

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application of Rocky Mountain Power for Approval of a Power Purchase Agreement between PacifiCorp and Tesoro Refining and Marketing Co.)	<u>DOCKET NO. 07-035-06</u>
)	
)	<u>ORDER ON APPLICATION</u>
)	

ISSUED: May 22, 2007

SYNOPSIS

The Commission approves the proposed power purchase agreement, but not for rate-making purposes.

By the Commission:

By Application filed February 9, 2007, Pacificorp, d/b/a Rocky Mountain Power, requests the Commission to approve a February 2, 2007, power purchase agreement (Agreement) with Tesoro Refining and Marketing Company (Tesoro) and to find the terms and conditions of the Agreement to be just and reasonable and in the public interest. The Agreement replaces a prior purchase power agreement with Tesoro, which expired December 31, 2006, and the Agreement provides that it will end December 31, 2007. Through the Agreement, Tesoro has the option of selling 7 MW per hour during off-peak hours and 12 MW per hour during on-peak hours. The on-peak and off-peak hours are designated in the Agreement. As Tesoro has the option, but not the obligation, to provide power, the contract is categorized as a non-firm power agreement. On an average annual basis, it is estimated that Tesoro could sell approximately 24,000 megawatt-hours (MWh) of power to Pacificorp. Due to the non-firm nature of the power delivered under the Agreement's terms, Tesoro will receive energy-only compensation for the

power delivered during the term of the Agreement; Tesoro will not receive any capacity payment. The compensation to be paid varies depending upon the on/off-peak time or hour of delivery. There is no seasonal adjustment to the compensation to be paid, but there is an adjustment for line-loss considerations. Pursuant to the Agreement, Tesoro has contracted to purchase standby and back-up power through Electric Service Schedule 31.

On February 12, 2007, the Commission requested the Division of Public Utilities (Division) to provide to the Commission the Division's recommendations relating to the Application and Agreement. On April 2, 2007, the Commission supplemented its request to the Division, specifically directing Division review and recommendation relative to the Agreement's line-loss adjustment in light of the analysis and recommendations, regarding line-loss adjustments, made in Dockets 06-035-42 and 06-035-76. The Division submitted an April 12, 2007, Memorandum, providing a summary of its analysis of the Agreement. and the Division's recommendations.

The Division observes that the general terms and conditions of the Agreement closely mirror those of similar contracts previously submitted to the Commission. According to the Division, the non-price related provisions of the Agreement appear to be generic and reasonable to the Division. The Division notes the difference of the on/off-peak pricing of this Agreement compared with other contracts which have only seasonal pricing adjustments. Based upon the Division's analysis, using its own GRID run to estimate power costs, the Division concludes the Agreement's pricing scheme is consistent with the Commission's approved

methodology to determine avoided energy costs and the compensation that could be paid for the power delivered by a qualifying facility like Tesoro.

With respect to the Agreement's provision of a pricing adjustment for what are considered avoided transmission line losses, the Division states foremost that in Docket 03-035-14, the Division advocated that non-firm power supply contracts should not receive any price adjustment for potential avoided line losses, regardless of the methodology used to estimate avoided line losses. The Division notes, in Docket 03-035-14, the Commission was not satisfied with and did not adopt any of the avoided line loss estimating methodologies proposed in that docket, necessitating dealing with line loss adjustments on a case-by-case basis. In reviewing the specific line loss adjustment, its calculation and explanations for its inclusion in the Agreement, the Division concludes the approach used in the Agreement is similar to the distance comparative methodologies proposed by the Division and PacifiCorp in Docket 03-035-14. The rationale for the adjustment in the Agreement assumes that Tesoro's production will replace the nearby PacifiCorp Gadsby generating plant 20% of the time, resulting in no line loss adjustment, and unspecified generating plants the other 80%, for which PacifiCorp's FERC OATT line loss value is applied for the unspecified generating plants. The Division reviews the approach taken and assumptions made in arriving at the Agreement's avoided line loss adjustment's calculation and concludes that, within those parameters, the calculation is correct and the result can be considered reasonable.

The Division, however, notes that it can not answer whether a more detailed analysis and forecast (departing from the assumptions made and involving identification of

specific plants which may or may not be backed down when Tesoro may deliver power) would be a reasonable expectation, nor whether such would be a significant improvement in information with which to make an analysis. The Division argues that resolution of this question (determining whether further analysis would be useful or could lead to a additional comparative information) is not needed. The Division argues that this Agreement will end December 31, 2007, and, due to commitments Pacificorp has made in other proceedings, Pacificorp may not seek a general rate change until August 2008. Hence, the actual costs incurred or payments for power delivered through this Agreement would not be borne by ratepayers. As a practical matter, questions on whether the Agreement's line loss calculation is appropriate or correct may be ignored as there would be no rate impact on Pacificorp's ratepayers. Hence, the Division recommends that the Commission may go ahead and approve the Agreement.

The Committee of Consumer Services (Committee) submitted a May 2, 2007, Memorandum commenting on the Agreement and the Division's Memorandum and recommendation. As with the Division, the Committee is concerned with non-firm qualifying facilities receiving avoided line loss payments. Following its position made in Docket 03-035-14, the Committee continues to view line loss adjustments for non-firm supplies as unwarranted. It notes that the recently submitted Pacificorp- Kennecott non-firm power purchase agreement makes no line loss adjustment in calculating the compensation paid to that qualifying facility. In addressing the Agreement's specific line loss calculation and adjustment, the Committee notes that there are a number of unresolved questions concerning whether the underlying assumptions and calculation are appropriate. The Committee raises concerns that, although the actual costs

for this Agreement will not have ratepayer impact as explained by the Division, approval of the Agreement could set precedent for other non-firm qualifying facility contracts, including future contracts with Tesoro, and the means to quantify and value line losses. The Committee recommends that the Agreement be approved without provision or adjustment for avoided line losses. The Committee recommends that any approval clearly specify that approval sets no precedent for the inclusion of avoided line losses in non-firm qualifying facility power purchase agreements.

We conclude, as between PacifiCorp and Tesoro, the Agreement is a reasonable commercial agreement relative to the terms and conditions by which Tesoro and PacifiCorp may provide services to one another. Through our review of the Agreement and the memoranda submitted by the Division and the Committee, we as well are concerned that approval of the Agreement could be considered as precedent on how potential avoided line losses may be estimated and valued for ratemaking purposes. However, we see little practical purpose in rejecting the Agreement and leaving PacifiCorp and Tesoro without a contract while such resolutions are pursued. We conclude that we need not attempt to resolve such issues in this docket through an alternative power purchase agreement between PacifiCorp and Tesoro, in place of the proffered Agreement, when their intended power purchase agreement would not extend beyond December 31, 2007. We conclude that the Agreement may be approved relative to its use between PacifiCorp and Tesoro, but that it is to have no affect, use or precedent for ratemaking purposes. We specifically rule that this Agreement and the order we issue in this docket should not be viewed as our resolution of the contentious issues of how potential avoided

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line losses are to be calculated, how they may be reflected in contract terms between Pacificorp and a qualifying facility, nor whether line-loss adjustments are applicable to non-firm qualifying facilities.

Wherefore, we enter this ORDER, approving the Purchase Power Agreement between Pacificorp and Tesoro, with the limitation and qualification made in our discussion.

DATED at Salt Lake City, Utah, this 22nd day of May, 2007.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary
G#53428