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Submitted February 21, 2014

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of Rocky Mountain Power for Approval of Power Purchase Agreement Between PacifiCorp and Utah Red Hills Renewable Park, LLC	)))))))	Docket No. 13-035-197 REPLY COMMENTS OF UTAH RED HILLS RENEWABLE PARK, LLC

Pursuant to the scheduling order issued by the Commission on December 19, 2013, Utah Red Hills Renewable Park, LLC ("Red Hills") submits its Reply Comments in this proceeding seeking Commission approval of a power purchase agreement ("PPA") between Rocky Mountain Power and Red Hills.

Three parties in addition to Red Hills filed initial comments on Rocky Mountain Power's application to the Commission to approve the PPA: the Division of Public Utilities (the "Division"), the Office of Consumer Services (the "Office"), and Utah Clean Energy ("UCE").

Division: The Division recommended the Commission approve the PPA as "just and reasonable and in the public interest."[1] Notwithstanding the Division's support of this PPA, the Division recommended the Commission address certain issues under future Schedule 38 contracts. Specifically, the Division recommends that "[g]enerally, the transmission interconnection agreement should be signed within 90 days after the purchased power agreement is signed"[2] and "the online date for a project generally should be no more than two years from the date of the power purchase agreement."[3] The Division further suggested that to "keep ratepayers indifferent to a project with an online date that is several years into the future is to have a price re-opener built into the project."[4] The Office raised similar issues in its Report.

Office. The Office has indicated that "the PPA is in compliance with applicable schedules and Commission orders."[5] However, the Office recommended that the Commission hold a future proceeding to allow interested parties to review Schedules 37 and 38 and make recommendations to the Commission.[6] The Office suggested that the Commission consider "requiring that a QF have a signed interconnection agreement prior to executing a PPA with the Company" and "requiring that the Scheduled Commercial Operation Date be no more than 2 years from the date the Company signs the PPA and/or the date the Company provided indicative avoided cost pricing for the PPA."[7]

Because the Division and the Office made similar recommendations in their respective Reports, Red Hills will respond to both simultaneously. However, as a preliminary comment, Red Hills notes that it does not believe this docket is the appropriate forum for issuing guidance on future PPAs, especially PPAs under Schedule 38. Should the Commission elect to explore the

[1] Division Report, at 1.
[2] *Id*., at 7.
[3] *Id*.
[4] *Id*., at 5.
[5] Office Report, at 5.
[6] *Id*.
[7] *Id*.

issues raised by the Division or Office, it should do so by way of a separate proceeding through which all interested parties have notice and an opportunity to present evidence.

Due to the size of utility scale projects, the types of developers, and the federal financial incentives available, most utility scale solar projects are financed through an off-balance sheet or project financing. As alluded to by the Division and the Office, project developers must strike a delicate balance of preparing a project to be mature enough to execute a power purchase agreement, but not expending unnecessary funds if a power purchase agreement is ultimately unobtainable. As the Commission is no doubt aware, a power purchase agreement acts as a catalyst for a number of crucial project development milestones, including financing and construction.

Although the Division and Office have referenced other recent qualifying facility projects with more condensed online dates to support their argument that future PPAs require an online date of no later than two years from PPA execution, Red Hills believes that an online date set approximately three years from PPA execution in this case is appropriate and may even be appropriate in other situations. The other recent projects noted by the Division and the Office utilized a different resource: wind. Red Hills is the first proposed large scale solar project in the state of Utah and will build a vendor and support network for solar project development in the state. Further, the wind and solar supply chains are distinct. Recent anti-dumping and anti-subsidy cases filed by a solar panel manufacturer[8] have caused fluctuation in the solar supply chain that may take some time to level out. While Red Hills generally agrees that immature projects should not block mature projects in the queue, it feels that the online date in this case is reasonable given the advanced stage of this project, the supply chain conditions and the nascent nature of the solar

[8] SolarWorld Industries America, Inc., a subsidiary of Germany's SolarWorld, petitioned the U.S. International Trade Commission and U.S. Department of Commerce to investigate Chinese and Taiwanese crystalline silicon photovoltaic dumping and subsidies. See U.S. ITC Investigation Nos. 701-TA-511 and 731-TA-1246-1247 (Preliminary).

industry in the Utah market. Should the Commission issue guidance on future project online dates, Red Hills would urge the Commission to allow Rocky Mountain Power and developers to consider market factors in setting an appropriate online date. Red Hills would also suggest that the online date be set based on some number of months from Commission approval of a PPA rather than PPA execution. Commission approval is an important milestone for financiers but a process over which developers have little control.

Red Hills strongly opposes the Division's suggestion of a price re-opener if a contract's online date is "several years into the future."[9] Rate certainty is the most important element potential financiers will evaluate in a power purchase agreement – a project's sole source of revenue. If the Commission introduces rate uncertainty by permitting rate re-openers without a floor, it would be catastrophic for project development and finance in Utah.

With respect to interconnection, the Division and Office recommended that generally an interconnection agreement should be finalized within 90 days of PPA execution or prior to PPA execution, respectively. As mentioned previously, solar developers must strike a delicate balance in their project development activities. The cost of obtaining a final, signed Large Generation Agreement is significant, ranging anywhere between $150,000 to $190,000, assuming in-house engineering capabilities. Further, the process is time consuming and, according to Pacificorp, can take 220-250 days.[10] So while Red Hills executed its interconnection agreement for its first 40 mw of this project approximately three (3) years ago, Red Hills believes it would be unreasonable to expect all developers to achieve this milestone prior to PPA execution or within a firm three month deadline. A more reasonable expectation would be that the developer complete a system

[9] Division Report, at 5.
[10] See Pacificorp Transmission Processes Flow Chart, available at: http://www.pacificorp.com/content/dam/pacificorp/doc/Transmission/Transmission_Services/Generation_Interconnection/Project_Process.pdf.

impact study prior to PPA execution, and that the final Interconnection Agreement be executed within 150 days of Commission approval of the PPA. Compliance with such an expectation would demonstrate a developer's real commitment to the project, as the cost of obtaining a system impact study is significant, but also take into consideration the facility study time cycle.

UCE: UCE raises a number of salient points in its supportive comments, and champions the PPA as a source of resource diversification and reasonable prices in the "face of volatile and rising fuel prices and increasing environmental compliance costs."[11] UCE also mentions the positive economic aspects of the Red Hills project, including job creation. The Red Hills project will create stable, high-paying jobs in an economically depressed area of the state. Further, the project will positively contribute to the Iron County tax base through its direct investment in Utah.

CONCLUSION

Prices set forth in the PPA were calculated using the Commission-approved methodology in Docket No. 12-035-100, and this PPA will insulate Utah ratepayers from future fuel price volatility and emission-related regulations. As indicated by the Office, the PPA comports with all the conditions set forth by the Commission in its orders applicable to QF projects, and its approval is supported by the Division and UCE.

WHEREFORE, Utah Red Hills Renewable Park, LLC, respectfully urges the Commission to issue its order approving the PPA to permit Red Hills to move forward with a project that is in the public interest.

RESPECTFULLY SUBMITTED this 21st day of February 2014.

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[11] UCE Comments, at 2.

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CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of February, 2014, an original and ten (10) true and correct copies of the foregoing **REPLY COMMENTS OF UTAH RED HILLS RENEWABLE PARK, LLC** were hand-delivered to:

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Commission Secretary
Public Service Commission of Utah
Heber M. Wells Building, Fourth Floor
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psc@utah.gov
Rocky Mountain Power:

and true and correct copies were electronically mailed to the addresses below:

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