State of Utah
Department of Commerce
Division of Public Utilities

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ACTION REQUEST RESPONSE

To: Public Service Commission of Utah

From: Division of Public Utilities

Chis Parker, Director
Artie Powell, Energy Section Manager
Charles E. Peterson, Technical Consultant
Brenda Salter, Technical Consultant
Jeff Einfeldt, Utility Analyst

Date: June 10, 2019

Re: Application of Rocky Mountain Power for Approval of the Non-Generation and Renewable Energy Credit Supply Agreement between PacifiCorp and Kennecott Utah Copper LLC. Docket No. 19-035-20

RECOMMENDATION (Approve)

The Division of Public Utilities (Division) recommends that the Public Service Commission of Utah (Commission) approve the Non-Generation and Renewable Energy Credit Supply Agreement (Agreement) between PacifiCorp (Utility) and Kennecott Utah Copper LLC (Kennecott, or Customer) as being just and reasonable and in the public interest.

ISSUE

In an application dated May 2, 2019, PacifiCorp dba Rocky Mountain Power applied for approval of the Agreement between it and the Customer. The Commission issued an Action Request to the Division on May 3, 2019. In a scheduling order issued on May 16, 2019, the

Commission set comments to be due on June 20, 2019. This memorandum constitutes the Division response to the Commission's Action Request.

DISCUSSION

PacifiCorp filed an Agreement, dated April 18, 2019, between it and Kennecott that provides for the annual retirement of 1.5 million renewable energy credits (RECs) by PacifiCorp on behalf of Kennecott[1] in order to help satisfy Kennecott's corporate energy goals related to renewable energy. The effective term of the Agreement is April 1, 2019 through December 31, 2025.[2] The RECs to be retired will have Green-e certification.[3] The RECs will come from a pool of RECs that have been allocated to Utah through the Utility's generation activities. RECs will be available to Kennecott under this Agreement only after the Utility has met the requirements of first, Utah's renewable portfolio standards, and second, any other pre-existing obligations that PacifiCorp had regarding RECs.[4]

The Agreement has provisions regarding any shortfall in the availability of RECs to Kennecott, which the Division believes will effectively hold other ratepayers harmless.[5] Based upon information provided by the Utility during meetings held with the parties[6] over the last few months, at this time it appears unlikely that there will be a shortfall in the available RECs during the term of the Agreement.

As part of the Agreement, Kennecott will shut down its coal unit 4, which it was allowed to run under the electric service agreement that was entered into on July 28, 2016 and approved by the Commission on November 28, 2016 in Docket No. 16-035-33. One of the expected benefits of shutting this coal-fired generation unit is improved air quality in the Salt Lake Valley.[7]

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[1] Application page 2, paragraph 4, and Agreement page 3, paragraph 4e.
[2] Application page 2, paragraph 4, and Agreement page 1, paragraph 2.
[3] Application page 3, paragraph 5 and Agreement page 3, paragraph 4f.
[4] Agreement page 4, paragraph 4g.
[5] Agreement pages 4-5, paragraph 4h.
[6] "Parties" in this memorandum means PacifiCorp, Kennecott, the Division, and the Office of Consumer Services (Office).
[7] Application page 4, paragraph 10.

For several months prior to the filing of the Agreement with the Commission, the parties discussed and negotiated amongst themselves the terms of the Agreement. Specifically, the Division, and the Office, participated in the determination of the consideration given by Kennecott for the RECs. and the Division believes that the consideration is reasonable given the term of the contract and other factors such as the current and expected market for unbundled RECs and the significant expected growth in renewable generation resources.

On May 16, 2019, the Division, a representative of the Office, and a representative of Kennecott met with the Utility to discuss the specifics of the Agreement and to answer questions previously submitted by the Division and the Office. Additional questions were asked during this meeting.

The consideration given for the RECs will be included in PacifiCorp's annual Renewable Balancing Account filing for the benefit of Utah ratepayers. One hundred percent of the consideration will flow to Utah ratepayers as the Agreement provides that the Utility will not receive the usual sharing percentage of 10 percent.[8] Additionally, Kennecott will pay an annual fee to PacifiCorp to cover the Utility's administrative costs under this Agreement.[9]

There are protections to ratepayers and the Utility that provide for the termination of the Agreement under certain circumstances.[10] The Division believes that these termination rights coupled with the roughly 6.75 year term of the Agreement give reasonable protections to other ratepayers. Additionally, the Division understands that the April 1, 2019 start date for the Agreement is not expected to have any practical effect should the Commission reject the Agreement. It is expected that there will be no consideration received and no RECs actually retired before the expected time period of the Commission's Order in this matter.

[8] Agreement page 5, paragraph 5b.
[9] Agreement, pages 3-4, paragraph 4f.
[10] Id., page 7, paragraph 10.

CONCLUSION

Based on the foregoing discussion, the Division believes that this Agreement will benefit ratepayers and that the consideration received is reasonable given the factors considered by the Division. The Division recommends that the Agreement be approved by the Commission as being just and reasonable and in the public interest.

cc Jana Saba, Rocky Mountain Power
Michele Beck, Office of Consumer Services
Cheryl Murray, Office of Consumer Services
Chad Baker, Parsons Behle & Latimer, attorney for Kennecott