.**

**Parties to appear and provide a report on the status of settlement negotiations.**

Ivan Williams, OCA, reported that substantial progress has been made and the parties are working through the details. He said the parties are now waiting for a second draft of a more comprehensive document that takes into account the issues relevant to the service quality docket and the deregulation docket. He provided some details of the terms in the agreement.

Tre Hendricks, CenturyLink's Senior Corporate Counsel, stated CenturyLink concurred with OCA's comments, agreed progress is being made and said there is a high likelihood of success. Joe Baron, Crook County Attorney, said he is concerned with the details as he is not aware of them.

Mr. Williams confirmed in response to Commissioner Cooley that no consumers have been involved in negotiations thus far. He noted that Bryce Freeman, OCA, has had a number of conversations with individual customers and said there must be an educational process to inform customers eligible to participate in the solution of the nature of the agreement, and also what pricing would look like post deregulation if that were to occur. Deputy Chair Fornstrom asked if OCA intends to seek input from customers prior to the Agreement being executed. Mr. Williams said he is not aware of Mr. Freeman's intention in this regard. He anticipated there would be a test of the proposed solution and customer input might be valuable at that point. Mr. Hendricks responded to the Deputy Chair he is hopeful the Company can achieve a test of the technology within six weeks to confirm it is a viable solution. Once that is completed, the parties will be able to present the document to the Commission for approval. He thought 12 weeks is a realistic goal. Mr. Baron added this proposal actually might work and, therefore, wants the testing to proceed. He thought there should be more urgency in this regard and the customers need an opportunity to see this solution. Mr. Hendricks assured the Commission this project has been the highest priority and he stated he will attempt to bring this to resolution within five weeks and will report to the Commission when there is a date for testing. Lori Brand, Commission Counsel, expressed concern about the deregulation docket in that the Commission will need to rely on facts to determine competition pursuant to the statutory requirements. There were no

further questions or comments. Deputy Chair Fornstrom directed the parties to report back to the Commission no later than the second week in April. Commissioner Cooley agreed.

4. **Docket No. 70000-1644-TA-17 (Record No. 14742) Application of Qwest Corporation d/b/a CenturyLink QC for Determination that Basic Residential and Business Services Are Competitive throughout all of CenturyLink QC's Zone 2 and Zone 3 Service Areas. Commission to consider and act on *Joint Motion of CenturyLink, the Office of Consumer Advocate, AARP, and the Independent Telephone Companies to Suspend the Procedural Schedule, or in the Alternative to Modify the Schedule (Joint Motion)*.** Lisa Anderl, CenturyLink's Senior Corporate Counsel, said this item has significant overlap of issues with the previous docket. She said the parties have been consumed with negotiations on the technical aspect of reaching a settlement and postponing the hearing could benefit this docket. She said the time would be better spent in settlement discussions and all parties have agreed on this. Ronnie Lopez, Counsel for AARP, had nothing to add and said AARP does not object to a continuance. There were no questions or comments. Deputy Chair Fornstrom stated she was inclined to suspend the procedural schedule rather than modify as it could take some time to find dates given the Commission's calendar. Ms. Anderl, Mr. Williams, OCA, Mr. Lopez, and Mr. Baron, all agreed to suspend the procedural schedule. Lori Brand, Commission Counsel, recommended granting the *Joint Motion to Vacate the Hearing Date and to Suspend the Procedural Schedule by Order* only, effective immediately. Commissioner Cooley moved to act as recommended. Deputy Chair Fornstrom seconded the motion.

Prepared by: Barbara Tomlinson

Date of Next Open Meeting: Thursday, March 8, 2018

ACCEPTED and APPROVED by the Commission on May 17, 2018.

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Chairman William F. Russell