- 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 Rocky Mountain Power and Kennecott Utah Copper LLC (Smelter)	DOCKET NO. 16-035-38
In the Matter of the Application of Rocky Mountain Power for Approval of the Power Purchase Agreement between Rocky Mountain Power and Kennecott Utah Copper LLC (Refinery)	DOCKET NO. 16-035-39 ORDER APPROVING QUALIFYING FACILITY POWER PURCHASE AGREEMENTS

ISSUED: November 17, 2016

SYNOPSIS

The Commission approves two qualifying facilities power purchase agreements between PacifiCorp and Kennecott Utah Copper LLC.

BACKGROUND AND PROCEDURAL HISTORY

On September 21, 2016, PacifiCorp, doing business as Rocky Mountain Power (PacifiCorp), filed applications (Applications) for approval of two qualifying facility power purchase agreements (PPAs) between PacifiCorp and Kennecott Utah Copper LLC (Kennecott) concerning Kennecott's Smelter (Smelter PPA) in Docket No. 16-035-38, and Kennecott's Refinery (Refinery PPA) in Docket No. 16-035-39 (collectively, PPA Dockets). The PPAs each provide for the sale of net-electric energy for a period of 12 months, beginning January 1, 2017, and PacifiCorp represents that the facilities are qualifying facilities (QFs) as defined in 18 C.F.R. Part 292 of the Public Utility Regulatory Policies Act of 1978 (PURPA). Accordingly, PacifiCorp seeks Commission approval of the PPAs consistent with the pricing methodology for QFs under Rocky Mountain Power Electric Service Schedule No. 38 – Qualifying Facility

Procedures (Schedule 38) as authorized by the Commission in Docket Nos. 03-035-14 and 12-035-100.[1]

On September 27, 2016, the Commission held a scheduling conference and on September 28, 2016, issued a scheduling order and notice of hearing in the PPA Dockets. Pursuant to the Commission's scheduling order and notice of hearing, the Division of Public Utilities (Division) filed comments on November 3, 2016, recommending the Commission approve the PPAs provided that PacifiCorp update the PPAs to correctly reflect the 2017 Protocol related to inter-jurisdictional cost allocation. The Division also recommends that in future PPA filings, PacifiCorp provide GRID outputs and spreadsheets supporting the PPA price calculations and spreadsheets showing avoided line loss calculations, with all spreadsheet formulae intact. Additionally, the Division recommends that PacifiCorp continue to provide, at least quarterly, hourly power purchased so that the Division can continue to monitor the PPAs.

On November 10, 2016, PacifiCorp filed amended versions of the PPAs modifying Section 2.1 of each agreement in response to the Division's concern about inter-jurisdictional cost allocation. On November 14, 2016, PacifiCorp filed reply comments in which it agreed to provide, concurrent with future PPA filings, supporting GRID outputs and spreadsheets in the requested format. Further, PacifiCorp agreed to continue to provide, at least quarterly, a report of hourly power purchased.

---

[1] *See, e.g., 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; *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.

On November 16, 2016, the Commission's designated presiding officer held a hearing to consider the Applications. At the hearing, PacifiCorp and the Division provided testimony supporting Commission approval of the PPAs, as amended. The evidence supporting the Applications is uncontested and is briefly summarized below.

DISCUSSION, FINDINGS AND CONCLUSIONS

A. The Amended PPAs

1. The Kennecott Smelter PPA

Kennecott owns, operates, and maintains a waste-heat-fired steam cogeneration facility for the generation of electric power located at its Magna, Utah smelter. The facility is operated as a QF with a nameplate capacity rating of 31.8 MW and expected average monthly output of approximately 18.5 MW. All interconnection requirements have been met and the facility is fully integrated with PacifiCorp's system.

Under the Smelter PPA, Kennecott has the option, but not the obligation, to deliver to PacifiCorp all of the net electric power output generated by the Kennecott Smelter QF. Kennecott may offset its own retail load before selling any excess power to PacifiCorp, but it may not sell any portion of its net output to other parties.

2. The Kennecott Refinery PPA

Kennecott also owns, operates, and maintains a waste-heat-fired steam cogeneration facility for the generation of electric power near Magna, Utah. The facility is operated as a QF with a nameplate capacity rating of 7.54 MW and expected average monthly output of about 5.4

MW. All interconnection requirements have been met and the facility is fully integrated with PacifiCorp's system.

Under the Refinery PPA, Kennecott has the option, but not the obligation, to sell to PacifiCorp all of Kennecott Refinery's QF net output. While Kennecott is not permitted to sell any portion of the output to parties other than PacifiCorp, Kennecott may offset its own retail load before selling any excess power under the Refinery PPA.

B. Parties' Positions

1. PacifiCorp

PacifiCorp represents in the Applications that it is a "purchasing utility" pursuant to Utah Code Ann. § 54-12-1, and, as such, is obligated to purchase power from QFs under PURPA, Utah Code Ann. § 54-12-1 and Commission orders. PacifiCorp also represents it calculated the purchase prices set forth in the PPAs using the method approved in Docket Nos. 03-035-14 and 12-035-100.[2]

At hearing, PacifiCorp testified that the amended PPAs are compliant with relevant Commission orders on avoided cost and with Schedule 38, including the 2017 Protocol, and recommends the Commission approve the amended PPAs.

2. The Division

At hearing, the Division testified that the PPAs, as amended, satisfy the concerns identified in the Division's November 3, 2016 written comments and the Division recommends the Commission approve the amended PPAs. Based on its review of the PPAs, including

[2] *See id*.

PacifiCorp’s modifications, as contained in PacifiCorp’s November 10, 2016 reply comments, the Division indicates that PacifiCorp appears to have correctly applied the pricing method the Commission approved along with the appropriate capacity contribution values the Commission approved in Docket No. 12-035-100.

Based on its review, the Division accepts PacifiCorp's representation that the costs of these PPAs do not exceed the costs it would have incurred acquiring other market resources. The Division testified at hearing that the PPAs, as amended, are just, reasonable, and in the public interest and recommends Commission approval of them. No one testified in opposition of the Applications.

C. Findings and Conclusions

Based on current regulatory framework in place as established by PURPA, Utah law, prior Commission orders, and PacifiCorp’s tariff, the Commission reviews the PPAs to assure PacifiCorp has properly administered its tariff in dealings with Kennecott and, in particular, that PacifiCorp has properly determined pricing for the PPAs based on the appropriate Commission-approved methodology.

Based on our review of the Applications, the PPAs, as amended, the comments filed in the dockets, and the testimony provided at hearing, and the lack of opposition to the Applications, we find the prices, terms and conditions of the PPAs, as amended, are consistent with the applicable state laws, relevant Commission orders, and Schedule 38. We conclude that approval of the Applications constituting the PPAs, as amended, is just and reasonable, and in the public interest.

ORDER

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

1. PacifiCorp's Application in Docket No. 16-035-38 is approved. The Smelter PPA between PacifiCorp and Kennecott, as amended, is approved.
2. PacifiCorp's Application in Docket No. 16-035-39 is approved. The Refinery PPA between PacifiCorp and Kennecott, as amended, is approved.
3. In future PPA filings, PacifiCorp shall provide in its applications GRID outputs and spreadsheets supporting the derivation of PPA prices and avoided line loss calculations, with all spreadsheet formulae intact.
4. As with past practice, PacifiCorp shall provide to the Division, at least quarterly, data reflecting the hourly power purchased under the Smelter and Refinery PPAs to allow the Division to monitor contract performance.

DATED at Salt Lake City, Utah, November 17, 2016.

/s/ Melanie A. Reif
Presiding Officer

Approved and Confirmed November 17, 2016, as the Order of the Public Service Commission of Utah.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Attest:

/s/ Gary L. Widerburg
Commission Secretary
DW#290326

Notice of Opportunity for Agency Review or Rehearing

Pursuant to §§ 63G-4-301 and 54-7-15 of the Utah Code, an aggrieved party may request agency review or rehearing of this written Order by filing a written request with the Commission within 30 days after the issuance of this 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 does not grant a request for review or rehearing within 20 days after the filing of the request, 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 §§ 63G-4-401 and 63G-4-403 of the Utah Code and Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on November 17, 2016, a true and correct copy of the foregoing was served upon the following as indicated below:

By Electronic-Mail:

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

Bob Lively (bob.lively@pacificorp.com)
Yvonne Hogle (yvonne.hogle@pacificorp.com)
Daniel Solander (daniel.solander@pacificorp.com)
Rocky Mountain Power

Bill Evans (bevans@parsonsbehle.com)
Parsons Behle & Latimer

Patricia Schmid (pschmid@utah.gov)
Justin Jetter (jjetter@utah.gov)
Rex Olsen (rolsen@utah.gov)
Robert Moore (rmoore@utah.gov)
Assistant Utah Attorneys General

Erika Tedder (etedder@utah.gov)
Division of Public Utilities

By Hand-Delivery:

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

____
Administrative Assistant