

- 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 Tesoro Refining and Marketing Company)
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DOCKET NO. 12-035-103
ORDER APPROVING POWER PURCHASE AGREEMENT

ISSUED: December 4, 2012

SYNOPSIS

The Commission approves this one-year power purchase agreement between PacifiCorp dba Rocky Mountain Power and Tesoro Refining and Marketing Company. The agreement will be in effect for 12 months, from January 1, 2013 and December 31, 2013.

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 Tesoro Refining and Marketing Company (“Tesoro”).

PROCEDURAL HISTORY

The Utility submitted its Application together with a copy of the Agreement on October 26, 2012. The Division of Public Utilities (“Division”) filed a memorandum recommending approval of the Application on November 26, 2012. No other party presented evidence. The Commission, through a designated presiding officer, held a duly-noticed hearing on November 29, 2012. Following the hearing, in light of the uncontested evidence presented in support of approval, the Commission authorized the presiding officer to issue an oral ruling approving the application. This written order memorializes that ruling.

DISCUSSION, FINDINGS, AND CONCLUSIONS

Tesoro owns, operates, and maintains in Salt Lake City, Utah, a natural-gas-fired cogeneration facility. The facility is operated as a qualifying facility (“QF”), as defined in 18 C.F.R. Part 292, with a nameplate capacity rating of 25.0 megawatts (“MW”). All interconnection requirements have been met, and the Tesoro facility is fully integrated with the Utility’s system.

The Agreement will run for 12 months, from January 1, 2013 through December 31, 2013. It replaces an existing contract that will expire December 31, 2012. Under the Agreement, the Utility will pay Tesoro based on the pricing methodology approved by the Commission in Docket No. 03-035-14. The pricing calculation identified in Section 5 of the Agreement includes rates for both on- and off-peak periods. The rates also vary by month. On-peak pricing ranges from \$30.46 per megawatt-hour (MWh) to \$40.53. For off-peak hours the pricing is fixed at \$25.43 per MWh. The average price will approximate \$28.00 per MWh, which is about \$9.00 below the recent approximate average price. Included in the monthly rate calculation is a line loss factor of 1.0413. This factor is consistent with the Utility’s Open Access Transmission Tariff.

Under the Agreement, Tesoro will use the output of its cogeneration facility first to satisfy its own retail load. All generation in excess of its needs will be sold to the Utility. This arrangement is identical to the current contract and similar to the contracts in place in 2011, 2010 and 2007. The 2006, 2008 and 2009 contracts called for Tesoro to sell all of its generation to the Utility and then purchase from the Utility its energy requirements at the approved tariff rate.

The primary driver determining whether Tesoro sells all of its generation and buys at tariff rates or sells on a net basis is the QF price in relation to the Schedule 9 price. According to the Division's analysis, if the QF price is greater than the tariff rate, it is in Tesoro's best interest to sell all of its generator output under the QF contract and satisfy its power requirements through retail purchases. If the QF price is lower than the tariff rate, it is in Tesoro's best interest to meet its own requirements with self-generated power and sell any excess to the Utility.

The Division's analysis shows that in the years when Tesoro's contracts measured total output of Tesoro's plant (2006, 2008, and 2009), the output was fairly steady at about 23,000 kW, with a secondary level at about 15,000 kW. In years 2007 and 2010, when the measured power was net output, the Division also notes two output bands. The higher was about 8,000 kW and the lower was close to zero. In 2011, the upper band dropped to about 4,000 kW, possibly reflecting continued low QF pricing. For the first two quarters of 2012, Tesoro's net output ranged between 4,000 and 6,000 kW. In the third quarter, the net output fell markedly averaging less than 1,200 kW.

The Agreement provides Tesoro the option, but not the obligation, to provide and deliver all or a portion of its net output to the Utility at the point of delivery. There is no minimum delivery obligation; however, Tesoro cannot sell net output to any entity other than the Utility prior to the termination of this Agreement. In general, net output is defined as all energy produced by the facility less station use, and transformation and transmission losses. Tesoro estimates that the average annual delivered energy from the facility to the Utility will be approximately 49,000 MWh, subject to any limitations created by maintenance schedules.

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.

The Division evaluated each of the foregoing aspects of the Agreement. Based on its analysis, the Division concludes the Agreement is reasonable and recommends approval of the Application and Agreement.

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.

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DATED at Salt Lake City, Utah this 4th day of December, 2012.

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Gary L. Widerburg
Commission Secretary

D#239646

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 4th day of December, 2012, a true and correct copy of the foregoing Order Approving Power Purchase Agreement was served upon the following as indicated below:

By Electronic Mail:

David L. Taylor (dave.taylor@pacificorp.com)
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By Hand-Delivery:

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Administrative Assistant