

March 25, 2010

***VIA ELECTRONIC FILING  
AND HAND DELIVERY***

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

Attention: Julie P. Orchard  
Commission Secretary

Re: Docket No. 10-035-T01

On January 11, 2010, Rocky Mountain Power (Company) filed tariff Advice No. 10-01 with the Public Service Commission of Utah (Commission) requesting modifications to the tariff schedules (Schedules 70 & 72) through which the Company's Blue Sky program is offered in Utah. Specifically, Rocky Mountain Power requested that pipeline and irrigation canal hydroelectric projects be added to the list of resources eligible for support under the Blue Sky program. The Blue Sky tariffs, as currently approved, require that all hydro resources be certified by the Low Impact Hydropower Institute (LIHI)<sup>1</sup> to be eligible for support from the Blue Sky program. On February 1, 2010, the Division of Public Utilities (Division) filed a memorandum with the Commission regarding the Company's proposed tariff modifications requested in Advice Filing 10-01 recommending the tariff modifications be adopted with the condition that the Company add language to the tariff which specifies that only existing<sup>2</sup> pipeline and irrigation canal facilities are eligible for Blue Sky program support without obtaining LIHI certification.

In response to the Division's February 1, 2010 memorandum, the Company filed comments with the Commission on February 4, 2010 opposing the Division's recommendation that the tariff modification only apply to existing facilities and requested that the Commission suspend the tariff in order to allow interested parties the opportunity to discuss this issue further. On February 9, 2010, the Division, Office of Consumer Services and Company met to discuss the issues raised in this matter. On March 16, 2010, the Division filed a memorandum with the Commission confirming their earlier recommendation that the tariff change apply only to existing pipeline or irrigation canal facilities.

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<sup>1</sup> <http://lowimpacthydro.org/>

<sup>2</sup> On page 2 of the Division's memorandum dated March 16, 2010, the Division defines an existing facility as: "An existing pipeline or irrigation canal is a pipeline or canal that is substantially complete or in service at the time of application for Blue Sky funding."

As stated previously in prior correspondence in this Docket, Rocky Mountain Power believes that pipeline and irrigation canal hydroelectric facilities are worthy of Blue Sky program support regardless of whether the water conveyance system is new<sup>3</sup> or existing. This technology takes advantage of energy inherent in water flow, which would otherwise be wasted, by placing a turbine in a water pipeline or irrigation canal which converts the flow of water into electricity. Water intakes for pipelines and irrigation canals are typically screened or pumped which excludes aquatic species from entering these systems. In addition to screening, potable water systems are disinfected with chlorine or ozone to prohibit biologic growth. The environmental impacts of placing a hydroelectric turbine in irrigation and potable water conveyance systems is negligible, regardless of whether the water conveyance system exists at the time of application for Blue Sky funding or not. Rocky Mountain Power is seeking the ability to support projects utilizing this technology absent LIHI certification as the Company believes that certification is unduly burdensome for facilities such as these and will unnecessarily limit interest in and investment in these types of facilities.

In their memorandum dated February 1, 2010, the Division supports permitting the Blue Sky program to support projects which replace a pressure valve in an existing pipeline or irrigation canal with a hydroelectric turbine on the basis that the incremental environmental impact of these projects is negligible. However, in the same memorandum, the Division does not offer a specific argument against allowing the Blue Sky program to support turbines placed in new water conveyance systems. In their March 16, 2010 memorandum, the Division clarified their support for existing projects by removing the limiting condition that projects must replace pressure valves with hydroelectric turbines in order to be eligible for Blue Sky program support.

The Division does present two arguments against permitting the program to support the installation of hydroelectric turbines in new facilities in their memorandum dated March 16, 2010. Both are based on the assertion that the LIHI process is not overly burdensome for new pipeline and irrigation canal hydroelectric projects. First, the Division contends the costs of certification appear, to the Division, to be relatively minor. For the Commission's convenience, the LIHI certification fee schedule<sup>4</sup> is provided as Attachment A to this letter.<sup>5</sup> In response to the Division's position, the Company argues that the cost of LIHI certification is not limited to application and annual fees. It is often necessary for entities seeking LIHI certification to retain engineering and legal services to assist the applying entity through the application and review process. The Company further argues that the burden imposed by LIHI certification is not limited to financial considerations. The administrative burden of the LIHI certification process is significant, particularly for smaller entities, and can extend over a number of years. Coupled together, the Company believes that the administrative and financial burden imposed by the LIHI certification process unduly penalizes pipeline and irrigation canal projects, considering their

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<sup>3</sup> Considering the Division's definition of a new facility (footnote 2), a new facility must be a pipeline or irrigation canal which is not substantially complete or in service at the time of application for Blue Sky funding.

<sup>4</sup> The fee schedule can be found at the following link: <http://lowimpacthydro.org/userfiles/file/CertificationPackage-December%202007.pdf>

<sup>5</sup> As noted in the Division's February 1, 2010 memorandum, the largest LIHI certification fees a Blue Sky project applicant would incur are a \$5,000 application fee and an ongoing \$750 annual fee.

favorable renewable energy characteristics, relative to other Blue Sky eligible renewable energy technologies.

The Division offers as their second argument in support of their assertion that the LIHI certification process is not prohibitive for new facilities the suggestion that a project only needs to be LIHI certified at the time the sponsoring entity applies for Blue Sky program support and that the certification does not necessarily need to be maintained going forward. In response to this argument, Rocky Mountain Power contends that requiring LIHI certification at the time of program application and then letting the certification lapse subsequent to obtaining program support only eliminates the ongoing annual certification requirements. The applying entity would still be required to bear all of the administrative burden and costs associated with obtaining the certification initially. Setting different program eligibility requirements for this generation technology on the basis of new and existing (as defined herein) is inconsistent and would unduly discriminate against new facilities under the recommendation proposed by the Division.

Concerning the Division's second argument which requires a new facility to obtain LIHI certification prior to seeking Blue Sky program support, the Company would also note that a hydroelectric facility (including the water conveyance system) has to be in the ground, functioning and in service prior to obtaining LIHI certification, thus meeting the Division's definition of an existing facility (see footnote 2), for which they recommend eliminating the LIHI certification requirement. Given this apparent inconsistency, it is not entirely certain to the Company what the Division is proposing relative to new facilities.

If, in fact, the Division intended to recommend that new facilities (as defined in footnote 3) be required to obtain LIHI certification as a condition of and subsequent to obtaining Blue Sky program support, the Company would offer that the administrative burden and cost to obtain certification is no different for new or existing facilities. In addition, a project sponsor who received Blue Sky program support for a new pipeline or irrigation canal facility under these conditions would be exposed to significant financial risk should the project not be granted LIHI certification. Furthermore, the environmental impact of placing a hydroelectric turbine in an existing or to-be-built pipeline or irrigation canal is the same – both scenarios result in negligible environmental impact. For these reasons, Rocky Mountain Power believes that both existing and new pipeline and irrigation canal facilities should be eligible for Blue Sky program support absent LIHI certification.

In addition to the items addressed above, Rocky Mountain Power offers the following to the Commission in consideration of this issue:

- Pipeline and irrigation canal resources, regardless of whether they are new or existing facilities, are eligible to supply Green-e Energy certified products. Green-e Energy is the nation's leading independent certification and verification program for renewable energy. Rocky Mountain Power's Blue Sky program is currently Green-e Energy certified.
- The Company notes that Blue Sky qualifying initiative project grants are intended to support new generation projects and not to reimburse the cost of existing renewable

energy projects. The Division's recommendation for new pipeline and irrigation canal projects would require the project to be built and in service at the time of Blue Sky project application, requiring any Blue Sky program grant support to be in the form of a reimbursement of already incurred costs.

- As of February 8, 2010, the smallest hydro facility LIHI has certified was 250 kW. The pipeline and irrigation canal projects Rocky Mountain Power has received inquiries from regarding Blue Sky qualifying initiative grant support range in size from 15 to 58 kW.
- The tariff modifications proposed in this Docket have been filed for and approved without condition in Wyoming, Idaho, Washington and California.<sup>6</sup>
- To the extent possible, the Company desires to have a consistent Blue Sky program offering across the states that it serves.
- Rocky Mountain Power would also note that while we are proposing to remove the LIHI certification requirement for this generation technology relative to the Blue Sky program, we are supportive of LIHI certification in general. In fact, PacifiCorp recently applied to obtain LIHI certification for 5 of its hydroelectric plants. The Company simply believes that LIHI certification for small projects seeking support through the Blue Sky program is overly burdensome and prohibitive.

Informal inquiries regarding this correspondence may be directed to Dave Taylor, manager of Utah regulatory affairs, at (801) 220-2923.

Sincerely,

Jeffrey K. Larsen  
Vice President, Regulation

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<sup>6</sup> The Company intends to file the exact tariff modifications discussed herein with the Oregon Public Utility Commission within 30 days.