- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application of Rocky Mountain Power for Approval of a Power Purchase Agreement between PacifiCorp and Kennecott Utah Copper Corporation	)	DOCKET NO. 08-035-83 REPORT AND ORDER

ISSUED: December 15, 2008

By The Commission:

On October 14, 2008, PacificCorp (Company) submitted its Application for Approval of a Power Purchase Agreement (PPA) between PacifiCorp and Kennecott Utah Copper Corporation (Kennecott). Through the PPA, the Company will purchase non-firm energy generated by Kennecott from a heat-fired cogeneration facility with a nameplate capacity rating of 31.8 megawatts. The Kennecott plant is located in Magna, Utah and operated as a qualifying facility (QF) as defined in 18 C.F.R. Part 292. The Company and Kennecott had a previous contract which expires on December 31, 2008. This new PPA is for the term of January 1, 2009 through December 31, 2009. Additionally, the PPA contemplates that Kennecott will sell to the Company all its electric generation. The Company has represented, and the Division of Public Utilities (DPU) and the Committee of Consumer Services (Committee) have concurred, that the PPA complies with the Commission's QF pricing methodology ordered in Docket No. 03-035-14.

On November 20, 2008, the DPU filed its memorandum describing its analysis of the PPA. It noted that the PPA mostly contained general and boilerplate language, similar to prior contracts. The main difference was the price to be paid for delivered energy.

One of the concerns the DPU raised with the Company's GRID run, was that it did not include the Chehalis plant as a resource to determine pricing. The Company stated that since the Chehalis purchase did not meet its criteria for inclusion in the GRID run, it was excluded in calculations. The DPU stated that it believed the Chehalis plant should have been included in the GRID run because the Company had entered into an PPA to purchase the plant and was receiving output from the plant. Nonetheless, based on revised GRID runs for Kennecott, the effect of including Chehalis as an available resource increases avoided cost by only four cents, an amount which the DPU considered to be immaterial. The DPU recommended that the Company re-examine its policy of available resources in avoided cost analyses to avoid another circumstance where a similar resource like the Chehalis plant is excluded from future calculations.

Additionally, the DPU commented on the avoided transmission line loss adjustments for non-firm QF contracts. The DPU noted that in Docket No. 03-035-14, the Commission did not adopt any of the parties' proposed solutions for resolving issues surrounding avoided transmission line loss adjustments for non-firm QF contracts. The DPU feels that the Commission left the issue open for resolution on a case-by-case basis. Assuming avoided line loss adjustments are permitted in non-firm QF contracts, the DPU concluded that the Company's method for calculating line losses in this PPA had a reasonable and practical basis. The PPA provides for an avoided line loss adjustment which is made by increasing the avoided costs by 2.94 percent. The DPU further noted that since there are no clear guidelines governing non-wind QFs with a non-firm PPA or the calculation of avoided transmission losses in QF contracts, the Company and other parties may use various methods and assumptions as they negotiate contracts. The DPU stated that since each case will vary, the methods and assumptions used in this case should have no precedential value. The DPU recommended the Commission approve the PPA between Kennecott and the Company.

The Committee also filed its recommendation on the Kennecott PPA. The Committee also noted that the GRID indicative avoided cost study establishing the avoided cost energy price did not include the Chehalis plant. The Committee noted that the price did include a 2.94% avoided line loss adjustment increase which was determined using the method described in the Kennecott PPA. The Committee also sought additional discovery from the Company to determine whether excluding the Chehalis plant in the GRID studies materially impacted the proposed avoided cost energy rates for the Kennecott PPA. The Company's requests show that impact was negligible. Therefore, the Committee agreed that the exclusion of the Chehalis plant did not materially impact avoided cost energy rates, meeting PURPA rate neutrality standards. The Committee, however, did recommend the Company use greater care in the future when updating its indicative pricing with the best information available regarding resources likes the Chehalis plant.

The Committee noted the Company's PPA contains an updated method for determining avoided line loss payments, with an adjustment made to recognize the non-firm nature of the power provided under the PPA. The Committee did express some concern with the updated avoided line loss method and its applicability to other potential non-firm QFs. The Committee made the following recommendations in approving the PPA: 1) the Commission should require the Company, as part of responding to any future requests for indicative price studies, to identify and include significant changes that have occurred since the most recent avoided cost quarterly compliance filing was submitted that are expected to materially impact avoided cost results; 2) In the future if Tesoro or Kennecott enters into a non-firm PPA with the Company that exceeds one year, or if their respective operating performance does not meet expected levels, the appropriateness of an avoided line loss payment should be re-examined; 3) The Commission should clearly specify that approval of the Tesoro and Kennecott PPAs sets no precedent for the inclusion of avoided line loss payments for future non-firm QF contracts. The Company did not object to these recommendations.

On Wednesday, December 3, 2008, at a duly noticed hearing, the Commission held a hearing on the PPA before the Administrative Law Judge. Daniel Solander, counsel for Rocky Mountain Power, appeared on behalf of the Company. Paul Clements testified on behalf of the Company. Robert Reeder, of Parsons, Behle, and Latimer appeared on behalf of Kennecott. Steve Sans testified on behalf of Kennecott. Michael Ginsberg, Assistant Attorney General, appeared on behalf of the DPU. Charles Peterson testified for the DPU. Paul Proctor, Assistant Attorney General, appeared for the Committee. Dan Gimble testified for the Committee.

Based on the Commission’s review of the PPA, the recommendations of the parties filed with the Commission, and based on the testimony and representations made at the hearing, the Commission concludes that the Kennecott PPA is a reasonable commercial agreement relative to the terms and conditions by which Kennecott may provide services to the Company. Therefore, the Commission orders as follows:

ORDER

1. The PPA is approved relative to its use between the Company and Kennecott;
2. Approval of the Kennecott PPA sets no precedent for the inclusion of avoided line loss payments for future non-firm QF contracts, nor does it set precedential value as to how potential avoided line losses should be calculated;
3. The Company, when responding to any future requests for indicative price studies, shall identify and include significant changes that have occurred since the most recent avoided cost quarterly compliance filing was submitted that are expected to materially impact avoided cost results;
4. In the future if Kennecott enters into a non-firm PPA with the Company that exceeds one year, or if their respective operating performance does not meet expected levels, the appropriateness of an avoided line loss payment should be re-examined.

Wherefore, this Order is entered approving the PPA between Kennecott and the Company with the limitations and qualifications stated immediately above.

DATED at Salt Lake City, Utah, this 15th day of December, 2008.

/s/ Ruben H. Arredondo
Administrative Law Judge

Approved and Confirmed this 15th day of December, 2008, as the Report and Order of the Public Service Commission of Utah.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary
G#60083