

Informal Complaint Report

Index Number: 4813 **Company Name:** Rocky Mountain Power

CUSTOMER INFORMATION

Customer Name: Energy of Utah, LLC **Account Number:**
Other Contact Info: Ross Rocco Vrba **Phone Number:** (801) 708-2086
Customer Address: P.O. Box 900083 **Other Phone:**
Customer Address: **Email Address:**
City: Sandy **State:** UT **Zip Code:** 84090-0083

COMPLAINT INFORMATION

Type of Call: Complaint **Complaint Type:** Rate & Tariff
Date Received: 2/8/2013 **Date Resolved:** 2/21/2013
Complaint Received By: Connie Hendricks **DPU Analyst Assigned:**
Utility Company Analyst:
Company at Fault: **Actual Slamming Case:** **Actual Cramming Case:**

Complaint Description:

February 7, 2013

Utah Division of Public Utilities
Artie Powell
Manager, Energy Section
160 East 300 South
Salt Lake City, Utah 84114

Re: Informal Complaint by Energy of Utah

Dr. Powell,

I am writing to file an informal complaint regarding Energy of Utah's draft PPA application with Rocky Mountain Power (Company).

The Company asserts that they will require an executed interconnection agreement (LGIA) prior to the execution of the PPA. We have requested that they reconsider this stance, but they have declined. Although Schedule 38 allows the Company this privilege, the Company does not appear to be administering Schedule 38 fairly:

Blue Mountain Wind (REDCO)
PPA execution - 11/08/2011
LGIA execution - none

Pioneer Ridge Wind
PPA execution - 07/14/2006
LGIA execution - 02/08/2008

Spanish Fork Wind
PPA execution - 06/21/2006
LGIA execution - 11/02/2007

It has now been over nine months since we submitted our original request for indicative pricing. We hope that the Division can help us to resolve this matter.

Friday, February 22, 2013

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Sincerely,

Ros Vrba for Energy of Utah

Enclosures:

Long Ridge Wind – PPA draft request

Large QF Form PPA-PacifiCorp

Draft PPA response

Energy of Utah letter re response to January 28 2013 letter

Complaint Response:

Bruce Griswold
Director, Short-Term Origination
Commercial & Trading
825 NE Multnomah, Suite 600
Portland, Oregon 97232

February 14, 2013

VIA ELECTRONIC MAIL AND CERTIFIED MAIL

Utah Division of Public Utilities

Dr. Artie Powell - Manager, Energy Section 160 East 300 South

Salt Lake City, Utah 84114

Re: Informal Complaint by Energy of Utah

Dear Dr. Powell:

The purpose of this letter is to respond to the informal complaint from Energy of Utah dated February 8, 2013 filed with the Utah Public Service Commission ("Commission"). Based on the information provided to PacifiCorp, Energy of Utah appears to raise two complaints. First, they complain that PacifiCorp is requiring an executed generation interconnection agreement ("GIA") prior to executing a power purchase agreement ("PPA"). Second, Energy of Utah appears to complain about the time that has elapsed since it requested indicative pricing. This letter responds to each of these complaints. Requiring a GIA Prior to Executing a PPA is Consistent With Schedule 38

I will first address the issue relating to the timing associated with the execution of a GIA. It is correct that PacifiCorp informed Energy of Utah that PacifiCorp will require an executed GIA prior to entering into a PPA pursuant to Schedule 38 of the Rocky Mountain Power Utah Electric Service Tariff ("Schedule 38"). This requirement is grounded in Schedule 38 and is further supported by good policy. Schedule 38 (which is applicable to the proposed Energy of Utah wind generation facility) states:

In addition to negotiating a power purchase agreement, QFs intending to make sales to the Company are also required to enter into an interconnection agreement that governs the physical interconnection of the project to the Company's transmission or distribution system. The Company's obligation to make purchases from a QF is conditioned upon all necessary interconnection arrangements being consummated. (emphasis added)

Schedule 38 clearly grants PacifiCorp the authority to condition purchases from a QF on the prior execution of the necessary interconnection arrangements. In fact, the complaint filed by Energy of Utah acknowledges that the Company has the "privilege" of requiring an interconnection agreement prior to executing a power purchase agreement. In an effort to put QFs on notice of the length of time it potentially takes to obtain a GIA Schedule 38 encourages QFs to "initiate its request for interconnection as early in the planning process as possible, to ensure that necessary interconnection arrangements proceed in a timely manner on a parallel track with negotiation of the power purchase agreement." if a QF fails to act on the directives offered in Schedule 38, the QF, and not the utility, should be responsible for any associated delay in obtaining a PPA. Further, based on information publically available from PacifiCorp transmission the process to get to a GU can take more than a year.'

See <http://www.pacifcorp.com/tranits/gip.html>. Click on the link labeled "Standard Study Process and Timelines" for information relating to the GIA timeline.

Energy of Utah cites to a limited number of instances where PacifiCorp has previously allowed a QF to enter into a power purchase agreement prior to consummating all necessary interconnection arrangements. While such occurrences may have occurred in the past, due to circumstances specifically experienced in connection with some of these prior PPAs and other recent PPAs in other states, PacifiCorp is making efforts to fully implement the processes contained in Schedule 38. PacifiCorp has in the recent past experienced examples where a QF has represented to PacifiCorp, in its merchant capacity, that the QF could achieve a certain commercial operation date for purposes of the PPA. In these cases PacifiCorp proceeded with negotiating and executing a power purchase agreement based on the milestone dates leading up to and including the commercial operation date provided by the QF. However, after signing the PPA, PacifiCorp learned that the QF could not in fact achieve the commercial operation date and other milestone dates contained in the PPA because of certain requirements that had to be completed in the later negotiated GIA. Further, PacifiCorp learned in these cases that the QF had not properly described the interconnection facilities in the PPA (because they had not yet finalized those facilities with the transmission

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provider). It is important to keep in mind that pursuant to Federal Energy Regulatory Commission requirements, PacifiCorp strictly maintains separate transmission (GIA) and merchant (PPA) functions. These two functions, while both within PacifiCorp, operate entirely separate from one another and communications between the functions are strictly controlled. As a result, the two functions do not coordinate various operational dates or other contractual terms contained in a PPA or GIA for a QF.

Based on the above experiences, PacifiCorp is concerned about the risks to its customers that could arise if QFs are allowed to enter into a PPA without previously executing a GIA. Examples of risks could include (1) an increased litigation risk for PacifiCorp as a result of QFs alleging that PacifiCorp set an interconnection date in the GIA after the Commercial Operation date in the PPA to purposefully interfere with the QFs performance of the PPA; (2) a potential reduction in realized benefits for customers if the PPA is terminated as a result of the QF's inability to timely perform and the need for PacifiCorp to make market purchases to cover for the energy and capacity anticipated from the QF. These potential risks can all be mitigated in large measure by simply requiring the QF to obtain an executed GIA prior to executing a PPA.

PacifiCorp has Acted in Good Faith in Negotiating With Energy of Utah

While not explicitly stated, Energy of Utah seems to infer that there has been some delay on the part of PacifiCorp. PacifiCorp denies that it has taken any action to delay Energy of Utah from moving forward with its proposed QF. Energy of Utah fails to acknowledge that there was a legal dispute over the correct avoided costs methodology to apply to their (and a number of other) indicative pricing requests. To resolve that dispute a contested hearing was held before the Commission. Contested matters always take time. Since the Commission has ruled on the contested proceeding, PacifiCorp has timely provided corrected indicative pricing. PacifiCorp also timely provided a draft PPA to Energy of Utah January 25, 2013. Further, as recently as February 8, 2013, representatives of PacifiCorp continue to actively negotiate with Energy of Utah. Thus, PacifiCorp continues to act in good faith and consistent with Commission directives in attempting to reach a mutually acceptable PPA with Energy of Utah.

If you have any questions please feel free to contact me.

Sincerely,

Bruce Griswold
Director, Short-Term Origination
PacifiCorp Energy Commercial & Trading

cc: Autumn Braithwaite
Stacey Kusters
Jeff Larsen
Dave Taylor
Paul Clements
Daniel Solander
Patrick Cannon
Doug Cannon

Additional Information:

2/8/13
Attachments saved in email and sent with complaint to the company.

2/16/13
Good morning

I would like to follow up on the informal complaint that I filed on 02/08/13. I have not received any response from the company in required 5 business days.

Would you please let me know our next steps?

Thank you and I am looking forward to speak to you next week

Respectfully

Ros Rocco Vrba, MBA
Principal Partner
Energy of Utah LLC

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P.O. Box 900083. Sandy, Ut 84090-0083

Cell 801 708 2086

www.energyofutah.com

2/19/13

Hi Mr. Vrba,

I've attached the response from RMP that I received on Friday, 2/15/13. I called RMP this morning for information concerning the company contacting you with their response. After reviewing the attachment, please contact me with any questions you may have.

Thanks,

Connie

Response of Pacificorp sent to Mr. Vrba

2/19/13

Mr. Vrba,

I've attached the formal complaint form and instructions for filing a formal complaint with the Utah Public Service Commission. Please let me know if you have any questions after reviewing this information.

Thanks,

Connie

2/20/13

Good morning Connie

Thank you very much for this attachment. I know that we have spoke last afternoon but just to confirm one more time because the procedure indicates that mediations shall be our next step?

I am assuming that Dr. Powell would prefer Energy of Utah to file formal complain if we are dissatisfied with The Company's answer?

This would be the third step and I am perfectly comfortable to proceed in that direction.

Thank you and have a great day

Ros Rocco Vrba, MBA

2/21/13

Mr. Vrba,

Mediation would be an option between you and Rocky Mountain Power, if both parties agree to it. Artie had indicated that since you wanted to file a formal complaint with the Commission, that a phone call with him wouldn't be necessary. If you would like a mediation set up to see if the issues are resolved without needing to file a formal complaint with the Commission, let me know and I'll check into it. Both parties would need to agree to the mediation. If you have additional questions concerning this process, please give me a call and we can discuss the procedure.

Thanks,

Connie

2/21/13

Good morning Connie

Artie is correct that I have indicated that I will file a formal complain. My decision was driven by two letters from The Company taking a very firm stand against working with me while referencing Schedule 38 conditions (The Company indicated their position in two letters to us).

However, our second call on our PPA from yesterday afternoon, we have yielded some very positive results and PacifiCorp merchant ask me to provide

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details on our "anticipated interconnection time frame" via letter from transmission group (as you are aware merchant can not discuss this with transmission directly).

I am working on this as merchant indicated that if our Interconnection Agreement execution is scheduled for November this year, The Company may reconsider their position on execution of our PPA once completed (only 3 conditions left on the table).

I anticipate to be completed in end of March 2013 and ready for signatures.

I have no interest in adding work to already busy PSC and DPU as my only interest lies in ensuring fair treatment of our projects, just like any other renewable developer in Utah.

If we can get there via open discussions, with open mind on both sides, that would be my preferred route.

Thank you

Ros Rocco Vrba, MBA

2/21/13
Mr. Vrba,

The informal and formal complaint process is used if you are no longer in negotiation with the utility company with which you have an issue. Since you've indicated that you are still negotiating with RMP, it would be in your best interest to continue those negotiations, and utilize the complaint process if you feel that negotiating with the company can no longer continue.

Our office has explained to you that we don't get in the middle of contract negotiations. If you're not able to come to an agreement with the company, then the complaint process would be used. At the point when the formal complaint is filed with the Commission, the Division would review it at that time and make it's recommendation to the Commission.

Since we've already started the complaint process with the informal complaint, my suggestion is that you continue to negotiate with RMP. If you aren't able to come to an agreement, then contact me and we will continue with the next step, which would be mediation if both parties agree, or for you to file a formal complaint with the Commission.

Please let me know if you have any questions about the process so you and your company can best be assisted by the Division.

Thanks,

Connie

