BEFORE THE PUBLIC SERVICE COMMISSION OF WYOMING

IN THE MATTER OF THE APPLICATION OF
CHEYENNE LIGHT, FUEL AND POWER
COMPANY FOR AUTHORITY TO
ESTABLISH A LARGE POWER CONTRACT
SERVICE TARIFF

DOCKET NO. 20003-146-ET-15
(RECORD NO. 14242)

APPEARANCES

For the Applicant, Cheyenne Light, Fuel and Power Company (CLFP):
TODD L. BRINK, Associate General Counsel, AMY KOENIG, Corporate Counsel,
Black Hills Corporation, Rapid City, South Dakota.

For the Office of Consumer Advocate (OCA):
CHRISTOPHER LEGER, Counsel, Cheyenne, Wyoming.

For Dyno Nobel, Inc. (Dyno):
RICK A. THOMPSON, Counsel, Hathaway & Kunz, P.C. Cheyenne, Wyoming.

For Frontier Refining LCC (Frontier):
DALE W. COTTAM, DOUGLAS W. BAILEY, Counsel,

For Microsoft Corporation (Microsoft):
GREGORY B. MOMSON, CAMERON L. SABIN, Counsel,
Stoel Rives LLP, Salt Lake City, Utah.

HEARD BEFORE

Chairman ALAN B. MINIER
Deputy Chairman WILLIAM F. RUSSELL
Commissioner KARA BRIGHTON

STEVE MINK, Assistant Secretary,
Presiding pursuant to a Special Order of the Commission

MEMORANDUM OPINION, FINDINGS AND ORDER APPROVING APPLICATION
(Issued July 28, 2016)

This matter is before the Wyoming Public Service Commission (Commission) upon the Application (Ex. 1) of CLFP to approve the implementation of a Large Power Contract Service (LPCS) tariff, along with the interventions of the OCA, Dyno, Frontier and Microsoft, (collectively the Parties).
The Commission, having reviewed the Application, attached exhibits, the intervenors’ prehearing filings, the evidence adduced at the public hearing held on June 1-2, 2016, its files regarding CLFP, applicable Wyoming utility law, and otherwise being fully advised in the premises, FINDS and CONCLUDES:

**Course of Proceedings**

1. CLFP is a public utility as defined in Wyo. Stat. § 37-1-101(a)(vi)(C) providing retail electric service under Certificates of Public Convenience and Necessity issued by the Commission. CLFP is subject to the Commission’s jurisdiction pursuant to Wyo. Stat. § 37-2-112.

2. On October 1, 2015, CLFP filed its Application (Ex. 1), together with the Non-Legislative Service Tariff (Ex. 2), the Legislative Format of Tariff (Ex. 3), Report of Tariff Change (Ex. 4) and the prefiled testimony of Christopher J. Kilpatrick, Director of Resource Planning, Eric M. Egge, Director of Generation Dispatch & Power Marketing, and Marne M. Jones, Director of Regulatory Services, (Exs. 5-7, and MMJ-1).

3. On October 5, 2015, the Commission issued a Suspension Order suspending the Application for the purpose of investigation for the initial six-month period pursuant to Wyo. Stat. § 37-3-106(c). (Ex. 101).

4. On October 23, 2015, the OCA filed its Notice of Intervention pursuant to Wyo. Stat. § 37-2-402(a).

5. On November 2, 2015, Dyno filed a Petition to Intervene and Request for Hearing which was granted by Commission Order issued on December 8, 2015. (Ex. 103).

6. On November 4, 2015, the Commission issued a Notice of Application setting a deadline of December 4, 2015, for interested persons to file a statement, intervention petition, protest, or request for a public hearing. A public notice was published in newspapers in the CLFP service territory. (Ex. 102).

7. On November 5, 2015, Frontier filed a Petition to Intervene and Request for Hearing which was granted by Commission Order issued on December 8, 2015. (Ex. 104).

8. On November 30, 2015, Microsoft filed a Petition to Intervene which was granted by Commission Order issued on December 8, 2015. (Ex. 105).


10. On December 8, 2015, the Commission issued its Special Order Authorizing One Commissioner and/or Presiding Officer to Conduct Public Hearing. (Ex. 108).

12. On December 22, 2015, the Commission issued a Scheduling Order establishing the procedural schedule and setting a public hearing for June 1, 2016. (Ex. 110).

13. On February 1, 2016, the Commission issued a Protective Order. (Ex. 111).

14. On March 23, 2016, CLFP filed a Motion for Admission Pro Hac Vice of Todd L. Brink, which the Commission granted by an Order issued on April 21, 2016. (Ex. 112).

15. On March 18, 2016, the OCA filed the confidential direct testimony of Bryce J. Freeman, OCA Administrator (Ex. 200).


17. On March 18, 2016, Dyno and Frontier (collectively the ICS Intervenors) filed the direct testimony and exhibits of Jeffry Pollock, President of J. Pollock, Incorporated (Exs. 300 and 400 – 300.5 and 400.5) and Greg Wright, Consultant for EMG, Inc. (Exs. 301 and 401-301.1).


19. On April 15, 2016, the OCA filed the cross-answer testimony of Bryce J. Freeman. (Ex. 201).

20. On April 15, 2016, Microsoft filed the cross-answer testimony of Jim Collins. (Ex. 501).


22. On April 15, 2016, CLFP filed the rebuttal testimony and exhibits of Christopher J. Kilpatrick (Ex. 8 and CJK-1 – CJK-4) and the rebuttal testimony of Eric M. Egge, (Ex. 9) and Marne Jones (Ex. 10).

23. On June 1-2, 2016, the public hearing was held in Cheyenne, Wyoming, pursuant to the Wyoming Administrative Procedure Act, Wyo. Stat. § 16-3-101, et seq. (WAPA). The applicant, OCA, Microsoft, Dyno and Frontier offered testimony and exhibits.

24. The Commission held public deliberations on July 8, 2016, pursuant to Wyo. Stat. § 16-4-403. The Commission then directed the preparation of an order consistent with its decision.
Summary of Decision

25. The Commission approved the application and directed CLFP to modify its tariff to include more detail and to work with Commission Staff on compliance filings.

Contentions of the Parties and Resulting Issues

26. CLFP argued that the proposed Large Power Contract Service (LPCS) tariff eliminates rate impacts and other risks for customers that are associated with the addition of large new loads while also providing additional economic development opportunities in Cheyenne. (Ex. 5, pp. 3-6). CLFP also asserted that the tariff is not discriminatory as it is available to all customers meeting the qualifications of the tariff. (Tr. Vol. I, pp. 49-50). To qualify under the proposed tariff a customer must expect new capacity requirements of 13 MW or more and must own appropriate on-site generation. The customer must also allow CLFP to dispatch that generation for the purpose of providing back-up service for the customer’s load, and to maintain reliability for the entire system. (Ex. 3, Sheet 20). CLFP noted that the tariff provides CLFP an opportunity to generate earnings while preserving its right to serve customers in its certificated service territory. Lastly, CLFP contended that the tariff as initially filed and modified in CLFP’s rebuttal testimony, is just, reasonable, and in the public interest. (Ex. 5, pp. 3-4; CLFP Brief, p. 13).

27. The OCA is an independent division of the Commission charged with representing the interests of Wyoming citizens and all classes of utility customers in matters involving public utilities. (Wyo. Stat. § 37-2-401).

28. The OCA explained the unusual difficulty in forecasting Microsoft’s load and the challenge of its potential size. The OCA concluded that the proposed tariff should be approved because for all classes of CLFP customers, the tariff eliminates the risk associated with constructing generation and related resources which may not be used for their entire useful lives. (Tr. Vol. II, pp. 421-422).

29. The OCA described the unique load requirements of Microsoft. First, Microsoft is planning to build its load on the CLFP system in a modular fashion, and cannot determine any date certain by which it may require a potential 200 MW of capacity. As such, to discharge its obligation to provide service within its certificated territory, CLFP would have to construct or purchase large capacity additions on an uncertain schedule, a sizable portion of which might be surplus for an extended period of time while Microsoft grows its system load. Second, Microsoft requires a very high degree of reliability, characterized as “five-nines” (99.999%). This level of reliability would require CLFP to construct and maintain sufficient generation capacity to back up Microsoft’s entire load. According to the OCA, this service would be expensive for all CLFP customers. The proposed LPCS tariff addresses these issues. The tariff would allow Microsoft, or any other large industrial customer meeting the requirements of the tariff, to grow its business at its own pace while mitigating the risk of stranded investments to existing customers. (Ex. 200, pp. 9-10).
30. Microsoft, a Washington corporation authorized to do business in Wyoming, owns and operates a data center in Cheyenne, Wyoming. Microsoft is a customer of CLFP taking service under CLFP’s Industrial Contract Service (ICS) Tariff. (Microsoft Corporation’s Petition to Intervene).

31. Microsoft argues that approval of the LPCS tariff is in the public interest because it would avoid imposing additional costs and risks on existing customers while allowing large energy consumers, who are experiencing significant growth in energy demand, to grow their businesses at their own pace. (Ex. 500, p. 2).

32. Microsoft argues that the LPCS tariff is not discriminatory as it will be available to all customers meeting the requirements of the tariff. (Ex. 501, p. 2).

33. Dyno, a Delaware corporation authorized to do business in Wyoming, owns and operates an ammonium nitrate manufacturing plant in Cheyenne. Dyno is a customer of CLFP taking service under its ICS Tariff. (Dyno Nobel, Inc.’s Petition to Intervene and Request for Hearing). Frontier, a Delaware limited liability company, authorized to do business in Wyoming, owns and operates a petroleum refinery in Cheyenne. Frontier is also a customer of CLFP taking service under its ICS Tariff. (Frontier Refining LLC’s Petition to Intervene and Request for Hearing).

34. Dyno and Frontier argue that the LCPS tariff is discriminatory since it is limited to new load and excludes customers with existing load. (Tr. Vol. II, pp. 251-252). They conclude the Application should be denied.

35. Dyno and Frontier further argue that the benefits associated with the proposed tariff should be shared with customers. In this case, at least some system assets, such as transmission, will be used by LPCS customers although associated costs are already being paid by customers in other rate classes, since those costs were included in the most recent general rate case. In contrast, the OCA argues that, between rate cases, there is inevitably some mismatch between the costs and revenues that actually occur, and concludes it would be best to adjust any specific rate elements in the next general rate case. (Tr. Vol. II, p. 252). The ICS Intervenors further point out that the Microsoft load was only forecasted to be 17 MW in CLFP’s last general rate case, while this case assumes 35 MW of load and eventually more. In their view, the cost-sharing benefit of 18 additional MW will not be shared with all customers. (Tr. Vol. II, pp. 252-253). The ICS Intervenors further argue the result will be a return on equity substantially higher than that authorized by the Commission in CLFP’s last general rate case. (Tr. Vol. II, p. 253). They predict that because the effect of additional earnings from the LPCS tariff will cause CLFP to delay filing another rate case to the detriment of current customers. (Tr. Vol. II, 253-254).

36. Dyno and Frontier argue that the tariff lacks sufficient detail for the Commission to determine if any LPCS contract is consistent with the tariff. The ICS Intervenors also argue the Commission will not have the necessary tools to ensure that CLFP is administering the tariff properly for the benefit of all retail customers. (Tr. Vol. II, pp 250-251).
37. Stated alternatively, the ICS Intervenors argue that if the Commission approves the tariff, CLFP should be directed to file a general rate case. They fear CLFP will over earn once Microsoft’s load increases to 35 MW. Also, they fear that two of the components of the LPCS rates will already be recovered because transmission costs and administrative and generation costs were built into the CLFP’s base rates in the last general rate case. (Tr. Vol. II, pp. 277-278).

Findings of Facts

Background

38. CLFP is a subsidiary of Black Hills Corporation that serves electric service to about 41,000 electric customers and 36,000 natural gas customers in the City of Cheyenne and a portion of Laramie County. CLFP’s current summer electric peak load is 212 MW. (Ex. 5, pp. 2-3).

39. Microsoft is an industrial customer, but one which presents unusual challenges for CLFP and its customers. Whenever a new industrial customer enters CLFP’s service territory, CLFP must assess whether it has the resources to serve that customer. Because the individual loads of residential and commercial customers are typically much smaller than those of industrial customers, similar questions only arise for those classes in circumstances of rapid population growth.

40. Until Microsoft became a CLFP customer, Dyno and Frontier were CLFP’s largest customers, and were themselves far larger than any other customers in CLFP’s service territory. (Tr. Vol. II, pp. 308, 313, 364-367; Ex. 301/304, p. 4; Microsoft Corporation’s Post-Hearing Brief, p. 1).

41. Microsoft’s load may grow to be far larger than the aggregate load of Dyno and Frontier. While precise details are confidential, the Microsoft load may eventually become almost an order of magnitude larger than Dyno and Frontier. (Tr. Vol. I, p. 204; and Tr. Vol. II, pp. 366-367). CLFP currently has capacity to serve only a modest portion of that potential new load. (Tr. Vol. I, p. 78). Further, the potential new load is large enough to nearly double the load of CLFP’s existing system. (Ex. 200, p. 9). Additionally, the Microsoft load differs from a standard industrial load in Wyoming, which tends to be heavy and constant, and which tends to serve a facility with a long useful life. The undisputed evidence in the record is that the Microsoft load may vary by 40% to 60% on a monthly basis. (Tr. Vol. I, p. 204). Worse, Microsoft cannot reliably predict the life of its facility, which serves an industry with a history of rapid changes. (Tr. Vol. I, pp. 228-229; CLFP Post-Hearing Brief, p. 6). The load may therefore fluctuate drastically, and can disappear entirely because the Microsoft facility may not have the long useful life we have instinctively associated with industrial-scale users. (Tr. Vol. I, pp. 108; 204; and Tr. Vol. II, pp. 366-367).

42. To meet its obligation to serve new loads, a Wyoming utility has historically constructed new generation assets. From the standpoint of CLFP, this represents a growth opportunity, since a utility is compensated for just such investments. Customers have often been less enthusiastic about new generation, since newly constructed facilities normally lead to substantial rate increases. (CLFP Post-Hearing Brief, pp. 5-6).
43. In this case, such new investment would be problematic in light of radical fluctuations in demand for the load and the uncertainty of the facility life. (CLFP Post-Hearing Brief, pp. 5-6). Even if CLFP could construct new assets swiftly enough to meet Microsoft’s growth, if Microsoft were to then leave the service territory prematurely, the burden of the investment would fall on the remaining ratepayers. (Tr. Vol. II, p. 446). While it was not specifically mentioned during the hearing, we can easily foresee that there would be substantial opposition to an application from CLFP for a Certificate of Public Convenience and Necessity to construct new generation to meet the Microsoft load. In that event, one obvious potential result would be a Commission directive to satisfy needs through market purchases, which have often proven risky when made on behalf of the customer base as a whole.

44. As a further complication, this is a particularly inopportune historical moment to pursue construction of new generation assets. The Environmental Protection Agency’s Clean Power Plan creates uncertainty for fossil fuel investment. (Tr. Vol. II, pp. 292-295). In addition, the potential for joining a federally-sanctioned regional transmission organization, which typically assumes a different market structure and compensation scheme than provided by Wyoming’s vertically integrated utility regulation, may alter the context for resource acquisition in a variety of ways, bringing a host of uncertainties.

45. And as yet another complication, Microsoft already owns on-site backup generation capacity to meet its “five-nines” reliability standard. (Tr. Vol. I, p. 159).

The Tariff

46. To protect customers from the risk of stranded investment caused by an evolving business environment or rapid changes in technology, CLFP has proposed a new tariff with the following characteristics:

a. Microsoft will continue to be treated as an ICS class customer for the first 35 MW of its required capacity (Tr. Vol. I, p. 66). This load roughly equals, when combined with the demand of all existing system customers at the time of the last general rate case, the amount necessary to consume CLFP’s entire current generation capacity. Even though this 35 MW capacity is roughly equivalent to half again the combined load requirements of Dyno and Frontier, it is less than a fifth of Microsoft’s anticipated load. By treating the first tier of the Microsoft load in this way, CLFP can optimize the spread of system costs for existing capacity over its entire customer base. However, the benefits of this optimization may not be realized until a subsequent rate case. (Tr. Vol. I, pp. 66-67 and 133-134). In the meantime, the likely result will be to avoid new rate cases with concomitant rate increases, a result that consumers specifically bargained for in CLFP’s most recent rate case.1 (Tr. Vol. I, p. 133).

b. CLFP will undertake customary measures to purchase electricity in large, economically efficient blocks to service its existing customers when necessary, and Microsoft requirements over the first 35 MW. Where purchases are being made to serve both existing

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1 See Stipulation and Agreement filed on March 4, 2016, in Docket No. 20003-142-ET-14.
customers and Microsoft, and there are different prices for the blocks of energy purchased, existing customers will be assigned the most favorable prices. (Tr. Vol. I, pp. 165-166). CLFP has established procedures for tracking the purchases in a manner that allows these assignments. (Tr. Vol. I, pp. 166-167).

c. For purchases to provide service over the 35 MW threshold, Microsoft will pay CLFP a fee that roughly approximates costs and expenses, including return on equity but not including power costs, that CLFP's other customers are charged as the result of the last general rate case. Microsoft will otherwise absorb all pricing volatility that results from CLFP's market purchases of power. (Ex. 8, CJK-1, p. 2).

d. CLFP would control dispatch of Microsoft's on-site backup generation when appropriate to optimize the results of purchases of electricity, as can occur when purchases do not precisely match aggregate system needs, or when purchases are unavailable in the market. (Ex. 3, Sheet 20).

e. The precise details of the arrangement between CLFP and Microsoft will be memorialized in a confidential contract that will be filed with the Commission. If the Commission is concerned about details of the contract, the parties acknowledge that the Commission has the authority to initiate an investigation. (Tr. Vol. I, pp. 63-64).

f. CLFP and Microsoft will agree to a specified period for unwinding the relationship, should that become necessary. (Ex. 8, CJK-1, p. 2).

g. If Microsoft were to depart the service territory on short notice, the outside purchases would stop, and (subject to adjustments for unwinding) existing customers would be exposed only to a larger share of the investment in CLFP's existing generation assets – essentially, the first tier of capacity for which Microsoft will continue to be treated as an ICS customer. (Tr. Vol. I, pp. 133-134 and 229).

47. The tariff's Monthly Rate section contains three components of the rates to be negotiated with any potential LPCS customer: the Microgrid Management fee, Transmission Costs and Administrative Costs. (Ex. 3, Sheet 20). CLFP indicated a willingness to further amend its proposed tariff to include the factors that will be weighed when negotiating those components. (Tr. Vol I, pp. 145-146). The starting point for negotiating these components were described illustratively in Exhibit 8, CJK-2 through CJK-4.

Principles of Law

48. Our basic and overriding standard in this case is the public interest and the desires of the utility are secondary to it. In PacifiCorp v. Public Service Commission of Wyoming, 2004 WY 164, 103 P.3d 862 (2004), the Wyoming Supreme Court, 2004 WY 164 at ¶13, quoted with favor Sinclair Oil Corp. v. Wyoming Public Service Comm’n, 2003 WY 22, at ¶9, 63 P.3d at 887 (Wyo. 2003):
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Speaking specifically of PSC, we have said that PSC is required to give paramount consideration to the public interest in exercising its statutory powers to regulate and supervise public utilities. The desires of the utility are secondary. [Citation omitted.]

49. Wyo. Stat. § 37-2-120 requires the Commission to afford due process in its cases, stating, in part:

No order, however, shall be made by the commission which requires the change of any rate or service, facility or service regulation except as otherwise specifically provided, unless or until all parties are afforded an opportunity for a hearing in accordance with the Wyoming Administrative Procedure Act.

50. Wyo. Stat. § 37-2-122(b) gives necessary latitude to the Commission regarding utility services, stating:

If, upon hearing and investigation, any service or service regulation of any public utility shall be found by the commission to be unjustly discriminatory or unduly preferential, or any service or facility shall be found to be inadequate or unsafe, or any service regulation shall be found to be unjust or unreasonable, or any service, facility or service regulation shall be found otherwise in any respect to be in violation of any provisions of this act, the commission may prescribe and order substituted therefor such service, facility or service regulation, as it shall determine to be adequate and safe, or just and reasonable, as the case may be and otherwise in compliance with the provisions of this act, including any provisions concerning the availability or reliability of service. It shall be the duty of the public utility to comply with and conform to such determination and order of the commission.

51. This application was filed under Wyo. Stat. § 37-2-121, which in relevant part reads as follows:

...Any public utility may apply to the commission for its consent to use innovative, incentive or nontraditional rate making methods. In conducting any investigation and holding any hearing in response thereto, the commission may consider and approve proposals which include any rate, service regulation, rate setting concept, economic development rate, service concept, nondiscriminatory revenue sharing or profit-sharing form of regulation and policy, including policies for the encouragement of the development of public utility infrastructure, services, facilities or plant within the state, which can be shown by substantial evidence to support and be consistent with the public interest.

52. The Wyoming Administrative Procedure Act at Wyo. Stat. § 16-3-107 sets parameters for due process in Commission cases, including the giving of reasonable notice. In accord are Wyo. Stat. §§ 37-2-201, 37-2-202, and 37-3-106. See also, Chapter 2 Section 5 of the Commission's Rules.

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Conclusions of Law

53. The facts found supra are hereby incorporated into these conclusions and will not be restated here.

54. CLFP is a public utility as defined in Wyo. Stat. § 37-1-101(a)(vi)(C) providing retail electric service under Certificates of Public Convenience and Necessity issued by the Commission. CLFP is subject to the Commission’s jurisdiction pursuant to Wyo. Stat. § 37-2-112.

55. The contested case hearing, including proper notice to all interested persons, was conducted pursuant to the Wyoming Administrative Procedure Act, Wyo. Stat. §§ 37-2-201 through 203, and applicable sections of the Commission’s rules.

56. Dyno and Frontier insist on seeing the LPCS tariff as a form of preferential treatment for Microsoft. What they apparently want is a chance to have their own exposure to power markets. Since their needs are too small to sustain their own purchases of economically efficient blocks, they implicitly envisage some form of riding on Microsoft’s coattails. (Microsoft Brief, pp. 16-17). We agree with the explanation in Microsoft’s brief, well grounded in the record, that participation of the Dyno/Frontier existing loads (used to set rates in the last general rate case) in the CLFP market purchases on behalf of the LPCS class would shift costs to existing customers — most likely Microsoft.

57. Dyno and Frontier also seem to envisage being able to direct CLFP to make specific market purchases they desire. We do not understand the relationship provided by the LPCS tariff to include direction from LPCS class members for the purpose of making customer-directed market purchases.

58. The OCA argues that Dyno and Frontier misunderstand the LPCS tariff. That may be a charitable characterization. However, we find and conclude a reasonable inference that the ICS Intervenors have been motivated by individual gain without regard for the public interest.

59. We find no evidence of preferential treatment, or of any of the other overlay characterizations such as economic development motivation, as the intervenors have urged. We discuss this issue and the other objections to the tariff in more detail infra at paragraph 64.

60. Further, we find there is no reason to direct a collaborative as Dyno and Frontier have requested. The Commission has ordered many collaborative efforts over the years, but to our recollection, always under circumstances in which the parties have shown, during the course of the proceeding, a genuine interest in finding common ground. In light of the refusal of the ICS Intervenors to accept the broad outlines of the problem and solution we have discussed, we see no reason to condemn CLFP to fruitless discussions, or to suggest in any way that CLFP is obliged to accommodate the market participation aspirations of Dyno and/or Frontier as they have been expressed during the course of these proceedings.
Perhaps as important, we see no reason to delay implementation of this important tariff, which will benefit all CLFP customers.

We note that approval of the tariff marks the beginning of a controlled experiment to be conducted under our continuing supervision. As always, we will be monitoring CLFP’s financial reports for any sign of overearning. We also remind CLFP that, at least during the implementation of the tariff, the Commission may direct more questions to CLFP than would be the case under more familiar circumstances. It is the Commission’s expectation that CLFP will be prepared to field any Commission inquiry without complaint or delay.

Having decided that the tariff is an apt solution to the challenges posed by accommodating Microsoft’s actual and potential loads, we will briefly discuss the objections to the tariff from Dyno and Frontier.

We find and conclude that the LPCS tariff is not discriminatory or preferential to any class of customers. The tariff is available to any customer that meets the eligibility requirements. It is also voluntary, not mandatory. We further note that CLFP’s system was designed to serve customers’ existing load and those customers pay a rate based on an allocation of the embedded costs to operate that system. The proposed tariff does not change those rate allocations and it does not relieve LPCS customers of their obligations to pay their share of the costs. Instead, this new tariff would permit new load onto CLFP’s system without requiring CLFP to invest in construction of costly new generation resources. The new load would be served by CLFP through market power purchases. Those purchased power costs incurred by CLFP to serve LPCS customers will be passed directly to the LPCS customers. Also, as noted above, where purchases are being made to serve both existing customers and LPCS customers, and there are different prices for the energy purchased, existing customers will be assigned the most favorable prices. (Tr. Vol. I, pp. 165-166).

The ICS Intervenors also allege that the tariff proposed in this matter is a form of vintage pricing. (Tr. Vol. II, p. 263). As the OCA notes in its cross answer testimony, vintage pricing results in assigning cost recovery of existing assets to existing customers while assigning the costs of new assets to new customers. (Ex. 201, p. 11). In this case, there are no new assets being developed to be specifically assigned to Microsoft or any other CLFP customer. The LPCS tariff does not change the existing cost structure and would serve new qualifying load through market purchases supported by the LPCS customers’ own on-site backup generation. We conclude this argument is unpersuasive.

The ICS Intervenors argue that the tariff is de facto retail wheeling. As the OCA pointed out in cross-answer testimony, “to be considered retail wheeling LPCS customers would have to have the opportunity to acquire wholesale power on their own and pay CLFP for the use of their wires to deliver that power.” (Ex. 201, p. 11). In this case, CLFP, and not any LPCS customer, would be acquiring the power and delivering it. Indeed, even the ICS Intervenors’ witness Wright admits that purchases under the tariff would not be retail wheeling. (Tr. Vol. II, pp. 373-374). We conclude this argument is also unpersuasive.
67. The ICS Intervenors argue that the tariff should be rejected because it does not include sufficient detail. The tariff does not specify the various components of the rate to be charged an LPCS customer. By design, the final details of the application are determined with reference to the specific circumstances of each eligible customer, and memorialized in a customer-specific contract. CLFP, and any potential LPCS customer, is required to file any contract for LPCS service with the Commission. The Commission can review the appropriateness of the terms and rate components within the contract. In this regard, we find that LPCS customers harbor valid concerns about the commercially competitive sensitivity of pricing and services details on an industrial scale. (Tr. Vol. I, pp. 233-235 and Tr. Vol. II, pp. 389-390). Lastly, because each LPCS customer could receive service based on individual circumstances, it is impractical to include specific rates in the tariff. However, we do believe that there should be more information regarding the rate components. During the course of the hearing, CLFP agreed that it could include in the tariff the factors CLFP looks at when it adjusts the costs related to each of the rate components in the tariff. (Tr. Vol. I, pp. 145-146). We conclude and direct that such further detail should be included in CLFP’s final tariff, but find that any present lack of detail is not a sufficient reason to reject the application.

68. Finally, the Commission agrees with the OCA and the Applicant that the complaints raised by Dyno about its own specific billing arrangements and metering are not related to the application in this case. (Tr. Vol. II, p. 425). Because adjustments to Dyno’s specific billing arrangements and metering may have implications for costs that might be born by other customers, they may best be addressed in a subsequent general rate case. However, we have no reason to determine such relief to be exclusive. (Tr. Vol. II, p. 425). It is enough to conclude this is not the appropriate docket.

69. We conclude the LPCS tariff fairly and usefully addresses the issues and challenges that some new large load additions are known to present, and should be adopted in the public interest. This solution makes common and strategic sense for everyone involved, which includes Dyno and Frontier. The Commission concludes that the tariff proposed in this application as modified herein is a reasonable solution to the risks and challenges regarding the large power load growth CLFP is facing and is in the public interest.

70. During the course of the hearing, CLFP agreed to provide additional, detailed information in its various Commission filings. Rather than detail each point of datum CLFP agreed to provide, we conclude it sufficient to direct CLFP to work with Commission Staff to determine the additional information to be included in such filings.

71. The Commission’s findings and conclusions set forth hereinabove are supported by a preponderance of the evidence. The Applicant has carried all burdens of proof and persuasion.

IT IS THEREFORE ORDERED

1. Pursuant to the Commission’s deliberations held on July 8, 2016, Cheyenne Light Fuel and Power Company’s application to establish a large power contract service tariff is approved as modified herein, effective immediately.
2. The Applicant shall comply with the directives and conditions described above.

3. The Parties shall promptly manage all confidential information in their possession in accordance with, and at the time specified, in paragraph 8(e) of the Protective Order issued February 1, 2016.

4. This Order is effective immediately.

MADE and ENTERED at Cheyenne, Wyoming, on July 28, 2016.

PUBLIC SERVICE COMMISSION OF WYOMING

ALAN B. MINIER, Chairman

WILLIAM F. RUSSELL, Deputy Chairman

KARA BRIGHTON, Commissioner

STEVE MINK, Assistant Secretary