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Division of Public Utilities

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MEMORANDUM

To: Public Service Commission

From: Division of Public Utilities
Jeffrey P. Millington, Director
Energy Section
Artie Powell, Manager
Abdinasir Abdulle, Technical Consultant
Jamie Dalton, Utility Analyst II

Date: January 24, 2008

Ref: Docket No. 00-035-T01. Annual Report of Blue Sky Program

RECOMMENDATION

The Division recommends that the Commission acknowledge PacifiCorp's Revised Annual Report of the Blue Sky Program as meeting with the Commission reporting requirement of the Blue Sky Program. In addition, the Division recommends that:

1. the Company include the current Renewable Energy Credit balance in addition to the annual balances, as indicated in the current report.
2. the Company modify future reports to indicate the Utah Beginning Available Fund Balance and the deductions leading to the Utah Available Fund Balance before Community Projects in a manner similar to the total Company balances contained at the top of the second spreadsheet in the Revised Annual report. This could be done in a column next to the total Company balances.
3. the Company provide further details about the community projects funded with "excess" dollars. This includes at a minimum the total number of grant applications received, the number rejected, the criteria and the evaluations underlying project

selections, the locations of awarded projects (more than just the state), a description of the project, and information on the facility at which each project is located.

4. the Company update the Commission and the Division on the status of the contract associated with the $900,000 balance for Renewable Energy Credits (RECs) as part of its required program reporting and, for future expenditures of excess funds, include an explanation of how it was determined that this was the best use of the funds.
5. the Annual Report filing date be moved to April.

DISCUSSION

The Order in Docket No. 00-035-T01 directed the Company to provide an annual report of the Blue Sky program. In compliance with this Order, on December 31, 2008, the Company filed with the Commission its Annual Report of the Blue Sky Program covering the period from September 2006 through August 2007. On November 19, 2007, the Commission issued an Action Request to the Division requesting a response by January 7, 2008 which was later extended to January 24, 2008. This action request required the Division to:

1. Review and evaluate PacifiCorp's Annual Report of Blue Sky Program per the requirements of Docket Nos. 00-035-T01 and 07-035-T13;
2. Provide comments to the Commission on PacifiCorp's reduction of available Blue Sky Program funds by $900,000 resulting from PacifiCorp's contractual obligation to purchase RECs payable over five years beginning 2008; and
3. Provide information to the Commission explaining what happens with the excess Block Product Purchases when only a portion of the purchase is used to meet a Blue Sky sales requirement.

The Division reviewed the Annual Report in light of the requirements of this Action Request and reports its findings below.

Report's Compliance with the Commission Orders

The Order in Docket No. 00-035-T01, dated April 17, 2000, directed the Company to provide an annual report of the Blue Sky program. Specifically, this order required the report to "account for all revenues received, blocks purchased, blocks generated or contracted for and other program costs." Further, in its Order in Docket No. 07-035-T14, dated September 6, 2007, the Commission stated:

> *We direct the Company to work with the Division, the Committee and other interested parties in the development of the annual report to address their concerns including the contents, timing, distribution, notification and other aspects of this report. The exception is the annual report must include the ratemaking treatment of the funds received, cost of purchases including RECs, and interest earned on the balance of funds.*

This Order also states:

> *We therefore direct the Company to work with the Division, and other parties as well, to address comments regarding the process of selecting and funding projects.*[1]

The Division reviewed the content and the format of the Annual Report. The report consisted of two spreadsheets, one specific to Utah and one for the total Company, and definitions. The spreadsheet specific to Utah lacked clarity in how the blocks purchased aligned with the blocks sold and did not contain information about the number of participants and community projects. The available funds at the Utah level did not account for the costs of Utah community projects funded during the period of time the report covers.

The spreadsheet that contained information at the total Company level lacked clarity in how you arrive at the ending account balance starting from the beginning available fund balance. In addition, it did not show the revenues from RECs sold and the costs of the RECs purchased. On

[1] See Public Service Commission Order, September 6, 2007, Docket No. 07-035-T14, "Order Approving Tariff Revisions with Certain Conditions," p.10-11.

January 7, 2008, Division staff met with Company representatives and recommended changes in the Company's program report format and content. The Company responded accordingly and provided the Division and the other interested parties with a modified Annual Report. This Modified Annual Report is attached to this memo. This Modified Annual Report provides more clarity about how Company Renewable Energy Credit (REC) purchases are made and how they align with monthly sales of Blue Sky energy blocks, both at Utah level and total Company level. It also makes the calculation of the ending balance understandable.

In a subsequent meeting held on January 15, the Division, Committee, and other interested parties met with the Company to discuss the Revised Annual Report and other outstanding issues. At this meeting, at least two additional modifications were recommended to help improve the annual report. First, we recommend that the Company include the current Renewable Energy Credit balance in addition to the annual balances, as indicated in the current report. As the Company explained at the meeting, it actually balances its current block purchase obligations against its purchases over a 21-month window extending 6 months prior to the current reporting period to 3 months after the current reporting period. The Company indicated that as the data becomes available for future reports it will include a current running balance of its renewable energy credits along with the annual figures included in the Revised Annual report.

Secondly, the Division recommends that the Company modify future reports to indicate the Utah Beginning Available Fund Balance and the deductions leading to the Utah Available Fund Balance before Community Projects in a manner similar to the total Company balances contained at the top of the second spreadsheet in the Revised Annual report. This could be done in a column next to the total Company balances.

Along these lines, Mr. Phil Powlick and Mr. Jason Berry of the Utah State Energy Program recommends:

> Further detail should also be provided about the community projects funded with "excess" dollars. This includes at a minimum the total number of grant applications received, the number rejected, the criteria and the

> evaluations underlying project selections, the locations of awarded projects (more than just the state), a description of the project, and information on the facility at which each project is located.[2]

The Division concurs with this recommendation.

In addition, the Company made a request that the that due dates for quarterly/annual reporting be revised to more accurately track data regarding total program MWh of REC attestation purchased or generated. Data in this area is typically not available until shortly after the required reports are currently due. The Company requests that the due date for the annual report be moved to the end of April. This request appears to be reasonable and the Division concurs.

$900,000 reduction of available Blue Sky Program funds

According to the Company, the $900,000 is committed to purchase RECs and retire (i.e., the RECs will not be used to meet current or future block purchase obligations) them over the next five years. This is a confidential contractual obligation for purchase of RECs, payable over five years beginning in 2008. Since the money is contractually committed, it is not available for use and, therefore, is properly excluded from the available funds. The current Blue Sky tariff design assumes a $5 REC price. As the actual price of RECs fluctuates in the market, more or less funds are generated than is required to meet the Company's current block purchase obligations. When excess funds are available, those funds can be used to fund community projects or, as in this case, to purchase additional RECs. The Division thinks that this is one of the ways the excess program money can be used. However, the Division recommends that the Company update the Commission and the Division on the status of this contract as part of its required program reporting and, for future expenditures of excess funds, include an explanation of how it was determined that this was the best use of the funds.

[2] Mr. Powlick's comments contained several recommendations and comments beyond the scope of the Commission's Action Request. Therefore, the complete comments are attached to this memo.

Excess Block Product Purchases

Utah Customer Participation – Block Purchases and Sales table of the “Utah Only” spreadsheet shows that that the Company purchases large amounts of RECs at a single point in time, holds them as “inventory,” then sells them on a monthly basis. When the RECs in the inventory are exhausted, the Company goes ahead and buys more. For example, the Company purchased 12,526 RECs in September 2006 of which the Company sold 5,647 RECs, 5,974 RECs, and 6,167 RECS, in September, October, and November, 2006, respectively. This drove the RECs inventory to negative. Then the Company purchased additional 13,000 RECS each in December 2006 and January 2007. Therefore, since the Company purchases RECs in larger quantities than it sells in any given month, it would seem that the Company is purchasing more than it sells. That is not the case. Everything the Company purchases will eventually be sold. The Division believes that the Company’s practice of buying RECs in large quantities and selling them over the coming months helps reduce the program’s administrative cost.

Other Concerns

According to the Company, some of the excess program funds are allocated for the development of potential Community Programs. However, many parties still have concerns about how these Community Program funds are selected or administered. The Company did not involve the Division or any other interested party in the process of selection and funding of these projects. To remedy these concerns, the Company should take measures to implement the actions outlined in the Sept. 6, 2007 order under Docket No. 07-035-T13. The Division believes that informal quarterly program follow-up with the Company may be needed to ensure that the program is working effectively, and that concerns are being resolved. Staff from the regulatory agencies, the Governor’s Energy Advisor, the State Energy Program, and the Division of Air Quality should be involved with any such follow-up meetings.

Conclusion

With the Revised Annual report and the other changes recommended herein, The Division believes that the Company will have addressed the specific questions raised in this Action Request.

CC: Rea Petersen, DPU

Dave Taylor, RMP

Michele Beck, CCS

Attachments