

- 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 Long Ridge Wind I, LLC) DOCKET NO. 13-035-117
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In the Matter of the Application of Rocky Mountain Power for Approval of the Power Purchase Agreement between PacifiCorp and Long Ridge Wind II, LLC) DOCKET NO. 13-035-118
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) ORDER CONFIRMING BENCH RULINGS
) APPROVING QUALIFYING FACILITY
) CONTRACTS
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)

ISSUED: October 3, 2013

SYNOPSIS

The Commission approves the Power Purchase Agreement between PacifiCorp and Long Ridge Wind I, LLC and the Power Purchase Agreement between PacifiCorp and Long Ridge Wind II, LLC.

By The Commission:

PROCEDURAL HISTORY

On July 9, 2013, PacifiCorp, doing business in Utah as Rocky Mountain Power (“PacifiCorp”), filed with the Commission applications for approval of: (1) a power purchase agreement (“PPA”) between PacifiCorp and Long Ridge Wind I, LLC (“Long Ridge Wind I”); and (2) a PPA between PacifiCorp and Long Ridge Wind II, LLC (“Long Ridge Wind II” or “II”), both dated July 3, 2013 (“Applications”).

The PPAs provide for the sale of energy to PacifiCorp to be generated from the Long Ridge Wind I and Long Ridge Wind II projects (“Projects”) located in Millard County,

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Utah for a period of 20 years. On July 25, 2013, the Commission issued a Scheduling Order setting August 22, 2013, as the due date for comments and September 5, 2013, as the due date for reply comments on the Applications. The Commission also set September 10, 2013, as the hearing date to consider approval of the Applications.

On August 22, 2013, Long Ridge Wind I and the Utah Division of Public Utilities (“Division”), and Long Ridge Wind II and the Division filed settlement stipulations in Docket Nos. 13-035-117 and 13-035-118, respectively, in support of Commission orders approving the Long Ridge Wind I and II PPAs. These Settlement Stipulations are hereafter collectively referred to as the “Stipulations”. Also on August 22, 2013, the Office of Consumer Services (“Office”) and Utah Clean Energy (“UCE”) filed comments.

On September 5, 2013, PacifiCorp, Long Ridge Wind I, Long Ridge Wind II, and UCE, filed reply comments on the Applications. On September 9, 2013, UCE filed errata reply comments.

On September 10, 2013, the Commission’s designated Presiding Officer held a duly-noticed hearing to consider the Applications. At the hearing, PacifiCorp, the Division, Long Ridge Wind I, Long Ridge Wind II, and UCE provided testimony supporting Commission approval of the two PPAs. No party provided testimony in opposition to approval of the Applications, the PPAs or the Stipulations. The Presiding Officer issued bench orders approving both PPAs effective September 10, 2013. This order memorializes that bench ruling.

DISCUSSION, FINDINGS AND CONCLUSIONS

I. Parties' Positions

A. Applicant

In the Applications, PacifiCorp represents it is a “purchasing utility” pursuant to Utah Code Ann. (“UCA”) § 54-12-2, and as such is obligated to purchase power from qualifying facilities (“QFs”) under the Public Utility Regulatory Policies Act of 1978, UCA § 54-12-1, *et seq.*, and Commission orders. PacifiCorp states Long Ridge Wind I and Long Ridge Wind II represent in the PPAs that they are QFs.

In comments, PacifiCorp notes the Commission established the method for calculating avoided cost rates for large wind QFs in its Report and Order in Docket No. 03-035-14, dated October 31, 2005 (“2005 Order”).¹ This method was also confirmed by the Commission in its December 20, 2012, Order on Motion to Stay Agency Action in Docket No. 12-035-100 (“2012 Order”).² PacifiCorp testifies the prices, terms and conditions set forth in the PPAs are consistent with the 2005 and 2012 Orders. PacifiCorp testifies both PPAs were executed on July 3, 2013, which was prior to the Commission’s August 16, 2013, Order on Phase II Issues in Docket No. 12-035-100 (“2013 Order”).³ Thus, PacifiCorp testifies the rates, terms and conditions in these PPAs are consistent with the method approved at the time the PPAs were executed.

¹ See *In the Matter of the Application of PacifiCorp for Approval of an IRP-based Avoided Cost Methodology for QF Projects Larger than One Megawatt*, Docket No. 03-035-14 (Report and Order, October 31, 2005).

² See *In the Matter of the Application of Rocky Mountain Power for Approval of Changes to Renewable Avoided Cost Methodology for Qualifying Facilities Projects Larger than Three Megawatts*, Docket No. 12-035-100 (Order on Motion to Stay Agency Action, December 20, 2012).

³ *Ibid.*, Order on Phase II Issues, August 16, 2013.

PacifiCorp notes Rocky Mountain Power Electric Service Schedule No. 38, “Qualifying Facilities Procedures” (“Schedule 38”) is the tariff that governs the procedures PacifiCorp must use when processing requests for indicative pricing and negotiating and executing QF PPAs. PacifiCorp testifies it processed and negotiated both PPAs in conformance with Schedule 38. PacifiCorp represents all interconnection requirements will be met and the Projects will be fully integrated with the PacifiCorp system.

According to the terms of each PPA, PacifiCorp represents that for inter-jurisdictional cost allocation purposes, the costs of each PPA do not exceed the costs PacifiCorp would have otherwise incurred acquiring resources in the market that are defined as “Comparable Resources” in Appendix A to the Inter-Jurisdictional Cost Allocation Revised Protocol.⁴

B. Division and Long Ridge Wind I and Long Ridge Wind II Stipulations

The Stipulations represent both PPAs are in the public interest and should be approved because they properly reflect the Market Proxy pricing method approved in the 2005 Order for determining indicative pricing for large wind QFs.⁵ The Stipulations further indicate that both PPAs were executed prior to the Commission’s 2013 Order which discontinued use of the Market Proxy method for determining indicative prices for wind QFs eligible under Schedule 38 going forward.

⁴ See Docket No. 02-035-04, *In the Matter of the Application of PacifiCorp for an Investigation of Inter-jurisdictional Issues*.

⁵ The Market Proxy method is based on the winning bid in PacifiCorp’s most recently executed request for proposal (“RFP”) for a wind resource. The Market Proxy price for wind resources was determined in the 2009R RFP in which PacifiCorp selected the Dunlap I wind facility located in Wyoming.

The Division testifies the Commission should change methods if circumstances change but that deviation from relevant orders in these cases would undermine the stability, predictability and reliability of Commission orders. The Division testifies the PPAs at issue here should be approved because they comply with prior Commission orders and were negotiated in good faith.

C. The Office

The Office concludes the PPAs reflect applicable Commission orders. The Office concludes, however, that it cannot recommend approval of the Applications because the PPA pricing derived from the Market Proxy method approved in the 2005 Order is outdated, is not PacifiCorp's avoided cost, does not meet the PURPA ratepayer neutrality standard, and is not just and reasonable for ratepayers. The Office did not offer testimony at the hearing but stated it neither supports nor opposes the Stipulations.

D. UCE

UCE's comments urge the Commission to approve the PPAs as just and reasonable and in the public interest. UCE testifies it supports the Stipulations and the PPAs because the PPAs are economic and will mitigate risk to ratepayers by allowing for a diversified resource mix and locking in reasonable prices for 20 years in the face of volatile and rising fuel prices and environmental compliance costs. UCE testifies it is in the public interest and consistent with state policy to protect the contracting ability of parties by maintaining a period of regulatory certainty during the transition period between approved avoided cost methods.

II. Findings and Conclusions

Based upon the Applications, the unopposed Stipulations, our review of the PPAs, the comments filed in these dockets, and the testimony provided at the hearing, we find the prices, terms and conditions of both PPAs are consistent with applicable state laws, relevant Commission orders, and Schedule 38. Therefore, we conclude the PPAs are just and reasonable and in the public interest.

ORDER

Pursuant to the foregoing discussion, findings and conclusions, we order:

1. The Power Purchase Agreement between Long Ridge Wind I and PacifiCorp is approved, effective September 10, 2013.
2. The Power Purchase Agreement between Long Ridge Wind II and PacifiCorp is approved, effective September 10, 2013.

DATED at Salt Lake City, Utah, this 3rd day of October, 2013.

/s/ Jordan A. White
Presiding Officer

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Approved and Confirmed this 3rd day of October, 2013, as the Order of the Public Service Commission of Utah.

/s/ Ron Allen, Chairman

/s/ David R. Clark, Commissioner

/s/ Thad LeVar, Commissioner

Attest:

/s/ Gary L. Widerburg
Commission Secretary
DW#247637

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 CERTIFY that on the 3rd day of October, 2013, a true and correct copy of the foregoing ORDER CONFIRMING BENCH RULINGS APPROVING QUALIFYING FACILITY CONTRACTS was served upon the following as indicated below:

By U.S. Mail:

Long Ridge Wind I, LLC
c/o Apex Wind Energy Holdings, LLC
310 4th Street N.E., Suite 200
Charlottesville, VA 22902

Long Ridge Wind II, LLC
c/o Apex Wind Energy Holdings, LLC
310 4th Street N.E., Suite 200
Charlottesville, VA 22902

By Electronic-Mail:

Data Request Response Center (datarequest@pacificorp.com)
PacifiCorp

Dave Taylor (dave.taylor@pacificorp.com)
Daniel E. Solander (daniel.solander@pacificorp.com)
Rocky Mountain Power

Sophie Hayes (sophie@utahcleanenergy.org)
Sarah Wright (sarah@utahcleanenergy.org)
Utah Clean Energy

By Hand-Delivery:

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

Office of Consumer Services
160 East 300 South, 2nd Floor
Salt Lake City, UT 84111

Administrative Assistant