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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

**IN THE MATTER OF ROCKY
MOUNTAIN POWER'S PROPOSED
REVISIONS TO ELECTRIC SERVICE
SCHEDULE NO. 37, AVOIDED COST
PURCHASES FROM QUALIFYING
FACILITIES**

Docket No. 14-035-T04
**COMMENTS REGARDING INTERIM
APPLICATION OF 25,000 KW
CUMULATIVE CAP**

Pursuant to Utah Code Ann. § 54-4a-1 and Utah Admin. Code r746-100 the Utah Division of Public Utilities (“Division”), hereby submits these Comments Regarding Interim Application of 25,000 kW Cumulative Cap to the Public Service Commission of Utah (“Commission”).

INTRODUCTION

On May 7, 2014 Rocky Mountain Power (“Company”) filed proposed update to Schedule 37 for small qualifying facilities. The Company calculated the rates using the Commission approved method for Schedule 37 modified to reflect the method changes related to wind and

solar resources ordered by the Commission in Docket No. 12-035-100.¹ The Division reviewed the filing and identified four issues in its May 22, 2014 Action Request Response that interested parties may wish to comment on before the new rates are set. The Commission held a scheduling conference on June 3, 2014 at which it requested comments from parties regarding whether the 25,000 kW cap should be reset to zero pending the resolution of this docket. These are the Division's comments in regarding reset of the 25,000 kW cap.

DISCUSSION

The Commission should not grant additional capacity under Schedule 37 until new pricing is approved. Both PURPA and Utah Code Ann. § 54-12-2 require the Company to purchase energy from QFs at the Company's avoided cost. PURPA requires in relevant part that the rates paid "shall be just and reasonable to the electric consumers... and in the public interest."² PURPA further states that the pricing shall not be set at "a rate which exceeds the incremental cost to the electric utility of alternative electric energy."³ Similarly Utah Code Ann. § 54-12-2 requires utilities to "purchase power from qualifying power producers" at "reasonable rates and conditions."

The Commission ordered changes in the method used for avoided costs calculations for solar and wind QFs in Docket No. 12-035-100.⁴ The pricing approved in 2013 that might be used for a new 25 MW cap reset is not in the public interest. Resetting the cap at the 2013 pricing would effectively require the Company and ultimately customers to purchase energy at rates that are out of date and based on an avoided cost methods relating to wind and solar resources that

¹ *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 Phase II Issue; August 16, 2013).

² 16 U.S.C.A. § 824a-3

³ *Id.*

⁴ Docket No. 12-035-100 (Order on Phase II Issue; August 16, 2013).

are inconsistent with the results of Docket No. 12-035-100. Requiring purchase of energy at these rates based is not just and reasonable nor is it in the public interest

While PURPA and Utah Code require the purchase of energy from small QFs, a short delay in availability of new fixed pricing while the Commission receives input from interested parties is not unreasonable nor a violation of PURPA. PURPA does not create a right to immediate and unlimited availability of published price contracts. For example, larger QF contracts under Schedule No. 38 often require a period of pricing negotiation and a docket for contract approval prior to completion. This process often takes longer than the approximately 3-5 month period in which Schedule 37 QFs may not have available published pricing.

“Schedule 37 is designed for administrative simplicity for small projects.”⁵ The Schedule 38 process for small QFs would be prohibitively expensive. In order to provide reasonable access and protect customers’ interest in accurate avoided cost pricing Schedule 37 was created. Setting Schedule 37 rates is the small QF analog to Schedule 38’s avoided cost approval process. Just as Schedule 38 complies with PURPA while not offering immediate pricing and contract availability, a temporary delay while the correct pricing is set by the Commission is reasonable and the best method of ensuring the correct pricing is set for small QFs.

CONCLUSION

Resetting the Schedule 37 cap at the 2013 approved pricing that is both disputed and contrary to the findings in the 12-035-100 avoided cost docket would be contrary to the public interest. It would require purchase at rates higher than avoided cost and violate PURPA. QFs

⁵ *In the Matter of the Application of PACIFICORP, dba Utah Power & Light Company, for Approval of Standard Rates for Purchases of Power from Qualifying Facilities Having a Design Capacity of 1,000 Kilowatts or Less*, Docket No. 03-035-T10 (Order, June 1, 2004, p. 13).

are not entitled to immediate and unlimited fixed price contracts. A temporary period of price setting by the Commission will not run afoul of PURPA. For these reasons the Commission should not reset the Schedule 37 cap until the correct avoided cost pricing is determined.

Submitted this 11th day of June, 2014.

/s/ Justin C. Jetter

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