

October 15, 2018

VIA ELECTRONIC FILING

Public Service Commission of Utah
Heber M. Wells Building, 4th Floor
160 East 300 South
Salt Lake City, UT 84114

Attention: Gary Widerburg
Commission Secretary

RE: Docket No. 18-R450-01

Proposed Rulemaking Concerning Utah Code Ann. § 54-17-807, Solar Photovoltaic or Thermal Solar Energy Facilities, Enacted May 8, 2018.
Status Update

On May 31, 2018, the Public Service Commission of Utah (the “Commission”) opened the above-referenced docket with its notice of proposed rulemaking and request for comments (“NOPR”). The Commission is required to create rules pursuant to H.B. 261, which was passed by the Utah Legislature during the 2018 Utah General Session. H.B. 261 was enacted on May 8, 2018, and is codified at Utah Code Ann. § 54-17-807 (the “Market Solar” statute). In the NOPR, the Commission requested comments from interested parties to aid in the rulemaking process. Rocky Mountain Power (“Company”) provided initial comments outlining its understanding of key provisions in the Market Solar statute, and suggested clarifications that the Commission should consider incorporating into the rules. The Office of Consumer Services (“Office”), Utah Clean Energy (“UCE”), the Interwest Energy Alliance (“IEA”), the Utah Solar Energy Association (“USEA”), Sustainable Power Group (“sPower”), and First Solar, Inc. (“First Solar”), also provided initial comments.

On July 13, 2018, the Company provided its reply comments, which included proposed draft rules for the consideration of the Commission and other interested parties. The Office, IEA, UCE, and sPower also provided reply comments. On July 20, 2018, the Commission held a technical conference to discuss the draft rules and comments, and to see if achieving a consensus among the parties on draft language would be possible. While consensus was not achieved at that technical conference, at its conclusion participants expressed a desire to continue informal discussions and indicated they would file a draft rule with the Commission at the conclusion of those discussions. On September 25, 2018, the Commission issued a request for status update or comments (“Update Request”) by October 15, 2018. The Company submits this filing in response to the Update Request on behalf of the parties who have participated in the informal discussions.

After several meetings and multiple draft proposals between the parties, the Company is pleased to report that there is agreement on a consensus draft of the proposed rules among the parties to the informal discussions, which includes the Division of Public Utilities and every party that provided comments and reply comments in response to the NOPR as listed above. The

consensus version of draft proposed rules is attached as Exhibit A for the Commission's consideration.

The Company greatly appreciates the Commission's patience in allowing the parties the time to negotiate a consensus draft of these rules. The Company believes that formal proposed rules in substantially the same form as those proposed herein would be in the public interest, and that they represent a fair, workable, and reasonably efficient implementation of the Market Solar Statute.

Questions about this filing can be addressed to Jana Saba at (801) 220-2823.

Sincerely,

A handwritten signature in blue ink that reads "Joelle Steward". The signature is written in a cursive style with a large, looping "J" and "S".

Joelle Steward
Vice President, Regulation

Exhibit A

EXHIBIT A

**Utah Code Ann. 54-17-807 (HB261)
Final Consensus Draft Rules October 9, 2018**

Rule R746-*. Procedural and Informational Requirements for Solar Resource Solicitations and Acquisitions**

R746-*-1. Definitions**

- (a) “Acquire,” “Acquiring” or “Acquisition” means to purchase, construct, or purchase the output from a photovoltaic or thermal solar energy resource under an agreement that includes a purchase option.
- (b) “All Customers” means customers of a Qualified Utility that are not contracting with that utility under Utah Code Sections 54-17-803 or 54-17-806.
- (c) “All Customers Solicitation” means a Solar Solicitation pursuant to 54-17-807(3)(c) that will solicit Solar Resources with a rated generating capacity of less than or equal to 300 megawatts that will be used in whole, or in part, to supply All Customers;
- (d) “All Customers Large Solicitation” means a Solar Solicitation pursuant to 54-17-807(3)(D) that will solicit Solar Resources with a rated generating capacity of more than 300 megawatts and that will be used in whole, or in part, to supply All Customers;
- (e) “Qualified Utility” is defined under Utah Code Section 54-17-801(2).
- (f) “Solar Solicitation” means a solicitation that includes a Solar Resource pursuant to Utah Code Section 54-17-807.
- (g) “Solar Resource” means a solar photovoltaic or thermal solar energy facility.
- (h) “Specific Customer Solicitation” means a Solar Solicitation pursuant to 54-17-807(3)(a) and (b) for a customer of a Qualified Utility that meets the requirements of either Utah Code Section 54-17-803 or Utah Code Section 54-17-806.

R746-*-2. Applicability**

- (a) This rule applies to Qualified Utility applications for Commission approval of:

- (i) a Solar Solicitation that may result in the Qualified Utility's Acquisition of a Solar Resource using rate recovery based on a competitive market price; and
 - (ii) a Qualified Utility's Acquisition of a Solar Resource resulting from a Solar Solicitation approved under these rules, whether the resource will be solely or jointly owned, only if the Qualified Utility seeks rate recovery based on a competitive market price.
- (b) This rule does not apply to a Qualified Utility's acquisition of Solar Resources located on the customer's side of the meter that have a rated generating capacity of less than two megawatts.
- (c) Except as otherwise specified in this rule, the requirements of Parts 1 through 5 of the Energy Resource Procurement Act (Utah Code Section 54-17-101 through Section 54-17-501) and Commission rules R746-420-1 through R746-420-6; R746-430-1 through R746-430-4; and R746-440-1 through R746-440-3 do not apply to applications for approval under this rule.

R746-***-3. Requests for Solar Solicitation Approvals

- (1) A Qualified Utility that seeks to Acquire a Solar Resource using rate recovery based on a competitive market price shall file an application with the Commission for approval of a Solar Solicitation that includes the following:
- (a) a description of the solicitation process the Qualified Utility proposes to use, including an explanation of the customer(s) on whose behalf the solicitation is proposed and the manner in which the solicitation will be published;
 - (b) a copy of the complete proposed Solar Solicitation with any appendices, attachments and draft pro forma contracts;
 - (c) information sufficient to demonstrate that the filing complies with the requirements of Utah Code Section 54-17-807 and the Commission's rules;
 - (d) descriptions of the criteria and the methods to be used to evaluate bids, including the weighting and ranking factors, to be used to evaluate bids, and explanation of the extent to which grid services frequency regulation, spinning reserves, and/or ramp control that the resource is capable of providing in addition to energy and/or capacity will be considered or evaluated;

- (e) other than for a Solar Solicitation administered by a customer, information directing interested parties to all questions and answers regarding the Solar Solicitation and solicitation process posted on an appropriate website;
- (f) the Qualified Utility's proposed cost accounting for management of the Solar Solicitation.
- (g) if the Solar Solicitation is intended to solicit resources for more than one customer in a Specific Customer Solicitation, or a Specific Customer Solicitation will be combined with an All Customer Solicitation or All Customer Large Solicitation, the following shall also apply:
 - (i) the solicitation will include a proposal for how the resources or the output from resources will be apportioned to the various customers; and
 - (ii) in addition to combined pricing for a portion, or all of, the requested quantity, the solicitation must allow bidders to place separate bids for customers that meet the requirements of Utah Code Section 54-17-803, customers that meet the requirements of Utah Code Section 54-17-806, and All Customers, each to the extent included in the solicitation.
- (h) for a Specific Customer Solicitation or All Customer Solicitation that a Qualified Utility will either administer, or participate in bid evaluation or selection for, a description of the Qualified Utility's proposal for:
 - (i) how the Qualified Utility's personnel involved in evaluating bids and the Qualified Utility's personnel involved in preparing bids to the solicitation from the Qualified Utility will be prevented from sharing information in a manner that may lead to unfair advantage or the perception of unfair advantage in the selection of a Solar Resource; and
 - (ii) how the Qualified Utility will avoid its involvement in bid evaluation or selection from being affected by bias.
- (i) any other information the Commission may require.

(2) Solar Solicitation Approval Process

- (a) For a Specific Customer Solicitation that is not combined with an All Customers Solicitation or an All Customers Large Solicitation, the Qualified Utility shall also include in its application information sufficient for the Commission to make the following determinations:

- (i) that the Solar Solicitation and bid evaluation will create a level playing field that will allow fair competition between the Qualified Utility and other bidders;
- (ii) that, excluding applicable requirements of the Qualified Utility’s federally regulated transmission function, the interconnection and transmission related requirements and conditions will be equally applicable to the Qualified Utility and other bidders
- (iii) that projects proposing to interconnect or deliver to various locations on the Qualified Utility’s transmission system will have a fair opportunity to bid and have the impacts of the interconnection or delivery locations objectively considered in the selection process, provided that solicitation parameters requested by Specific Customers may limit interconnection or delivery locations; and;
- (iv) that the Solar Solicitation is in the public interest.

The Commission shall provide public notice of the application. Interested parties may file comments on the application within 30 days of the notice. Interested parties shall have 15 days to respond to any comments, and, unless the Commission determines that another process or additional time is warranted and is in the public interest, the Commission will issue an order within 60 days of the application.

- (b) For an All Customers Solicitation, including an All Customers Solicitation that is combined with a Specific Customer Solicitation the Qualified Utility shall also include in its application information sufficient for the Commission to make the following determinations:
 - (i) that the Solar Solicitation and bid evaluation will create a level playing field that will allow fair competition between the Qualified Utility and other bidders;
 - (ii) that, excluding applicable requirements of the Qualified Utility’s federally regulated transmission function, interconnection and transmission related requirements and conditions will be equally applicable to the Qualified Utility and other bidders;
 - (iii) that projects proposing to interconnect or deliver to various locations on the Qualified Utility’s transmission system will have a fair opportunity to bid and have the impacts of the interconnection or delivery locations objectively

considered in the selection process, provided that solicitation parameters requested by Specific Customers may limit interconnection or delivery locations; and

(iv) that the Solar Solicitation is in the public interest.

The Commission will provide public notice of the application. Interested parties may file comments on the application within 30 days of the notice. Interested parties shall have 15 days to respond to any comments. The Commission will hold a scheduling conference to set the time for public hearing. Unless the Commission determines that another process or additional time is warranted and is in the public interest, the Commission will set a hearing date that is within 75 days of the application.

(c) For an All Customers Large Solicitation, including an All Customers Large Solicitation that is combined with an All Customers Solicitation or a Specific Customer Solicitation, or both, Parts 1 through 5 of the Energy Resource Procurement Act are applicable, and the Qualified Utility shall include all of the information required under subsection 3(1) of this rule in its application under R746-420. In its application for Commission approval under R746-420 for an All Customers Large Solicitation, the Qualified Utility shall also include in such application information sufficient for the Commission to make the following additional determinations:

(i) that the Solar Solicitation and bid evaluation will create a level playing field that will allow fair competition between the Qualified Utility and other bidders;

(ii) that, excluding applicable requirements of the Qualified Utility's federally regulated transmission function, interconnection and transmission related requirements and conditions will be equally applicable to the Qualified Utility and other bidders;

(iii) that projects proposing to interconnect or deliver to various locations on the Qualified Utility's transmission system will have a fair opportunity to bid and have the impacts of the interconnection or delivery locations objectively considered in the selection process, provided that solicitation parameters requested by Specific Customers may limit interconnection or delivery locations; and

(iv) that the Solar Solicitation is in the public interest.

The Commission will provide public notice of the application. The process for approval of the application will be governed by the Energy Resource Procurement Act and R746-420.

- (d) If no Solar Resource is selected at the conclusion of a Solar Solicitation approved by the Commission, then the Qualified Utility shall file a report with the Commission within 30 days that includes the following:
- (i) a summary of the results of the Solar Solicitation;
 - (ii) the reasons for not Acquiring the lowest cost Solar Resource bid into the Solar Solicitation; and
 - (iii) any other information the Commission may require.

The Commission will provide public notice of the report. Interested parties may file comments regarding the Qualified Utility's report or the Solar Solicitation that resulted in such report within 30 days of the notice. Interested parties shall have 15 days to respond to any comments. After considering the report and information filed by the Qualified Utility and the comments received, the Commission may determine whether further comments, proceedings or actions may be appropriate and in the public interest.

R746-***-4. Solar Resource Acquisition Approval Process

- (1) Before Acquiring a Solar Resource selected through a Specific Customer Solicitation approved under this rule, a Qualified Utility shall file an application for approval of the Acquisition with the Commission that includes information sufficient for the Commission to make the following determinations:
- (a) that the solicitation, bid evaluation and resource selection processes complied with these rules, other Commission rules, the Utah Code and the Commission's order approving the solicitation process; and
 - (b) that the Acquisition of the Solar Resource is just and reasonable, and in the public interest

The Commission will provide public notice of the application and interested parties may file comments on the application within 30 days of the notice. Interested parties shall have 15 days to respond to any comments. The Commission will hold a scheduling conference to set the time for public hearing. Unless the Commission determines that another process or additional time is warranted and is in the public interest, the Commission will set a hearing date that is within 75 days of the application.

- (2) A Qualified Utility may combine its application for Commission approval of a Specific Customer Solicitation with its application for Commission approval of the Acquisition of a Solar Resource selected through that Specific Customer Solicitation if the following conditions are met:
- (a) all information required under R746-***-3(1) is included in the combined solicitation and Acquisition approval application;
 - (b) the Qualified Utility did not prepare or administer the Specific Customer Solicitation, and was not involved in the evaluation or selection of the Solar Resource selected through that Specific Customer Solicitation.
 - (c) the Specific Customer Solicitation is not combined with any other form of solicitation under these rules; and
 - (d) the Qualified Utility's application for combined approval meets the requirements of both R746-***-3(2)(a) and R746-***-4(1).

The Commission shall provide public notice of the application and interested parties may file comments on the application within 30 days of the notice. Interested parties shall have 15 days to respond to any comments. The Commission will hold a scheduling conference to set the time for public hearing. Unless the Commission determines that another process or additional time is warranted and is in the public interest, the Commission will set a hearing date that is within 75 days of the application.

- (3) Approval of an Acquisition under an All Customers Large Solicitation is also subject to Part 3 of the Energy Resource Procurement Act and must be approved in accordance with that Part 3 and R746-430 and these Rules. An Acquisition under an All Customers Solicitation is subject to Part 4 of the Energy Resource Procurement Act and must be approved in accordance with that Part 4 and R746-440 and these Rules. In an application for approval of an Acquisition resulting from an All Customers Solicitation or All Customers Large Solicitation, in addition to the requirements of Part 3 and R746-430 or Part 4 and R746-440, the Qualified Utility shall include in such application information sufficient for the Commission to make the following determinations:
- (a) that the solicitation, bid evaluation and resource selection processes complied with these rules, other Commission rules, the Utah Code and the Commission's order approving the solicitation process;
 - (b) that the Acquisition of the Solar Resource is just and reasonable, and in the public interest; and

(c) that the Qualified Utility’s Acquisition of the Solar Resource at a competitive market price is the lowest cost ownership option, which will be based on:

1. the solicitation criteria and the bid results, and
2. information to be included in the application by the Qualified Utility that compares customer costs and benefits for Acquisition of the Solar Resource using the competitive market price to the costs and benefits of the Solar Resource if it were treated as a traditional regulated resource included in rate base; and

(ii) that the accounting treatment of the Acquired Solar Resource proposed by the Qualified Utility in the application will be properly reflected in the Qualified Utility’s accounting system, reports, in energy balancing accounts, and for interjurisdictional allocations.

The Commission will provide public notice of the application. The process for approval of the application will be governed by applicable provisions of the Energy Resource Procurement Act and Commission rules.

(4) If the Commission issues an order granting Acquisition approval under this section R746-***-4, including entering into a power purchase agreement containing a purchase option by the Qualified Utility, using rate recovery based on a competitive market price:

(a) the prices approved by the commission shall constitute competitive market prices; and

(b) assets owned by the qualified utility and used to provide service as approved under this section are not public utility property.

(5) Within six months following the date of a Commission order approving the Acquisition of a Solar Resource pursuant to an All Customers Solicitation or an All Customers Large Solicitation, or for such longer period as the Commission determines to be in the public interest, a Qualified Utility may file an application with the Commission seeking approval to Acquire another Solar Resource that is similar to the one for which a competitive market price was established without requiring a new Solar Solicitation approval process. For the purposes of this section, whether a Solar Resource is “similar” shall be determined based on the overall similarity between the Solar Resources after evaluating the following factors: resource size, capacity factor, technology type, resource location, contract term length, generation profile, reliability capabilities, transmission, and such other factors the Commission deems appropriate. The Qualified Utility’s application shall also provide information sufficient to demonstrate that:

- (a) there is a need to Acquire the Solar Resource;
- (b) the competitive market price remains reasonable; and
- (c) the Acquisition is in the public interest.

The Commission shall provide public notice of the application. Interested parties may file comments on the application within 30 days of the notice. Interested parties shall have 15 days to respond to any comments. The Commission will hold a scheduling conference to set the time for public hearing. Unless the Commission determines that another process or additional time is warranted and is in the public interest, the Commission will set a hearing date that is within 75 days of the application.

R746-***-5. Disposition of a Solar Resource

No later than 180 days before the end of the Commission approved term for a Solar Resource, the Qualified Utility shall file a request for determination that its intended retention or disposition complies with Utah Code Section 54-17-807(10). The filing shall demonstrate that the Qualified Utility's proposed retention or disposition will result in the Qualified Utility retaining the benefits and assuming the costs and risks of ownership of the Solar Resource. The Commission will provide public notice of such filing, and before approving the proposed retention or disposition of the Solar Resource will provide an opportunity for public input and hold a public hearing.

CERTIFICATE OF SERVICE

Docket No. 18-R450-01

I hereby certify that on October 15, 2018, a true and correct copy of the foregoing was served by electronic mail to the following:

Utah Office of Consumer Services

Cheryl Murray cmurray@utah.gov

Michele Beck mbeck@utah.gov

Division of Public Utilities

Erika Tedder etedder@utah.gov

Assistant Attorney General

Patricia Schmid pschmid@agutah.gov

Justin Jetter jjetter@agutah.gov

Robert Moore rmoore@agutah.gov

Steven Snarr stevensnarr@agutah.gov

Rocky Mountain Power

Data Request Response Center datarequest@pacificorp.com

Jana Saba jana.saba@pacificorp.com;
utahdockets@pacificorp.com



Katie Savarin
Coordinator, Regulatory Operations