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State of Utah
Department of Commerce
Division of Public Utilities

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ACTION REQUEST RESPONSE

TO: Public Service Commission

FROM: Division of Public Utilities:
Chris Parker, Director
Artie Powell, Energy Manager
Charles Peterson, Technical Consultant
Doug Wheelwright, Utility Analyst

DATE: October 29, 2012

RE: Purchase Power Agreement between PacifiCorp, dba Rocky Mountain Power, and Kennecott Utah Copper LLC, (Refinery) Docket No. 12-035-96.

RECOMMENDATION (Approve subject to corrections to Exhibit E)

The Division recommends that the Commission approve the Non-Firm Purchase Power Agreement between PacifiCorp and Kennecott subject to the correction of Exhibit E. In addition, the Division recommends that the Company continue to provide, at least quarterly, the hourly power purchased so that the Division can continue to monitor this contract.

ISSUE

Since there are multiple PPA contracts with Kennecott, this contract is informally referred to as the Kennecott-Refinery QF. On September 28, 2011, PacifiCorp (the Company) filed an Application for Approval of a Power Purchase Agreement (PPA) with Kennecott Utah Copper LLC (Kennecott). The effective date of the agreement is January 1, 2013 and replaces a current contract that is scheduled to expire on December 31, 2012. The Public Service Commission (Commission) issued an action request to the Division of Public Utilities (Division) requesting a response by October 29, 2012. This Action Request Response (Response) is intended to serve as

the response to the aforementioned action request. A second Kennecott PPA agreement has been submitted under Docket No. 12-035-95 and is informally referred to as the Kennecott-Smelter QF. Information and analysis for that contract will be submitted under a separate memo.

ANALYSIS

General

Included with the application is a copy of the Non-Firm Purchase Power Agreement between PacifiCorp and Kennecott dated September 7, 2012. Kennecott owns, operates and maintains a waste heat-fired steam cogeneration facility for the generation of electric power located at the Magna, Utah refinery.[1] The nameplate capacity rating of the plant is 7.54 megawatts (MW) with an expected average monthly output of approximately 5.4 MW. The Kennecott facility is operated as a qualifying facility (QF) as defined by 18 C.F.R Part 292[2] and Kennecott has previously provided its FERC self-certification to PacifiCorp. All interconnection requirements have been met and the Kennecott facility is fully integrated with the PacifiCorp system.

Under the terms of the QF contract Kennecott has the option, but not the obligation, to deliver the net output to PacifiCorp at the point of delivery. Kennecott is not permitted to sell any portion of the net output to parties other than PacifiCorp; however, it is allowed to offset its own retail load before selling any excess power. Kennecott estimates that the average net monthly output of the facility will be approximately 3,900 megawatt-hours (MWh), pursuant to the scheduled maintenance.[3]

The Division understands that like the existing contract, there is an expectation that Kennecott will not sell power to Kennecott under this proposed contract. However, Kennecott did regularly sell power to PacifiCorp under the current contract in the first quarter of 2012, but did not sell power in the second quarter. To date the Division has not received information on power sales, if any, in the third quarter of 2012. For this and other QF facilities, it is to their advantage to offset

[1] PPA, page 1.
[2] Ibid., page 5, section 3.2.6
[3] Ibid., page 1

their own load requirements before selling to PacifiCorp. It is anticipated that this condition will continue through 2013 with limited energy deliveries from QF facilities. The reason for the reduction in delivered energy is the relationship between the QF contract price and the current retail rate. Wholesale rates have come down primarily due to reduced demand and lower natural gas prices. With the current market conditions, it is less expensive for Kennecott to use all of its QF power internally rather than to purchase the power from PacifiCorp at a higher price.

Exhibit E Issue

The proposed contract is structured with variable pricing which changes by month and by the hour. Time-of-day pricing is new to the Kennecott contract this year. High Load Hours (HLH) designated as Monday through Saturday, 7:00 am to 11:00 pm. Low Load Hours (LLH) are designated as all hours not identified as HLH. Summer and winter season pricing is set at average pricing for those seasons.

The Company has brought to the Division's attention that Exhibit E which sets forth the pricing terms described above is internally inconsistent and incorrect. The Company represents that the intent of the parties was to reflect Electric Service Schedule 9 terms and pricing patterns. However, the designation of HLH, LLH, and holidays follows Western Electric Coordinating Council (WECC) definitions and not Schedule 9 definitions; furthermore, the pricing table in Exhibit E was calculated according to Schedule 9, but incorrectly reversed certain seasonal distinctions in tabulating the monthly amounts. If this table were correctly calculated according to Schedule 9 criteria, the dollar amounts would be higher in each period, but this would be offset by fewer HLH under Schedule 9 compared to the WECC definitions.

Given the interplay between Schedule 9 and the contract (i.e. WECC) HLH and LLH definitions, Kennecott will have some opportunity to arbitrage between the two. For example, on Schedule 9, Saturdays are LLH, but according to WECC, there are HLH available. Thus Kennecott could buy from PacifiCorp on Saturdays under Schedule 9 during the HLH of the WECC definition and then turn around and sell to PacifiCorp during those hours under the higher QF contract

prices. The Division does not believe that the creation of such arbitrage opportunities is within the spirit of the concept of PacifiCorp purchasing power at its avoided cost (since the avoided cost becomes the price to buy power from Kennecott), and consequently in the public interest.

The Company wants to correct Exhibit E; however, Kennecott has not agreed to the correction as of the date of this memorandum. The Division believes that Exhibit E should be corrected to be, at a minimum, internally consistent (i.e. either all-WECC, or all-Schedule 9) and that any errors in the calculation of the monthly prices be corrected. The Division further believes that the "all-Schedule 9" methodology is preferable since that would make the contract more consistent with the public interest and with trends in other QF and special contracts to be based upon Schedule 9. Therefore the Division recommends that the Commission order the parties to correct Exhibit E to be, at a minimum, internally consistent, and further to reflect Schedule 9 definitions.

The Company has provided a detailed explanation and a proposed replacement Exhibit E, which has been prepared under the "all-Schedule 9" methodology. These documents are included as attachments to this memorandum.

Avoided Line Losses

Under the terms of the Commission order in Docket No. 03-035-14, non-firm QF resources are not entitled to a capacity payment, therefore, this Agreement contains energy-only prices. The total purchase price is calculated as the contract price per MWh plus 4.17% as an adjustment for avoided line losses. This adjustment factor is based on a rate of 5.0% for real power losses as set forth in Schedule 10 of PacifiCorp'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. In the event FERC approves a different line loss rate with an effective date during the term of this Agreement, PacifiCorp will recalculate the adjustment factor from the FERC effective date.[4]

Concluding Comments

[4] PPA, Section 5, p. 6.

The proposed Agreement will remain in place for a term of 12 months beginning January 1, 2013 and ending December 31, 2013. The general terms and conditions of the Agreement appear to be generic in nature and are similar to the previous contract. The primary difference appears to be the time of day pricing and the adjustment factor for avoided line losses. The non-price related conditions within the Agreement appear to be reasonable and consistent with previous contracts.

This Agreement constitutes a "New QF Contract" under the PacifiCorp Inter-Jurisdictional Cost Allocation Protocol and, as such, the costs of those QF provisions are allocated as a system resource unless any portion of those costs exceed the cost PacifiCorp 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. PacifiCorp represents that the cost of this Agreement does not exceed the cost that would have been incurred from acquiring other market resources. The Division accepts this representation based upon its prior analysis of the Company's avoided cost reports.

CONCLUSION

The Division concludes that the terms of the Kennecott (Refinery) Power Purchase Agreement comply with the Commission's guidelines and order in Docket No. 03-035-14. With the exception of the problems with Exhibit E of the Agreement, the other contractual arrangements and facts in this matter, in particular the method for calculating the avoided energy costs, have been previously found to be just and reasonable and in the public interest. The Division recommends that the Commission approve the Power Purchase Agreement between Kennecott and PacifiCorp conditioned on the corrections to Exhibit E being made as discussed above.

Attachments

cc: Michele Beck, Committee of Consumer Services
Cheryl Murray, Committee of Consumer Services
Dave Taylor, PacifiCorp
Paul Clements, PacifiCorp
Daniel Solander, PacifiCorp
F. Robert Reeder, Parsons Behle and Latimer, attorney for Kennecott