- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application of Rocky Mountain Power for Approval of the Power Purchase Agreement between PacifiCorp and Kennecott Utah Copper LLC (Smelter)	))))))	DOCKET NO. 11-035-179 ORDER APPROVING POWER PURCHASE AGREEMENT

ISSUED: November 30, 2011

SYNOPSIS

The Commission approves a one-year power purchase agreement between PacifiCorp dba Rocky Mountain Power and Kennecott Utah Copper LLC **(Smelter)**.

By The Commission:

This matter is before the Commission on the application of PacifiCorp ("Application"), doing business in Utah as Rocky Mountain Power ("Utility"), for approval of a power purchase agreement ("Agreement") between the Utility and Kennecott Utah Copper, LLC ("Kennecott"). The Utility submitted its Application together with a copy of the Agreement on September 28, 2011. The effective date of the Agreement is January 1, 2012. It runs through December 31, 2012. It replaces a similar contract that expires on December 31, 2011.

The Commission, through a designated presiding officer, held a duly-noticed hearing on November 14, 2011. The parties represented included the Utility, Kennecott, the Division of Public Utilities ("Division"), and the Office of Consumer Services ("OCS"). The Division filed a memorandum expressing its favorable recommendation on October 20, 2011. The OCS did not submit a written recommendation.

Kennecott owns, operates, and maintains a waste-heat-fired steam cogeneration facility for the generation of electric power located at its Magna, Utah smelter. The facility is operated as a qualifying facility (“QF”), as defined in 18 C.F.R Part 292, with a nameplate capacity rating of 31.8 megawatts (“MW”). The facility is referred to informally as the Kennecott-Smelter QF. All interconnection requirements have been met, and the Kennecott-Smelter QF is fully integrated with the Utility’s system.

Under the Agreement, Kennecott has the option, but not the obligation, to deliver to the Utility the net electric power output generated by the Kennecott-Smelter QF. Kennecott is not permitted to sell any portion of the net output to parties other than the Utility; however, Kennecott is allowed to offset its own retail load before selling any excess power. Kennecott estimates the average net monthly output of the facility will be about 14,000 megawatt-hours (MWh) to the Utility.

The Division’s analysis shows that the Kennecott-Smelter QF delivered energy fairly consistently in 2009 and 2010, when similar agreements were in place. No energy, however, was delivered during the first six months of 2011. Energy was delivered in the third quarter of 2011, but the amount was lower than the two previous years. According to the Division, the primary reason for the reduced deliveries is the relationship between the QF contract price and corresponding retail rates. In the current energy market, it is to Kennecott’s advantage to offset its retail load in the non-peak months before selling energy to the Utility. Similar market conditions are expected to continue through 2012.

As with the existing contract, pricing under the Agreement varies by month. Pricing also varies by the hour, a new contract feature. The Agreement designates high load hours as Monday through Saturday from 7:00 a.m. to 11:00 p.m. Additionally, higher monthly prices during July through September provide an incentive for Kennecott to generate power during the months of high demand on the Utility's system. The non-price terms and conditions within the Agreement appear to be generic and reasonable, in the Division's view.

The Agreement constitutes a "New QF Contract" under the PacifiCorp Inter-Jurisdictional Cost Allocation Protocol and, as such, Agreement costs are allocated as a system resource, unless any portion of those costs exceeds the costs the Utility would have otherwise incurred acquiring comparable resources. In that event, the Revised Protocol assigns those excess costs on a situs basis to the State of Utah. The Utility represents that its costs under the Agreement do not exceed the costs it would have incurred acquiring other market resources. The Division accepts this representation based upon its prior analysis of the Utility's avoided cost reports.

Under the terms of the Commission's order in Docket No. 03-035-14, non-firm QF resources are not entitled to a capacity payment. Accordingly, the Agreement only provides for energy prices. The total price is calculated as the contract price per MWh plus 4.54% as an adjustment for avoided line losses. The Division notes this adjustment factor is higher than the 3.66% in previous years and is based on a rate of 5.0% for real power losses, as set forth in Schedule 10 of the Utility's proposed Open Access Transmission Tariff (OATT) filed with FERC on May 26, 2011. The proposed OATT tariff rate has been used in this contract since the proposed rates are scheduled to become effective as of September 2011. In the event FERC approves a different line loss rate with an effective date during the term of this Agreement, the Utility will recalculate the adjustment factor from the FERC effective date.

The Division has reviewed the Application and Agreement, and recommends their approval. The OCS does not oppose approval. The specifics of the Agreement are detailed in the Application, which includes the Agreement, and are summarized in the Division's November 15, 2010, memorandum.

ORDER

Based on the unopposed Application submitted by the Utility, and the recommendation of the Division, the Commission finds the terms and conditions of the Agreement to be just and reasonable, and in the public interest. Accordingly, the Application and the Agreement are hereby approved. The Utility shall provide to the Division, at least quarterly, data reflecting the hourly power purchased under the Agreement so that the Division may monitor contract performance.

DATED at Salt Lake City, Utah this 30th day of November, 2011.

/s/ David R. Clark
Presiding Officer

Approved and confirmed this 30th day of November, 2011, as the Order Approving Power Purchase Agreement 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
D#211875

Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this order by filing a request for review or rehearing with the Commission within 30 days after the issuance of the order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply with the requirements of Utah Code Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 30th day of November, 2011, a true and correct copy of the foregoing Order Approving Power Purchase Agreement was served upon the following as indicated below:

By U.S. Mail:

Data Request Response Center
PacifiCorp
825 NE Multnomah Street, Suite 2000
Portland, OR 97232

Dave Taylor
Rocky Mountain Power
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By Hand-Delivery:

Division of Public Utilities
160 East 300 South, 4th Floor
Salt Lake City, Utah 84111

Office of Consumer Services
160 East 300 South, 2nd Floor
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Administrative Assistant