State of Utah

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Memorandum

October 31, 2002

To: Utah Public Service Commission
Steve Mecham, Chair
Connie White, Commissioner
Ric Campbell, Commissioner

From: Division of Public Utilities
Lowell Alt, Director
Judith Johnson, Manager, Energy Section
Laura Nelson, Technical Consultant
Ron Burrup, Technical Consultant
Artie Powell, Utility Economist

Re: Docket No. 02-035-T11; Schedule 38, Qualifying Facilities

Summary and Recommendations

On October 7th, 2002, PacifiCorp filed a proposed tariff (Advice filing 02-12, Schedule 38, Qualifying Facility Procedures) for qualifying facilities greater than one megawatt. The Division of Public Utilities has reviewed the proposed tariff and recommends its adoption. However, while the tariff establishes an exact procedure for negotiating a power purchase agreement, and thus may alleviate some concerns expressed by various parties in past negotiations, several major issues are not addressed by the tariff. Therefore the Division recommends that the Commission initiate a process that would allow a broad review by all interested parties of the tariff with the intent of modifying the tariff as needed to address these issues.

Discussion

Schedule 38, the qualifying facility or QF (procedures) tariff proposed by PacifiCorp, is divided into two parts. Part I, specifies the process for negotiating power purchase agreements while Part II specifies the process for negotiating Interconnection agreements. Both agreements are necessary to enable PacifiCorp to purchase power from a QF. Since the interconnection agreement is regulated by FERC under PacifiCorp's Open Access Transmission tariff, the discussion focuses on the procedures for negotiating a power purchase agreement under Part I of schedule 38.

Schedule 38 details the procedures for negotiating a power purchase contract. The procedures can be divided into four time frames or steps:

1. From the initial request by the QF till PacifiCorp provides a copy of its generic power purchase agreement (PPA);

2. From the PPA till PacifiCorp issues an indicative pricing proposal;

3. From the indicative pricing proposal till PacifiCorp issues a draft PPA; and

4. From formal negotiations leading to a final PPA.

In each of the first three steps, PacifiCorp has up to thirty days to respond to the applicant's requests for or filings of information. Thus, under the proposed tariff, it could take as long as ninety days from the time of the QF's initial request till the parties are ready to begin any formal negotiations. This process could be shortened by thirty days if PacifiCorp would make the generic purchase power agreement available on either its web site or another convenient site such as OAISIS.

Although the tariff establishes a negotiation procedure, it does not specify the methods by which the QF offer will be evaluated. For instance, the proposed tariff does not specify <u>how</u> a QF's schedule is to be determined; avoided costs are mentioned in the tariff, but how PacifiCorp's avoided costs are to be calculated and used in setting the QF's schedule is not clear. Additionally, under the current process (i.e., in the absence of the tariff), it is not clear how a QF's offer – the specific combination of power and ancillary services – will be evaluated prior to entering actual negotiations. In previous negotiations, the lack of clarity in these matters has been a major source of concern on the part of QF applicants.

Allowing for additional review would help clarify the methodology to be used in setting each QF schedule. In particular, the tariff needs to specify, (i) how the Company's avoided costs are to be calculated, (ii) how these avoided costs are to be used in setting a particular schedule, and (iii) whether or not the schedule potentially includes a capacity payment or is limited only to energy payments.

Specifying the methodology does not imply that a set – one size fits all – schedule has to be determined *a priori*. The Division recognizes that the value of the QF will vary depending on, among other things, the size of the QF, the range of ancillary services being offered, and the order the QF appears in PacifiCorp's resource stack. Specifying the methodology, however, will help mitigate additional applicant concerns. The methodological statement could be included as part of the tariff or could be a separate document, which, along with the generic power purchase agreement, would be made available on PacifiCorp's web site. To be useful, the statement should include a set of generic payments covering a broad, but typical, range of QF offerings.

Conclusion

While the proposed tariff establishes a formal procedure for negotiating a power purchase agreement, and thus partially mitigates concerns voiced in past negotiations, the tariff does not address several major issues that have arisen in past negotiations. For example, the tariff does not specify the method or methods to be used in evaluating a QF offer. The Division, therefore, recommends that the Commission:

1. Adopt the proposed tariff, Schedule 38, for qualifying facilities; and

2. Initiate a review process, which allow a broad review by all parties, with the intent of recommending modifications to address additional issues.