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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

Proposed Rulemaking Concerning Utah Code Ann. § 54-17-807, Solar Photovoltaic or Thermal Solar Energy Facilities, Enacted May 8, 2018	**)** **)** **)**	**DOCKET NO. 18-R450-01**

INITIAL COMMENTS OF THE INTERWEST ENERGY ALLIANCE
JUNE 29, 2018

The Interwest Energy Alliance hereby submits these comments in response to the *Notice of Proposed Rulemaking and Request for Comments* issued to open this proceeding on May 31, 2018.

I. INTRODUCTION

Interwest appreciates the opportunity to provide comments on rules to implement HB- 261, codified as Utah Code Ann. § 54-17-807. Interwest's members include the leading renewable energy developers working in the Intermountain West, working on a consensus basis with environmental advocacy organizations in order to promote renewable energy through regulatory processes in Utah, along with Colorado, Wyoming, New Mexico, Arizona, and Nevada. Interwest generally recommends that Commissions adopt best practices to integrate growing amounts of cost-effective renewable energy into the electricity system through a variety of different ownership models to serve subscriber and customer needs.

A. Rule Requirements. Pursuant to § 54-17-807(11), the PSC shall adopt rules, in accordance with the Utah Administrative Rulemaking Act. The rules shall: (a) address the content and filing of an application under § 54-17-807; (b) establish the solicitation process and criteria to be used to identify the competitive market price and select an energy resource; and (c) address other factors the PSC determines relevant to protect the public interest and to implement § 54-17-807.[1]

B. Goal for Interwest's Comments. Interwest will comment on elements (b) and (c) in these comments, leaving the contents of the application for later comments. In section II below, Interwest will particularly focus on subsection (b), related to the solicitation process and criteria to be used to identify the competitive market price and select an energy resource. In section III below, Interwest will discuss other relevant topics to be considered in the rulemaking. Interwest will also plan to respond to comments of others in reply comments, in an effort to reach consensus where

[1] https://le.utah.gov/~2018/bills/hbillenr/HB0261.pdf.

possible. Interwest first discusses goals of a competitive acquisition process, and adding details to explain how these goals can be reached, and then finally will propose rule language with its responsive comments in mid-July, after considering proposed language submitted by other stakeholders.

C. Utah is poised for another solar boom.

Utah has experienced strong solar investments, partly driven by PURPA. New strong renewable energy goals and mandates are led by Utah municipalities and corporate interests. Overall costs of solar have already fallen to historic lows, and are likely to continue to decrease, even with the planned step-downs in the Investment Tax Credit ("ITC"). The ITC remains at its highest level, a 30% discount. The ITC steps down to 26 percent in 2020, then 22 percent in 2021. In 2022, the residential credit (Section 25D) will drop to zero, while the commercial and utility credit will drop to a permanent 10 percent.

New IRS guidelines were published late last week, which provides more reliable qualification steps. Predictability reduces costs. Notice 2018-59 provides two methods for determining the "commence-construction" date: 1) starting physical work of a significant nature or 2) meeting the "5 percent safe harbor test" by incurring 5 percent or more of the total cost of the facility in the year that construction begins. Both residential and commercial solar projects may qualify for the full 30 percent ITC through 2019, as long as the project is placed into service before 2024. https://www.greentechmedia.com/articles/read/irs-issues-favorable-tax-credit-guidance-for-new-solar-projects?utm_source=Solar&utm_medium=email&utm_campaign=GTMSolar#gs.4ArgRME. The similarity to the wind project qualification techniques makes the ruling predictable and provides assurances to financial markets.

Oversupplies due to lower demand in 2018 and 2019 have caused prices to fall and this trend is likely to continue for a short period. PacifiCorp has publicly projected prices to fall for its solar acquisitions. While time is of the essence due to the pending drop in the ITC, solar resources to be acquired over the next year will reveal savings for consumers, consistent with 2018 resource plan results in other states, such as in Colorado and Nevada.[2]

[2] Public Service Company of Colorado issued its 120-Day Report from its 2016 Electric Resource Plan RFP on June 6, 2018, which reveals cost savings from very low solar PV and solar with storage bids: "The Preferred CEPP includes unprecedented low pricing across a range of generation technologies including … solar between $23-$27/MWh, solar with storage between $30-$32/MWh …. Proceeding No. 16A-0396E, Public Service 120-Day Report, pp 50-51. https://www.dora.state.co.us/pls/efi/EFI.Show_Filing?p_fil=G_744921&p_session_id=317512.

Similarly, NV Energy's 2018 RFP results included solar and solar with storage bids at record-low prices. Julian Spector, "Nevada's 2.3-Cent Bid Beats Arizona's Record-Low Solar PPA Price", June 12, 2018, GreentechMedia, https://www.greentechmedia.com/articles/read/nevada-beat-arizona-record-low-solar-ppa-price#gs.zpEEyt8.

II. COMPETITIVE PROCESSES

Clear and transparent competitive processes bring forward least-cost resources to meet electricity requirements.

A. A solicitation process requires transparent and predictable requests for proposals. The requests should allow a wide variety of resources in the market to be able to compete on a level playing field, to provide the utility, Commission and staff with sufficient possibilities to find the lowest-cost resources which will meet the capacity and energy requirements presented by the utility's current circumstances. Interwest includes some standard questions to be answered when reviewing an RFP, which were gleaned from review of several independent evaluator reports and expert recommendations from around the West.

1. Were the solicitation targets, principles and objectives clearly defined?
2. Was the solicitation process designed to encourage broad participation from potential bidders?
3. Did the utility implement adequate outreach initiatives to encourage a significant response from bidders?
4. Was the solicitation process consistent, fair and equitable, comprehensive and unbiased to all bidders?
5. Were the bid evaluation and selection process and criteria reasonably transparent so that bidders had a reasonable indication as to how they would be evaluated and selected?
6. Did the evaluation methodology reasonably identify how quantitative and qualitative measures would be considered and applied?
7. Did the RFP documents (i.e. RFP, Attachments, Appendices, Pricing Form and Model Contracts) describe the bidding guidelines and the bidding requirements to guide bidders in preparing and submitting their proposals, along with the bid evaluation and selection criteria?
8. Once the bid review is accomplished, did the utility adequately document the results of the evaluation and selection process?
9. Did the solicitation process include thorough, consistent and accurate information on which to evaluate bids, a consistent and equitable evaluation process, documentation of decisions, and guidelines for undertaking the solicitation process?
10. Did the solicitation process incorporate the unique aspects of the utility system and the preferences and requirements of the utility and its customers?

B. Specifically, Interwest recommends the following: In order to enable developers to bid projects at the most competitive rates that provide the greatest benefit for utility needs, RFP guidelines should have the following general elements:

- Be clear and transparent as to bid requirements and bid review methodologies.
- Publish a draft RFP two months in advance to enable bidders more time to pull together the best bid possible.
- Allow for at least a month between RFP issuance and the deadline for responses.
- Attempt to keep as closely to the identified timeline as possible.
- Ensure that products demonstrate long-term bankability and viability of vendors.
- Provide bidders with visibility into the utility's dispatch profile and times of the day energy is required.
- Provide capacity requirements.

- Provide site studies including weather profiles and energy model assumptions when the RFP includes use of utility land.
- ---This will help developers stand by EPC numbers and reduce change orders later in the RFP process.

- Provide specific database for weatherization data for developers to base land assumptions on when using non-utility land.
- ---This will help standardize bids.

- Provide any interconnection injection preferences and congestion analysis to help guide developers to provide the most beneficial resources for utility needs. Provide clarity on who bears the interconnection costs if a project is interconnecting directly to Rocky Mountain Power's system.
- When transmission upgrades may be required, allow bidders flexibility to prove that they have requested and paid for the appropriate studies, and further that an interconnection agreement can be completed reasonably in advance of the construction completion deadline, rather than requiring a signed interconnection agreement with the bid response, which will unnecessarily dampen competition, raising costs.
- Provide as much flexibility as possible around credit requirements, including allowing for surety bonds and other structures that allow non-utility entities to compete on a level playing field.
- Bring PPA security requirements in line with industry standards.
- Develop and publish (with the RFP) a scoring methodology which takes subscriber benefits and preferences into account.
  `---This will help provide notice to bidders, standardize bids, and bring customer satisfaction.

- Any procurement process needs to ensure that ratepayers are getting a high-quality asset with demonstrated long-term reliability, and one that provides the kind of capabilities that are increasingly necessary as our electric industry continues to grow and change. Interwest encourages the Commission to emphasize the need for using thoroughly tested and deployed technologies. In the case of solar PV this should include third-party equipment testing specifically for long-term reliability; other technologies should be subject to similar standards.

- Interwest acknowledges the statute limits the scope to solar PV and solar thermal resources. That said, generally, procurements should focus on specific utility needs rather than technology types, because the renewable markets and technologies are rapidly-changing. Recent RFPs issued by Public Service Company of Colorado and NV Energy in Nevada revealed that solar + storage proposals provide the most cost-competitive solutions when compared to other capacity-providing technologies, revealing cost-effectiveness of solar combined with storage as a new entry into the electricity markets.

C. For purposes of illustration, Interwest provides examples, some of which may relate to Rocky Mountain Power's solar procurement RFP filed in Docket No. 18-035-21[3], which will also be discussed in filings in that docket:

1. After pre-filing of the proposed RFP, a period of several weeks should be allowed for comments by stakeholders to help improve the RFP and eliminate unintended discrimination. Utah's rules allow for comments by stakeholders, and Interwest appreciates a period of several weeks

[3] Procedural order has been stayed.

to review the RFP and respond to it and potentially to comments from others. A diverse set of eyes on the documents helps avoid unintended errors and omissions which can result in elimination of the most efficient resources.

2. The commercial operations date should be designed to enable a wide variety of resources to be able to realistically complete development and come online. The commercial operations date ("COD") should allow for resources to comply with higher levels of federal or state tax credits, with sufficient time for permitting and transmission interconnection. The COD of March 31, 2020 included in Rocky Mountain Power's recent RFP filing for its solar procurement is not warranted under RMP's likely customer requirements, and severely constricts the construction time allowed to complete a project. This will eliminate viable projects. Allowing only one Summer in Utah is only one construction season, so allowing two years, with two full Summer construction periods, would double the amount of construction time allotted without interfering with RMP's and its customers' other renewable goals. The same tax credits will be allowed whether the COD is March 31, 2020 or October - December, 2020. Therefore, the COD should be extended to the end of 2020. This is an example where publishing of a draft RFP, allowing comments, and/or pre-filing an RFP with the Commission and allowing comments with recommended changes enables these issues to be illuminated and cured by the utility in advance.

3. Interconnection study requirements should allow sufficient time and potential interconnection options to avoid pre-judging and limiting available alternatives.

RMP's recently-issued RFP includes a COD of March 31, 2020, which unduly restricts the available interconnection study completion. RMP's separate RFP states that "The Company will also compare the commercial operation date in the interconnection SIS and the transmission service study with the commercial operation date in the agreement to confirm operation by March 31, 2020." The supporting testimony refers to the interconnection and transmission processes as an "objective" criterion. However, RMP has a disproportionate ability to hinder and/or help a project based on its subjective (and very preliminary, at this SIS stage) view of how quickly interconnection facilities can be designed and constructed. When feasibility studies are completed they necessarily must assume that all higher-queued projects and upgrades are assumed to be completed and in service, even though it is often extremely unlikely that they will be completed so as to require the identified upgrades. Some projects will be accepted as a successful bid and will proceed before the bid which is the subject of the study. For these reasons interconnection studies are not always based circumstances which become reality in the near term. If a utility excludes bids from consideration because the studies indicate that transmission upgrades are required which will not be completed prior to the projected in-service date, and a bid is eliminated on this basis, the results are unfair, subjective and unnecessary. There is little oversight of the utility's preparation of transmission studies, so an independent evaluator which oversees the remainder of the process, but not the transmission study process, cannot prevent or identify inherent unfairness. The utility should be required, as part of the RFP oversight within the Commission's control, to commit to completion of all requirements on time, including through an engineering and procurement agreement allowing the interconnection customer to build the facilities itself, as part of the study to be conducted, rather than disallowing the bid because the hurdles initially revealed by the utility's study are too high.

Transmission requirements should not be allowed to disqualify bids at the outset, assuming a reasonable level of advancement through the study phases. Inappropriate transmission expectations can be revealed and resolved if a draft RFP is published and then filed in advance for comments by stakeholders, including potential bidders.

4. Size of bids should be flexible. The size of facilities allowed to bid should be expanded to sweep in new opportunities to serve resource plan requirements in addition to the specific voluntary program or customer-driven need which is identified to be filled. This flexibility will enable the utility to research the market for potential opportunities which are available in the rapidly-changing renewable energy markets, some of which it may not have been specifically seeking to fill. The effort and resource expenditure to conduct the RFP will be more useful and efficient if the size of facilities and types of business models are left fairly open and flexible.

5. Financial information requirements should not preclude a fair and level playing field. A utility should have reasonable limitations applied to it as to what financial information it is allowed to require from bidders, and credit impact review should be based on actual third party financial opinions. There is a possibility for a utility to emulate an independent developers' bids when developing its own bids or proposals for approval of a utility-owned generation ("UOG") project by using information gleaned from the bidding process. Information including debt coverage ratios, working capital requirements, equity rates of return, as well as confidential project information, e.g. operations and maintenance costs, general and administrative expenses, land leases, royalty payments, property taxes, and other details, is highly sensitive and proprietary in nature. This request of bidders has the potential to be anti-competitive and unnecessary for a fair competitive acquisition process. Anti-competitive requirements can increase costs overall and damage Utah's otherwise competitive environment for utility energy acquisitions. Bidders proposing build-transfer agreements can provide information sufficient for PacifiCorp to evaluate the build-transfer or ownership proposal, such as operations and maintenance or other operational term costs.

In responding to RFPs, IPPs are often competing with utility self-built projects. It is inappropriate for a utility to request information that would give them a competitive advantage in the current or a future procurement scenario. Requesting this type of detailed information gives the utility a glimpse into valuable proprietary information owned by these independent power producers which no other company would be allowed to see: this requirement appears to provide the utility with unfair advantage which fair competitive processes are designed to prevent. If the utility does choose to "self-build" a project in the future, this information would allow its "benchmark" project an unfair chance of success. In this end, this lack of fairness will result in higher-cost and less efficient projects moving forward at the expense of electricity consumers. Nevertheless, minimum standard financial requirements to confirm ability to complete development which allow for objective review are reasonable.

In the end, if a utility is submitting its own bids, the utility should be required to finalize its own bid for the purposes of review at least one day prior to the deadline for submission of bids by outside parties. Furthermore, utility project development team needs to be isolated from the bid evaluation team.

6. If a bidder "fails" to be chosen after the initial bid eligibility screening and the bidder cannot cure the determined deficiency, the bid fee should be refunded.

III. OTHER RELEVANT FACTORS

Finally, the Commission's rulemaking is to consider other factors which are relevant to protect the public interest and to implement §54-17-807. Interwest promotes a variety of ownership models on an ongoing basis to maintain a mix in Rocky Mountain Power's energy portfolios.

A. Solar PV can be enabled to provide utilization of grid-friendly attributes. Interwest recommends the commission evaluate the broad suite of capabilities of utility-scale PV that can be utilized with a utility-owned generation model. Utility-scale PV plants with advanced power control systems can provide full dispatchability and a full suite of valuable grid services, providing increased flexibility and reliability to the grid. In a 2017 CAISO and NREL study, utility-scale PV demonstrated the ability to not only provide voltage, power factor or reactive power control, but also provide required NERC defined grid reliability services usually provided by conventional thermal plants.[4]

B. An optimal energy portfolio has mixed ownership. Interwest recommends that Utah's rules continue to maintain a competitive environment for acquisition of utility generation resources, and that it recognizes the myriad of benefits brought by utility-scale solar PV through both independent power producer-ownership and utility-ownership. Maintaining a mix of the ownership models is generally most efficient, reducing costs and risks over the long term. A utilities energy portfolio should include a mix of ownership models, both PPAs and utility-owned projects. The passage of HB-261 clearly reflect a desire by the utility and Utah decision-makers for the utility to own generation resources. Utility ownership of assets can bring important benefits to ratepayers if properly managed. Utility ownership can align with maximizing ratepayer value for a long-term investment, particularly with generation assets expected to be useable over the longer term. A utility that owns a solar project that may last 30 years or more can continue to use the output of that investment to serve electricity consumers, ensuring that customers aren't exposed to price uncertainty and regulatory risk, as they would at the end of a PPA term. Additionally, UOG allows the commission to monitor utility choices in technology selection, plant design, and operation to ensure that the electric grid is built with long-term reliability and flexibility in mind. Conversely, power purchase agreements provide other protections against risks and costs which are not available through utility ownership, including risks related to development, risks related to the potential failure of new technology and risks of capacity factor under-performance. Therefore, continuing to develop a mixed portfolio, with utility-owned and IPP-owned resources is optimal. PacifiCorp has recently shown a stronger desire to own renewables, which Interwest encourages, to expand the growth of renewable energy throughout the West. Utility ownership can be accomplished through several paths. Generally speaking, acquisitions should be acquired in the context of competitive procurements, but unique or time-limited opportunities may present themselves which warrant acquisition in-between or along with a contemporaneous transparent competitive procurement, while maintaining a balanced portfolio overall.

[4] https://www.nrel.gov/docs/fy17osti/67799.pdf

C. Energy storage paired with solar should not be precluded. Energy storage resources have developed rapidly in recent years, with falling costs, improving technologies and increased understanding of its potential to maintain reliability, provide ancillary services, defer transmission and distribution investments, and provide other benefits to a diverse energy portfolio. In at least two recent resource acquisitions energy storage combined with solar energy has been revealed as a cost-effective capacity resource when compared with gas peaker units. Energy storage paired with solar should not be precluded from the acquisitions contemplated under HB-261. The inclusion of PV bids combined will enable solar and storage developers to bring forward the most advanced technologies and operational techniques for consideration to meet Rocky Mountain Powers' customers goals. Energy storage should be highly encouraged when responding to grid needs and cost effective to do so. HB 261 does not explicitly preclude storage paired with solar resources, so they should be included in any acquisition review process developed pursuant to these rules.

IV. SUMMARY

In summary, Interwest encourages the Commission to set forth goals with a list of issues to be addressed in a fair, transparent, and predictable manner in the requests for proposals to expand PacifiCorp's utility solar fleet, under a balanced mix of ownership models. The RFP should be clear, without contradictions, with accurate statements of the utility's demand requirements, to avoid inadvertent errors. Interwest has identified some areas which are to be scrutinized to prevent inadvertent elimination of the most efficient resources to serve customers' needs. These details cannot all be included in rule language. The rule should include a requirement for pre-filing of the RFP to allow for comments and potential corrections to be carefully considered by the Commission, the utility, and other stakeholders to help to ensure that the processes are competitive, fair, and fully value all relevant attributes of both utility-owned and independent power producer-owned facilities. A diverse portfolio of utility-owned generation and power purchase agreements is most likely to benefit customers. As indicated above, Interwest will submit proposed rule language in the responsive comments to be filed on or before July 13, 2018, after review and consideration of comments presented by others.

Interwest appreciates the opportunity to submit these comments. Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was filed by email this 29th day of June, 2018, and served on the following:

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