
BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Request of Rocky Mountain Power for a Waiver of Solicitation Process and for Approval of Significant Energy Resource Decision	Comments of Merrimack Energy Group, Inc. as Independent Evaluator DOCKET NO. 08-035-35
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Rocky Mountain Power (Company) has applied to the Utah Public Service Commission (Commission) for a request that the Commission grant it a waiver of the solicitation process required by Utah Code Ann. 54-17-201, et seq. with respect to acquisition of a generation plant. The basis for the requested waiver of the solicitation process is that acquisition of the Plant is a time-limited commercial opportunity that provides value to the customers of Rocky Mountain Power. Rocky Mountain Power does not request a waiver of the requirement for approval of the acquisition of the Plant at this time. The Procedural Order and Notice of Hearing of April 15, 2008 require that comments on Rocky Mountain Power's request for waiver of the solicitation process be filed on April 23, 2008. Merrimack Energy, as the Independent Evaluator, files the following comments on the waiver request.

Background

Rule R746-430-4 provides a list of the filing requirements of the utility for requesting a waiver of a solicitation process for a significant energy resource or waiver of approval of a significant energy resource. According to the Rules, an affected electric utility filing for a waiver pursuant to Section 54-17-501 shall file a request for waiver which shall fulfill

the requirements of Section 54-7-501 and which shall include testimony and exhibits which provide the following:

- (a) An explanation of and the factual basis for the emergency, opportunity or other factors that support the requested waiver;
- (b) If waiver is based on an emergency, evidence establishing the nature and cause of the emergency;
- (c) If waiver is based on time-limited commercial and technical opportunity, evidence establishing the nature of the opportunity and an explanation of why the proposed waiver is in the public interest;
- (d) If waiver is based on other factors, evidence establishing the nature of those factors and an explanation of why the proposed waiver is in the public interest;
- (e) Evidence explaining and demonstrating when the utility first became aware of the claimed emergency, opportunity or other factors and how and when it pursued or responded to the same;
- (f) If the requested waiver is for a waiver of a solicitation process, evidence
 - (i) That the particular resource to be procured is consistent with the utility's current Integrated Resource Plan,
 - (ii) That the particular resource to be procured is consistent with any pending solicitation process(es) and what effect procurement of the particular resource will have on any pending solicitation process(es),
 - (iii) Regarding how the particular resource to be procured compares in value to similar resources,

- (iv) On how the particular resource will be connected to and will be integrated with the utility's system,
- (v) Of the costs which the utility anticipates it will recover from ratepayers, which shall include, but is not limited to, analysis of the effects upon the utility's power costs and revenue requirements, and
- (vi) Of any effect the proposed resource will have on future resource acquisitions;
- (g) All information, data, models and analyses used by the utility to evaluate the proposed resource and associated waiver request; and
- (h) Evidence showing that a requested waiver is in the public interest.

Rocky Mountain Power states that the basis for this requested waiver of the solicitation process is that acquisition of the Plant is a time-limited commercial opportunity that provides value to the customers of Rocky Mountain Power. Rocky Mountain Power provided evidence of the time when the initial contact with the counterparty was initiated. The evidence indicates that the contact was initiated prior to issuance of the 2012 Base load RFP. There is no evidence that the counterparty had any interest to submit a proposal into the 2012 RFP. Rocky Mountain Power requested up to 1,700 MW of base load capacity over the 2012-2014 timeframe via the 2012 Base load RFP. The bid evaluation and selection process has been completed and it is expected that the amount of capacity possible from this RFP will be significantly less than the amount of capacity requested. Rocky Mountain Power filed its 2008 All Source RFP in February

2008 in Docket No. 07-035-94 for 2,000 MW over the 2012-2017 timeframe. The filing is pending before the Commission, with hearings set for May 1, 2008.

Rocky Mountain Power submitted its filing with testimony on April 1, 2008. The testimony describes the basis for the application, a brief history of the transaction, the schedule for closing on the transaction, the data and information used in the evaluation of the opportunity, and the results of the analysis comparing the transaction cost to market alternatives based on recent market benchmarks.

A. Consistency of the Acquisition with Pending Solicitations and What Effect Procurement of the Particular Resource will have on any Pending Solicitation Process

Potentially, the counterparty could have bid the project into the 2012 Base Load RFP but chose not to do so. Also, the counterparty could theoretically bid into the 2008 All-Source RFP. The results of the 2012 RFP indicate that the Company is likely to acquire a significantly lower amount of resources than originally requested. Furthermore, based upon the timing for approving the RFP, issuing the RFP, receiving bids, and evaluating and selecting bids, it will be a challenge to secure resources from new generation options to meet a 2012 in-service date via the All-Source RFP. Also, current demand and supply conditions in the power generation market are leading to delays for the acquisition of major generating equipment, which further exacerbates the possibility for securing new resources to meet a summer 2012 in-service date. As a result, we do not

view consideration of this asset as negatively affecting competition from potential resources for either the 2012 or All-Source RFP processes.

B. Regarding How the Particular Resource to be Procured Compares in Value to Similar Resources

PacifiCorp conducted an analysis of the cost of acquiring the plant in 2008 to the cost of acquiring resources in accordance with its business plan. For evaluation purposes, the Company assumed that the cost of a new combined cycle unit against which the plant would compete was based on a range of capital costs based on the results of the 2012 RFP as well as other recent studies on the capital costs for new combined cycle units. The analysis demonstrated that the acquisition of the plant resulted in a net benefit to overall system costs as opposed to the acquisition of alternative resource options. The analysis showed that the Company's customers would be better off through the acquisition of the Plant now than acquisition of front office transactions prior to 2012 and a similar combined cycle resource on the east side of the Company's system beginning in 2012, based on market pricing and responses to the 2012 RFP.

In addition, the capital costs of the acquisition are fixed at the acquisition price. The capital cost of new generation options are uncertain and have shown a continued increase in cost over time due to increases in input costs, commodities, labor costs and equipment shortages. It is also uncertain whether the All-Source RFP will elicit bids from options with similar pricing and operating experience.

C. Effect the Proposed Resource Will Have on Future Resource Acquisitions

Acquisitions of this nature are not unique in the industry. We are aware of similar acquisitions in other states where utilities have acquired or are proposing to acquire such assets outside the competitive bidding process, even in states which have competitive bidding rules.

If the Company can clearly demonstrate that the acquisition is superior to other resource options that were bid into the 2012 RFP and the acquisition is in the public interest, this acquisition should have no negative impact on future resource acquisitions. Bidders are concerned that the process is conducted in a fair and unbiased manner and recognize that opportunities may exist against which they cannot effectively compete. The Company has the unique opportunity to demonstrate whether this resource option has a significant competitive advantage over proposals bid into a procurement process that was undertaken at virtually the same time as the resource was being investigated.

Recommendations

Merrimack Energy recommends that the Commission grant the Company a waiver of the solicitation process required by Utah Code Ann. 54-17-201 with respect to acquisition of the plant, which should be in the public interest.

Merrimack Energy recommends that approval of the waiver request should be based on the condition that that Company conduct the same or essentially same analysis of this resource (including the same input assumptions) that was undertaken for the resources bid into the 2012 RFP (and envisioned for the All-Source RFP), including Step 1 (Price Evaluation), Step 2 (Capacity Expansion Model – Production Cost Run) and Step 3 (Risk Analysis) of the evaluation and selection process as outlined in the RFP document to allow for a consistent evaluation with resource options bid into the 2012 RFP.