

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 Utah Red Hills
Renewable Park, LLC

Docket No. 13-035-197

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HEARING PROCEEDINGS  
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TAKEN AT:	Public Service Commission Hearing Room 403 160 East 300 South Salt Lake City, Utah
DATE:	Wednesday, March 5, 2014
TIME:	10:01 a.m.
REPORTED BY:	Nancy A. Fullmer, RMR

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APPEARANCES

HEARING OFFICER: JORDAN A. WHITE

FOR DIVISION OF PUBLIC UTILITIES:

JUSTIN C. JETTER

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FOR OFFICE OF CONSUMER SERVICES:

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APPEARANCES (Continued)

FOR UTAH RED HILLS RENEWABLE PARK, LLC:

THERESA A. FOXLEY

JEROLD G. OLDROYD

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Also Present:

Luigi Resta, Scatec Solar

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Hearing Proceedings

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March 5, 2014

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PROCEEDINGS

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THE HEARING OFFICER: Let's go ahead and go on the record. Good morning. This is the time and place notice for Commission consideration of an application of Rocky Mountain Power for approval of the power and purchase agreement between PacifiCorp and Utah Red Hills Renewable Park, LLC in Docket No. 13-035-197. My name is Jordan White and the commissioners have asked that I act as presiding officer for this hearing. With that, let's go ahead and take appearances. Why don't we--just for sake of consistency, we'll start over here on the left with Ms. Foxley, I believe.

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MS. FOXLEY: That's right. Theresa Foxley and Jerold Oldroyd on behalf of Utah Red Hills Renewable Park, LLC.

16

THE HEARING OFFICER: Great. Thank you.

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MR. RESTA: And, Luigi Resta, CEO Scatec Solar, the owner of the Utah Red Hills renewable energy project.

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THE HEARING OFFICER: Okay, great. And you're Mr. Oldroyd?

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MR. OLDROYD: That's correct. Thank you.

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MS. HOGLE: Good morning, Mr. Presiding Officer. I'm Yvonne Hogle on behalf of Rocky Mountain Power. And with me today is Mr. Paul Clements, a former Utah marketer originator and now director of regulatory affairs for Rocky

1 Mountain Power, who has a brief summary in support of the
2 application and is ready to be sworn in at your convenience.
3 Thank you.

4 THE HEARING OFFICER: Okay. Thank you. Mr.
5 Jetter.

6 MR. JETTER: Justin Jetter representing Utah
7 Division of Public Utilities. And with me is Charles Peterson, the
8 Division's witness for today. Thank you.

9 THE HEARING OFFICER: Thank you. Mr. Coleman.

10 MR. COLEMAN: Brent Coleman with the Utah
11 Attorney General's Office representing the Office of Consumer
12 Services. And with me is Bela Vastag.

13 THE HEARING OFFICER: Thank you. Any other
14 parties to make an appearance or is that it? Okay, great. Before
15 we proceed, I would like to discuss the scope of the
16 Commission's consideration of the PPA that is the subject of this
17 application. As the Commission has noted in previous orders,
18 this Schedule 38 establishes the process, time frames, and
19 requirements by which QFs may obtain pricing information and
20 negotiate power purchase agreements. The Commission reviews
21 power purchase agreements to assure PacifiCorp has properly
22 administered Schedule 38 in its dealings with a counterparty and,
23 in particular, that PacifiCorp properly determined a voided cost
24 pricing based upon the appropriate Commission approved
25 methodology.

1 We acknowledge that parties have expressed
2 concerns in this docket via comments regarding matters that are
3 not specifically spelled out in the tariff. For example, the timing
4 of interconnection agreements in relation to PPAs. Currently,
5 Schedule 38 is not generally prescriptive with respect to
6 milestones that must be met by QF, but rather provide PacifiCorp
7 with discretion on when, what, and how it may recently require
8 QFs to, you know, basically meet the requirements of Schedule
9 38.

10 If parties believe that Schedule 38 is in need of
11 changes, I suggest the best route would be to file a petition or a
12 motion to consider proposed changes to either Schedule 38 or
13 Schedule 37 was also mentioned. That way all parties that will
14 likely have an interest will have an opportunity to participate.
15 With that, to preserve the due process interests of all parties that
16 will likely have interest in this topic, I will not be entertaining
17 testimony or statements in this area unless it is related to
18 potential tariff change to Schedule 38 or 37. So with that, are
19 there any other matters of housekeeping that we need to
20 address? One thing in particular I noticed is that with respect to
21 confidentiality, there are some documents that have redacted or,
22 for example, the megawatt capacity has been redacted and has
23 been determined as confidential or been in notice or not, so I
24 guess I'll rely on--since it's Rocky Mountain Power's comments
25 information, if there's, you know, discussion or something, just

1 give me a head's up and we'll, you know, do the necessary
2 procedure to kind of address the confidential aspects of that.

3 One other--and I'll get to your--I have my own
4 housekeeping first. One other issue is do parties anticipate
5 actually cross-examining witnesses today? And I only ask that
6 just because I wasn't sure if we need to have folks up here
7 because if not--if there's not going to be cross-examination, I'm
8 okay if you want to sit next to your counsel to make your
9 statements.

10 MR. COLEMAN: I don't think I have any anticipation
11 of cross-examination.

12 MS. HOGLE: I don't have any either.

13 THE HEARING OFFICER: So right after we proceed
14 with swearing any witnesses, et cetera, what's going to happen,
15 we can--you know, we'll go ahead and swear them, but we'll--it
16 sounds like for now you can just go ahead and sit tight next to
17 your counsel.

18 Okay. Ms. Hogle, since this is Rocky Mountain
19 Power's application, why don't you go ahead and proceed.

20 MS. HOGLE: Thank you.

21 EXAMINATION

22 BY-MS.HOGLE:

23 Q. Mr. Clements, can you please spell your name and
24 state your position with Rocky Mountain Power for the record.

25 A. Yes. My name is Paul Clements, C-L-E-M-E-N-T-S.

1 I was formerly a power marketer originator at the signing of this
2 contract--

3 THE HEARING OFFICER: Sorry. Do you want to go
4 ahead and have him sworn in?

5 MS. HOGLE: Yes.

6 THE HEARING OFFICER: Yeah. Why don't we go
7 ahead and do that. Sorry about that, Mr. Clements. Why don't
8 you go ahead and raise your right hand. Do you solemnly swear
9 to tell the whole truth and nothing but the truth?

10 MR. CLEMENTS: Yes.

11 PAUL CLEMENTS,
12 having been first duly sworn, was
13 examined and testified as follows:

14 THE HEARING OFFICER: Sorry about that. Go
15 ahead and proceed.

16 MR. CLEMENTS: Yes. At the time of execution of
17 the Utah Red Hills Renewable Park, LLC, power purchase
18 agreement, I was employed as power marketer originator
19 responsible for negotiation of QF PPAs. My current role is
20 director of regulatory affairs for Rocky Mountain Power.

21 BY MS. HOGLE:

22 Q. Do you have a summary that you would like to offer
23 to the Commission?

24 A. I do.

25 Q. Please proceed.

1 A. The company presents today for Commission
2 approval a qualified facility power purchase agreement between
3 Utah Red Hills Renewable Park, LLC, and PacifiCorp dated
4 December 5, 2013. The PPA provides for the sale to PacifiCorp
5 of energy to be generated by Utah Red Hills from a solar
6 powered generation facility located in Iron County, Utah. The
7 agreement is for a term of 20 years with a December 31, 2016
8 expected online date. In docket No. 12-035-100, the
9 Commission issued a series of orders which established avoiding
10 cost payments and certain other terms for purchases from
11 renewable QF projects that are larger than three megawatts.
12 And the Utah Red Hills PPA falls into that category.

13 The purchase prices and the terms set forth in the
14 Utah Red Hills PPA were calculated and determined using the
15 methodology approved in docket No. 12-035-100. And,
16 furthermore, the PPA was negotiated consistent with Utah
17 Schedule 38. Therefore, the agreement is compliant with relevant
18 Commission orders and with Utah Schedule 38. And the
19 company requests the Commission approve the agreement.

20 THE HEARING OFFICER: Thank you. Ms. Hogle.

21 MS. HOGLE: The company--excuse me--
22 Mr. Clements is ready for questioning.

23 THE HEARING OFFICER: Before we go ahead with
24 that, I know we have the company's application on December 9th
25 was filed. Do the parties have a desire to take all the documents

1 in total and receive evidence or do you want to go one by one?
2 Is there a preference with folks?

3 MR. JETTER: I think it would be more efficient to
4 just accept them all at this time.

5 THE HEARING OFFICER: Okay. So with that, with
6 all the pleadings that have been filed with the Commission thus
7 far, is there any objection from either party of receiving those
8 into evidence at this time? Okay. With that, they're received.

9 Okay. So I know parties said they would not have
10 cross-examination, but I'll go ahead and give you an opportunity
11 to do. Mr. Jetter.

12 MR. JETTER: No questions from the Division.
13 Thank you.

14 MR. COLEMAN: Nothing from the Office.

15 THE HEARING OFFICER: Ms. Foxley.

16 MS. FOXLEY: No questions from Utah Red Hills.

17 THE HEARING OFFICER: Okay. I am just going
18 to--if it's okay, I'll just keep you sworn in. We won't excuse you
19 at this point, just because I may have one question I think with
20 respect to the question about scalers and the potential refiling.
21 So let's just go ahead and put a pin in that for now and we may
22 circle back if that would be okay.

23 All right. Ms. Foxley, did you have anything you
24 wanted to address with respect to this application?

25 MS. FOXLEY: No. I think our comments filed in the

1 docket are--of our opinions.

2 THE HEARING OFFICER: So I assume you don't
3 want to--you don't want to present a witness?

4 MS. FOXLEY: I don't want to present a witness.

5 THE HEARING OFFICER: Okay, great. Okay. Mr.
6 Jetter.

7 MR. JETTER: The Division would like to have sworn
8 in Charles Peterson.

9 THE HEARING OFFICER: Do you solemnly swear
10 to tell the whole truth and nothing but the truth?

11 MR. PETERSON: Yes.

12 THE HEARING OFFICER: Please be seated.

13 CHARLES E. PETERSON, having been first duly
14 sworn, was examined and testified as follows:

15 EXAMINATION

16 BY-MR.JETTER:

17 Q. Mr. Peterson, could you please state your name and
18 occupation for the record.

19 A. Charles E. Peterson. I'm a technical consultant with
20 the Utah Division of Public Utilities.

21 Q. And have you read the application filed by the
22 company as well as the filings by all of the other parties in this
23 docket?

24 A. Yes, I have.

25 Q. And you submitted comments in this docket; is that

1 correct?

2 A. Yes.

3 Q. And do those comments still reflect your position
4 relative to this application?

5 A. Yes. It reflects not only my position, but the
6 Division's position.

7 Q. Thank you. Are you aware of any opposition to this
8 application from any party?

9 A. No.

10 Q. And, finally, do you believe that approval of this
11 application would be just and reasonable and in the public
12 interest?

13 A. As set forth in the Division's memorandum we do,
14 yes.

15 MR. JETTER: Thank you. I have no further
16 questions.

17 THE HEARING OFFICER: Ms. Foxley?

18 MS. FOXLEY: No questions for the witness. Thank
19 you.

20 THE HEARING OFFICER: Ms. Hogle?

21 MS. HOGLE: No questions. Thank you.

22 MR. COLEMAN: Nothing from the Office. Thanks.

23 THE HEARING OFFICER: I actually did have one
24 clarification I just want to address with respect to the comments
25 the Division filed on February 5, 2014. And maybe this is just

1 a--I don't want to--you know, maybe this is just a nomenclature
2 issue, but I just wanted to ask a question about it. It says, for
3 example, under pricing terms, it says the company appears to
4 have correctly applied a proxy PDPR method approved by the
5 Commission along with a 84 percent capacity contribution the
6 Commission approved in docket 12-035-100 on interphase that's
7 on page 3. I guess my question is, I just want to make sure I
8 understand that with respect to the Division's review of the
9 pricing and other terms of the--I just want to make sure by
10 appear, does that mean it was reviewed and it's your testimony
11 that based upon your review, they are consistent with the voided
12 cost methodology?

13 MR. PETERSON: Yes.

14 THE HEARING OFFICER: Okay.

15 MR. PETERSON: That's what the intent was. I
16 guess we're leaving open the possibility that we may have
17 overlooked something in our review.

18 THE HEARING OFFICER: Okay. No problem. I
19 understand. Thank you. I appreciate the clarification. So we
20 have no--no cross-examination further on--and, again, let's just
21 go ahead, if it's okay, I'll leave you without excusing you for now.
22 Mr. Coleman?

23 MR. COLEMAN: The Office would ask Mr. Bela
24 Vastag to be sworn.

25 THE HEARING OFFICER: Do you solemnly swear

1 to tell the whole truth and nothing but the truth?

2 MR. VASTAG: Yes, I do.

3 THE HEARING OFFICER: Be seated. Thanks.

4 BELA VASTAG, having been first duly sworn, was
5 examined and testified as follows:

6 EXAMINATION

7 BY-MR.COLEMAN:

8 Q. Can you state and spell your name for the record as
9 well as present your business title, please?

10 A. My name is Bela Vastag, B-E-L-A. Last name
11 V-A-S-T-A-G. I am a utility analyst and I work for the Office of
12 Consumer Services.

13 Q. Are you familiar with the application filed by the
14 company in this docket?

15 A. Yes.

16 Q. Have you reviewed all of the comments filed by all
17 parties thus far?

18 A. Yes, I have.

19 Q. Are you aware of any opposition to this particular
20 application from any party?

21 A. No.

22 Q. Did you present--or excuse me--did you prepare and
23 present comments on behalf of the Office on February 7, 2014?

24 A. Yes.

25 Q. Do you have any changes to those comments?

1 A. No.

2 Q. Do you have a summary statement for the
3 Commission at this time?

4 A. Yes, I do.

5 Q. Please proceed.

6 A. The Office of Consumer Services represents the
7 interest of residential, small commercial and agricultural rate
8 payers in matters before the Public Service Commission. With
9 these interests in mind, the Office has reviewed the Utah Red
10 Hills Renewable Park power purchase agreements or PPA and
11 have two concerns.

12 One, the project scheduled commercial operation
13 date is more than three years from the PPA signing date. This
14 means that this PPA will commit rate payers to a voided cost
15 pricing that will be outdated by the time the Red Hills project
16 begins to deliver electricity in 2017. Two, the Red Hills PPA
17 Exhibit 5.1.1, which should contain scaling factors, is blank. The
18 Office recommends that Rocky Mountain Power file an updated
19 version of the PPA that includes the missing scaling factors.
20 While the Office has some concerns, our review indicates that
21 the Red Hills PPA is in compliance with the Commission's orders
22 on QF PPA pricing and, therefore, the Office does not oppose
23 the approval. That concludes my statement.

24 THE HEARING OFFICER: Okay. Let's go ahead
25 and give others an opportunity if they have any

1 cross-examination. Mr. Oldroyd or Ms. Foxily?

2 MS. FOXLEY: No questions from petitioner.

3 MS. HOGLE: No questions.

4 MR. JETTER: No questions.

5 THE HEARING OFFICER: As I alluded to earlier,
6 with respect to the missing scalers, can you help me understand
7 a little bit--I understand that's a very technical part of it--how
8 that plays into it as a requirement of Schedule 38? And before I
9 even ask that, let me ask this to Mr. Clements possibly. Does
10 the company have any opposition to filing an updated version of
11 the agreement with those scalers in place?

12 MR. CLEMENTS: No, none whatsoever, but the
13 company has discussed Utah Red Hills and it was strictly a
14 clerical error that the scaling factors were--or scalers as we call
15 them--were part of previous agreements. And somehow in
16 preparation of final documents, I believe a formatting or clerical
17 error occurred. So it's not a disputed item. It's strictly a clerical
18 error that we would be happy to correct either through a revised
19 filing or a slip page of the agreement, whatever it takes.

20 THE HEARING OFFICER: I guess with that, we
21 probably don't need to get into it--the question if it's already a
22 settled matter.

23 Are there any other parties that, you know, have any
24 issues or further testimony or items they would like to address
25 with respect to the PPA that's at issue here today? And are

1 there any other matters, parties wish to address in general with
2 respect to the PPAs before we go ahead and adjourn? Well,
3 hearing that, we'll go ahead and adjourn and have a nice day.
4 Thank you.

5 (Hearing concluded at 10:17 a.m.)

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1 CERTIFICATE

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3 This is to certify that the foregoing proceedings
4 were taken before me, NANCY A. FULLMER, a Registered Merit
5 Reporter and Notary Public in and for the State of Utah;

6 That the proceeding was reported by me in
7 stenotype and thereafter caused by me to be transcribed into
8 typewriting, and that a full, true, and correct transcription of said
9 testimony so taken and transcribed is set forth in the foregoing
10 pages;

11 I further certify that I am not of kin or otherwise
12 associated with any of the parties to said cause of action, and
13 that I am not interested in the event thereof.

14
15
16 _____
17 Nancy Fullmer, RMR

18 My Commission Expires:

19 June 28, 2016
20
21