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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of Rocky Mountain Power for Approval of Changes to Renewable Avoided Cost Methodology for Qualifying Facilities Projects Larger than Three Megawatts	**POST-HEARING BRIEF OF UTAH OFFICE OF CONSUMER SERVICES** DOCKET NO. 12-035-100

The Utah Office of Consumer Services ("OCS" or the "Office"), by and through its legal counsel, and pursuant to the direction of the Utah Public Service Commission ("Commission" or "PSC"), respectfully submits this Post-Hearing Brief for the purpose of summarizing the issues, the evidence, the law, and the position of the Office regarding this Docket.

INTRODUCTION

Rocky Mountain Power ("RMP" or the "Company") initiated this Docket on October 9, 2012 by filing its "Request for Approval of Changes to Renewable Avoided Cost Methodology and Motion to Stay Agency Action." Therein, the Company requested the Commission to approve certain changes to the currently effective avoided cost pricing for renewable Qualifying Facilities ("QF") larger than three MW. In this regard, the Company proposes that avoided costs for renewable qualifying facilities should be calculated based upon the Proxy/Partial Displacement Differential Revenue Requirement method ("Proxy/PDDRR method") in place of the Market Proxy method currently used for wind QFs. The Company also requested that the Commission immediately stay the application of a 2005 Order of the Commission related to indicative pricing concerning wind QFs in excess of three (3) megawatts, pending conclusion of this Docket.[1]

In essence, the Company has requested evaluation of:

(a) Whether the Market Proxy method continues to produce avoided costs that are in the public interest;

(b) The proper implementation of the Proxy/PDDRR method for renewable QF resources, including (i) the capacity contribution of intermittent resources; (ii) the type of resource deferred (thermal or renewable); and (iii) integration costs; and

(c) The ownership of renewable energy certificates ("RECs") from renewable QF resources, including the ownership of RECs under the Proxy/PDDRR method.

Three rounds of pre-filed testimony (direct testimony, rebuttal testimony, and sur-rebuttal testimony) were filed by the several parties to this Docket, and on June 6, 2013 a hearing was

[1]Phase One of this Docket addressed the Company's Motion to Stay Agency Action. The Phase Two proceedings are at issue in this post-hearing brief.

held before the Commission, during which the Commission requested the parties to file post-hearing briefs.

SUMMARY OF THE OFFICE'S POSITION

In determining the appropriate avoided cost pricing methodology for renewable QFs, the Commission must follow the requirements from the Public Utilities Regulatory Policy Act of 1978 ("PURPA") and from the Federal Energy Regulatory Commission's ("FERC") regulations and rulings that implement PURPA. Based on these requirements, avoided cost prices must include only the real, actual and quantifiable costs avoided by the utility.

The Proxy/PDDRR method for avoided cost pricing for wind QFs should be implemented in place of the current Market Proxy method because the Market Proxy method no longer produces reasonable avoided costs for large, renewable QFs. As such, the Market Proxy method does not produce accurate avoided costs that meet the PURPA required standard of "ratepayer indifference". Conversely, utilization of the Proxy/PDDRR method results in actual and quantifiable avoided costs that satisfy the "ratepayer indifference" standard. Accordingly, the Proxy/PDDRR methodology should be followed in determining avoided cost pricing for all renewable QFs.

Inasmuch as QFs enjoy the benefit of the PURPA mandate that utilities must purchase a QF's power, the Office asserts that the ownership of the RECs generated by QFs should belong to the Company for the benefit of ratepayers.

ARGUMENT

I. FERC PRECEDENT ON QF AVOIDED COST PRICING

PURPA requires the Federal Energy Regulatory Commission to adopt regulations requiring electric utilities to purchase electric energy from QFs.[2] The rate an electric utility is required to pay a QF for electricity must be just and reasonable, in the public interest, and cannot discriminate against the QF. Moreover, that rate cannot exceed the incremental cost to the utility of alternative electric energy.[3] The incremental cost of alternative electric energy is commonly referred to as the avoided cost and is generally defined as the "cost to an electric utility of electric energy or capacity or both which, but for the purchase from the qualifying facility or qualifying facilities, such utility would generate itself or purchase from another source."[4] FERC has promulgated regulations and handed down numerous rulings establishing what is appropriate to consider in determining avoided cost pricing.

A. Avoided Costs Are To Be Determined Using System Cost Data From The Utility Considering Factors Related To Energy and Capacity.

In determining avoided cost rates to be paid to QFs, FERC regulations give express guidance as to what factors shall be taken into account. More specifically, FERC's avoided cost rule, 18 C.F.R. § 292.304(e), explains that system cost data from the utility shall be used to determine avoided costs, using factors related to energy and capacity.

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[2]FERC's regulations on avoided costs and Qualifying Facilities are set forth in 18 C.F.R. Part 292.

[3]16 U.S.C. § 824a-3(b).

Accordingly, factors not related to energy or capacity may not be taken into consideration in determining an avoided cost rate because any such factors would not be consistent with FERC's regulations.

B. Federal Law, PURPA, Preempts States From Setting QF Rates Above The Utility's Avoided Cost.

The Company's obligation to purchase electricity from a QF in Utah is created not by state law, but rather by federal law, i.e., PURPA. State pricing methodologies that result in prices which exceed the avoided cost of the electric utility are not consistent with PURPA requirements, nor are they consistent with FERC regulations and rulings that implement PURPA. OCS Ex. 2R, Vastag Reb. Test. pg. 2, l. 39 - pg. 3, l. 44. Moreover, it is clear that PURPA preempts states from setting QF rates above the utility's actual avoided cost. *Connecticut Light and Power*, 70 FERC ¶ 61, 012 (January 1995) is instructive. In that case, Connecticut Light and Power Company asked FERC to find that a Connecticut statute which regulated rates for the sale of power was preempted by § 210 of PURPA because the rate prescribed by the statute may have exceeded the avoided cost. FERC found that the rate required by Connecticut statute to be paid to a QF was preempted by federal law, i.e., PURPA. In its decision, FERC clearly states: "Rates may be established by the state but only pursuant to and consistent with the Commission's regulations under PURPA."[5]; and "In sum, therefore, insofar as the Municipal Rate Statute

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[4]18 C.F.R. § 292.101(b)(6)

[5] 70 FERC ¶ 61,012, January 11, 1995, Section I, page 1.

would require rates for sales by the Preston Facility to CL&P that exceed avoided cost, the statute is to that extent preempted."[6]

Two additional FERC rulings that held states' actions in setting QF rates were preempted by federal law are *Southern California Edison*, 70 FERC ¶ 61, 215 (February 1995); and *Midwest Power*, 78 FERC ¶ 61, 067 (January 1997). This is a well settled area of law.

Utah Clean Energy ("UCE") has proposed certain costs that are clearly outside the scope of what FERC allows in its avoided cost rule for determining QF pricing. For example, UCE advocates including cost adders for factors such as fuel price volatility, environmental regulation compliance, and other risk mitigating factors. Such additional factors cannot be considered by the Commission in arriving at an avoided cost rate rule because consideration of such factors would run afoul of PURPA and rulings of FERC implementing PURPA.

C. A State May Only Account For Costs Which Actually Would Be Incurred By The Utility.

FERC decisions make it abundantly clear that avoided cost rates may only account for costs which actually would be incurred by utilities, and a state cannot impose "adders" or "subtractors" unless they are based on real quantifiable costs. Therefore, costs which are speculative, or otherwise not measurable or quantifiable are inappropriate in arriving at an avoided cost. *Southern California Edison*, 71 FERC ¶ 61, 269 (June 1995) is instructive:

> Thus, in setting avoided cost rates, a state may only account for costs which actually would be incurred by utilities. A state may, through state action, influence what costs are incurred by the utility. Thus, accounting for environmental costs may be part of a

[6] Id, see Section V, page 16

> state's approach to encouraging renewable generation. For example, a state may impose a tax or other charge on all generation produced by a particular fuel, and thus increase the costs that would be incurred by utilities in building and operating plants that use that fuel. Conversely, a state may also subsidize certain types of generation, for instance wind, or other renewable, through, e.g., tax credits.
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> . . . .
>
> <u>A state, however, may not set avoided cost rates or otherwise adjust the bids of potential suppliers by imposing environmental adders or subtractors that are not based on real costs that would be incurred by utilities</u>. Such practices would result in rates which exceed the incremental cost to the electric utility and are prohibited by PURPA. [Emphasis added]

Accordingly, a state cannot impose adders unless they are based on actual costs which can be measured. For example, an actual cost might be in the form of a state or federal tax which has been passed and actually levied upon certain fuels, or an absolute mandated cost imposed through a state Renewable Portfolio Standard ("RPS").

In some states with an RPS, requirements for certain types of resources could result in increased costs, which in turn translate into definable and quantifiable increased avoided costs to be paid to QFs. The State of Utah however, has no such absolute mandate/RPS requirement. Rather, consistent with Utah Code Ann. § 54-17-602, Utah has set a "target" or goal for amounts of qualifying electricity, <u>wholly conditioned</u> upon the resource being "cost effective." Indeed, Ms. Wright acknowledged that Utah's RPS is wholly conditioned upon the "cost-effectiveness" of any given renewable resource.

> Q. Okay. Do you know if Utah has such a requirement that is imposed – the RPS imposes—
> A. It does say shall <u>if it's cost-effective</u>, when taking into account risk and other factors. [Emphasis added.]

Transcript, pg. 251, l. 1-4.

Consistent with Ms. Wright's testimony, Utah's RPS conditioned requirement comports with a standard of prudent utility practice of ensuring that only cost-effective resources are added. Accordingly, if a renewable resource is not cost-effective, then there is no requirement that the resource be acquired by the utility.

In sum, an RPS in the State of Utah is tantamount to a "goal", not an absolute mandate. Therefore, Utah's RPS, by definition, cannot result in increased costs per se, and thus does not produce an avoidable cost that should be considered in defining payments to QFs.

Significantly, FERC rulings have also declared that environmental factors are not included in its avoided cost regulations. Specifically, in *American Ref – Fuel*, 105 FERC ¶ 61, 004 (October 2003), FERC clarified that "environmental attributes" are "not mentioned" in its regulations. In this regard, FERC continued to provide guidance that the definition of a utility's avoided cost is limited to those factors set forth in its regulations. FERC further articulated that "the avoided cost rates, in short, are not intended to compensate the QF for more than capacity and energy." Id. at Paragraph 22.

II. IMPLEMENTATION OF THE PROXY/PDDRR METHOD

The Office, the Company, and the Division of Public Utilities ("DPU" or the "Division") have all tendered persuasive, credible testimony in favor of implementation of the Proxy/PDDRR method as the method to be utilized for determining the avoided costs of renewable QFs.

A. The Proxy/PDDRR Method is the Most Accurate Method For Determining a Utility's Avoided Cost.

Although the Office does not endorse every specific detail of the Company's proposal for implementation of the Proxy/PDDRR method, it agrees that the framework of this methodology proposed by the Company is reasonable and will achieve the goal of "ratepayer indifference", the guiding principle whereby avoided cost payments should be set at a level where ratepayers are indifferent as to whether the utility generates the power itself, or purchases it from a QF. Indeed, pursuant to the Commission's 2005 Order in Docket No. 03-035-14, the Company has used the PDDRR method for determining avoided costs for non-renewable QFs. This method is easily updated, remains current, and can withstand the test of time. As such, this method should be used for determining avoided costs for non-renewable QFs.

B. The Market Proxy Method Should Be Abandoned Because It Does Not Produce Accurate Avoided Costs and Is Not Flexible.

The Office, the Company, and the Division have also tendered strong testimony detailing flaws associated with continuing to use the Market Proxy method. For example, because the Company is not actively acquiring wind resources, the Market Proxy method results in prices that are at least four years out of date. Additionally, the first wind resources selected in the expansion plan are selected for their assumed RPS compliance in states other than Utah. Moreover, the wind resources included in the IRP are based on meeting future RPS requirements and may never actually be built, and the Company does not intend to build additional capacity of any kind for quite some time. OCS Ex. 1D, Falkenberg Dir. Test. pg. 8, l. 204-212.

Accordingly, based upon the verifiable attributes of the Proxy/PDDRR method, taken in conjunction with the glaring flaws associated with the Market Proxy method, it is clear that the Proxy/PDDRR method should be utilized for determining avoided costs for all types of QFs.

III. CALCULATION OF CAPACITY VALUE FOR USE IN PROXY/PDDRR METHOD

While the prevailing sentiment of the parties to this Docket is that the Proxy/PDDRR method is the appropriate method for determining avoided costs, there is some disagreement among the parties regarding exactly how the method should be implemented. One area of disagreement concerns the calculation of capacity value where the Office, the Division and UCE propose conceptually similar methods to replace the Company's proposed method.

A. The Capacity Value For Intermittent QFs Should Be Determined Using a Reliability Based Method.

The Office, the Division, and UCE advocate for implementation of a reliability-based model for determining capacity value: (1) The Office, through its witness Randall Falkenberg, proposed that capacity value ought to be measured by implementation of a reliability metric used in other parts of the country called DSCR - Dependence on Supplemental Capacity Resources. OCS Ex. 1D, Falkenberg Dir. Test. pg. 14, l. 338-351; (2) UCE, through its witness Sarah Wright, advocates for reliability-based modeling for the determination of the capacity value of wind and solar, and she provides a National Renewable Energy Laboratory ("NREL") report in support of UCE's position. UCE Ex. 4.0(D), Wright Dir. Test. pg. 21, l. 377-384; and (3) The DPU, through its witness Abdinasir M. Abdulle, Ph.D., initially did not oppose the Company's method but later, in its rebuttal testimony, acknowledged the appropriateness of UCE's proposed reliability method. *See* DPU Ex. 2.0 Abdulle Reb. Test. pg. 9, l. 174-176.

As Mr. Falkenberg summarized:

> Ms. Wright proposes use of the Effective Load Carrying Capability ("ELCC") or the Equivalent Conventional Power ("ECP") models for determination of the capacity value of renewable QFs. Both methods seek to capture the reliability value of the renewable resources, through use of a Loss of Load Probability ("LOLP"), or Loss of Load Expectation ("LOLE") modeling approach. I agree these methods are superior to the Company's proposal, and the method I proposed in my direct testimony is conceptually similar to the ELCC method.

OCS Ex. 1R, Falkenberg Reb. Test. pg. 1, l. 16-22. Accordingly, in the course of three rounds of testimony, there has been somewhat of a convergence of positions among the Office, UCE, and the Division on this issue.

While the Office, the Division and UCE have generally agreed upon how to calculate capacity value for use in the Proxy/PDDRR method, the Company appears to be focused not so much on a proper methodology, but rather, on using a method based on the performance of a new combined cycle combustion turbine ("CCCT") gas plant which penalizes renewable QFs. The Company asserts that the 2005 Order instructs them to perform the capacity value calculation in this way. It is interesting that in this instance, the Company's witness, Mr. Gregory Duvall, focuses on the implementation of the 2005 Order. Whereas, with respect to the Market Proxy method Mr. Duvall agrees that the 2005 Order needs to be changed and in fact proposes to replace the Market Proxy method with the Proxy/PDDRR method. He also proposes to implement a capacity valuation method that was not part of the methodology approved in the 2005 Order. Further, he proposes use of a new method for determining wind integration costs. As a result, his selective reliance on the 2005 Order is wholly misplaced.

In essence, the Company's approach is overly simplistic and not reliability based. Reliability impacts the reserve margin requirements which drive the need for new capacity, i.e., the avoided unit. The reliability based approaches which the Office, the Division and UCE support indeed measure the reliability benefits of renewable QFs. Conversely, the Company's simplistic method does not achieve this result. OCS Ex. 1S, Falkenberg Sur. Reb. Test. pg. 6, l. 139 – pg. 7, l. 156.

B. The Commission Presently Has Sufficient Evidence to Order the Implementation of One of the Methodologies For Calculating Capacity Value.

The Division has proffered testimony that the Commission will need to determine a capacity value for renewable resources on an interim basis. DPU Ex. 2.0R Abdulle Reb. Test. pg. 10, l. 186-189. The Office disagrees with the Division's assessment. An interim capacity value is not necessary because the parties to this Docket have provided the Commission with ample evidence to determine an appropriate capacity value methodology to be used. Given all of the evidence presented by the parties to the Commission, taken in conjunction with the Commission's experience and expertise, it is wholly unnecessary that the Commission "hold two or three technical conferences" such that the parties can make presentations to the Commission in support of any given methodology. Such an approach would be a time consuming endeavor that is unlikely to achieve total consensus among the parties. The Commission has enough information before it to make a decision without such undue delay. Rather, and consistent with the testimony of the Office's witness, Bela Vastag, the Commission could order the Company to calculate capacity values using a Commission-determined method and the most current available data. After these values (along with underlying workpapers) are submitted to the Commission, interested parties could be given a short period of time to provide comments to the Commission. Based upon these submissions, the Commission could determine an appropriate capacity value to be effective under Schedule 38. OCS Ex. 2S Vastag Sur. Reb. Test. pg. 5, l. 97 – pg. 6, l. 118.

In the event however, that the Commission determines that it is unable to presently decide on a capacity value methodology, it remains unnecessary to "hold two or three technical conferences" to determine this issue. Rather, consistent with further testimony of Mr. Vastag, a process could be streamlined to achieve a timely result. More specifically, the Commission could require the Company to provide capacity values that are calculated using the several reliability-based methods recommended by the parties to this Docket. After the Company's calculations (and underlying workpapers) are provided to the interested parties, the Commission could schedule a <u>single</u> technical conference to discuss the Company's calculations as well as proposed changes to any methodology. In the event that an agreement among the parties is not reached at the technical conference, the Commission could schedule <u>one</u> final round of comments in which the parties could propose alternatives. Such a process would provide a foundation for the Commission to make a determination as to the capacity value methodology and current values that would become effective under Schedule 38. OCS Ex. 2S, Vastag Sur. Reb. Test. pg. 6, l. 119 – pg. 7, l. 143.

IV. INTEGRATION COSTS FOR INTERMITTENT QFS

The Office supports the Company's proposal to reflect some level of integration costs in implementing the Proxy/PDDRR method. That is, the reality of such costs is well established, and if renewable QFs do not pay for their full integrations costs, it is likely that ratepayers will make up the difference, contrary to the goal of "ratepayer indifference".

A. Integration Costs For Intermittent QFs Should Be Based On The Most Current Available Integration Studies From The Company.

The most current available integration study of the Company is the Draft 2012 Wind Integration Study ("WIS"). Consistent with the testimony of OCS witness Falkenberg, there appears to be a general consensus that the 2012 WIS is an improvement over the 2010 WIS, and it is certainly more current. OCS Ex. 1D Dir. Test. Falkenberg pg. 10, l. 254-263. As such, the 2012 WIS should be used for now to determine the appropriate integration costs. It is noteworthy however, that the 2012 WIS has not at this time been approved by the Commission. Accordingly, it is the position of the Office that the Company's proposed wind integration cost of $4.35/MWh should be used, but updated after the 2012 WIS has been fully vetted.

B. Solar Integration Studies Ought To Be Performed.

Because the Company has provided little support for its assumption that wind and solar projects impose the same integration costs, the Commission should require the Company to perform a solar integration study and update the avoided costs when the results become available and that study has been fully vetted. Until such time as the Company performs a solar integration study, and the same has been fully vetted, the Office accepts the proposal of the Division to use 50 to 65 percent of the value for wind integration. Transcript pg. 192, l. 10-16.

V. COMPENSATING QFS FOR CAPACITY IN BOTH SUFFICIENCY AND DEFICIENCY PERIODS.

The Proxy/PDDRR method properly compensates QFs for capacity in both the sufficiency and deficiency periods based upon the type of resource that is being displaced, e.g., front office transactions ("FOTs"), combined cycle combustion turbine ("CCCTs"). The Company's GRID modeling incorporates a capacity value during the sufficiency period by including additional FOTs in the GRID study in its "without QF" scenario. As such, the Company's method appropriately reflects the capacity costs in the sufficiency period.

Contrary to the position of the Office, the Division, and the Company, UCE contends that a QF should receive an additional capacity credit during the sufficiency period. UCE witness Sarah Wright testified as follows:

> Q. Why do you recommend that renewables QFs receive a capacity payment during times of resource sufficiency?
> A: This recommendation is a departure from current practice. But renewable QFs bring capacity value to the system and they should be compensated for that value in the avoided cost rate. Furthermore, as discussed above, preliminary results from the 2013 IRP indicate that the Company and ratepayers will rely very heavily on Front Office Transactions, so while PacifiCorp may not be planning to add a resource in the near term, there is nevertheless a need for both energy and capacity.

UCE Ex. 4.0(D) Wright Dir. Test. pg. 26, l. 429-436.

Ms. Wright's analysis is flawed because she fails to consider the fact that in the Company's avoided cost methodology, the GRID model study already reflects the capacity costs associated with Front Office Transactions. Accordingly, including an additional capacity payment when an FOT is displaced would result in overcompensation.

It is also noteworthy that Ms. Wright's reliance upon prior testimony of OCS witness, Phil Hayet, is misplaced. Specifically, Ms. Wright takes an excerpt from testimony tendered in the 2003 docket and concludes that the Proxy/PDDRR method does not adequately compensate QFs for capacity during resource sufficiency periods.

> Q. Do you agree that the Proxy/PDDRR method compensates QFs for capacity during the resource sufficiency period?
> A. Not necessarily. Rather than explicitly encompassing capacity compensation, market prices for front office transactions may merely reflect normal market forces of supply and demand. Committee of Consumer Services witness Phil Hayet, in Docket No. 03-035-14, explained that paying a QF for capacity in addition to GRID energy prices (based on two GRID runs with and without the QF) did not "double pay" for capacity.

UCE Ex. 6.0(S) Wright Sur. Reb. Test. pg. 11-12, l. 233-245.

Ms. Wright is relying on an excerpt taken out of context from a witness in a proceeding nearly ten years ago. The methodologies and assumptions employed in GRID runs have changed in ten years and so have the markets for FOTs. When asked to confirm certain market characteristics regarding FOTs, Ms. Wright acknowledged that she is "not an expert in this area." See Transcript, pg. 253, l. 3-35, pg. 254, l. 1-18. Despite not being a market expert, she relies on a small passage of testimony, taken out of context, regarding FOTs from the 2003 docket to support her argument; and in spite of her admitted lack of expertise, she claimed to know that the power markets had not changed in the past ten years.

Significantly, a careful examination of Mr. Hayet's testimony regarding capacity reveals that it does not support Ms. Wright's position that the displacement of FOTs does not compensate QFs for capacity. On the contrary, Mr. Hayet states "In the run with the QF, if the QF enables PacifiCorp to avoid the costs associated with a market purchase, PacifiCorp could pay the QF exactly what it would have paid for the market purchase and ratepayers should be completely indifferent." See Docket No. 03-035-14, Direct Testimony of Philip Hayet, April 2004, pg. 10, l. 25-28. In fact, Mr. Hayet was opposing the Company's view that displacing an FOT **double** compensates a QF for capacity; and instead, he was asserting that FOT displacement properly compensates the QF. Since that time, the method proposed by Mr. Hayet has been used.

VI. RENEWABLE ENERGY CERTIFICATES ("RECs")

It is clear that PURPA does not address REC ownership and that the concept of RECs came into being well after PURPA was enacted in 1978. As such, it is the position of the Office that the individual states are free to set their own policy regarding the ownership of QF RECs; and therefore, the Commission has the authority to define such policy.

A. It Should Be State Policy That RECs Are Owned By The Company For The Benefit Of The Ratepayer.

Consistent with the testimony of OCS witness Vastag, a QF is like any power producer insofar as it has the freedom to market its power to whomever it chooses. That is, a QF may contract to sell its power to the Company's ratepayers under QF provisions; alternatively, it may contract with other purchasers. Accordingly, the QF producer is entitled to shop around for the best price that it can garner in the market. Conversely, ratepayers are captive buyers of a QF's capacity and energy, as this is required by PURPA. If a power producer indeed chooses the QF route, then it follows that the ratepayers ought to receive the RECs generated by the QF because ratepayers are forced to buy the QF's power even if the avoided cost price compensates the QF for capacity that will not be needed for many years. This may not be the case for other potential buyers of the QF's energy.

This access to a guaranteed market is sufficient compensation to the QF for the RECs. Without a buyer to sell its power to, the QF cannot generate RECs. The QF receives the benefit of a guaranteed market; and in exchange for this guarantee, the ratepayer should receive the benefit of RECs produced by the QF. The Commission should implement this policy by requiring that QF power purchase agreements ("PPAs") contain a provision to transfer the RECs to the Company.

B. Utah Statutory Law Encourages Cost-Effective Development of Independent Power Producers And Is Silent On The REC Ownership Issue.

Utah Code Ann. § 54-12-1 et seq., establishes state policy to encourage the development of independent and qualifying power production and cogeneration facilities. It also states that the Commission shall establish rates for these producers through either a competitive bid system or devise an alternative method which considers the utility's avoided cost.

Consistent with the legislative policy articulated above, the Legislature also enacted Utah Code Ann. § 54-17-602. This statute sets a target that by 2025 utilities should acquire at least 20% of their electricity from cost-effective renewable energy sources, which includes energy from renewable QFs. Therefore, when the aforementioned Utah statutes are taken in conjunction with PURPA requirements, QFs are certainly encouraged to develop renewable energy to the extent that this energy is cost-effective.

The Legislature did not, however, require that QFs be compensated with RECs in order to encourage their development; rather, only that rates paid to QFs should consider the utility's avoided costs. Since no statutory guidance is provided on REC ownership, and since paying QFs rates based on avoided costs meets the cost-effectiveness standard, the Commission should require there be provisions in QF contracts that the Company receives the RECs for the benefit of the ratepayer.

CONCLUSION

For the reasons set forth hereinabove, the Office respectfully requests that the Commission enter a decision in this Docket consistent with the position(s) of the Office.

Respectfully submitted this ______ day of June, 2013.

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