- 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	)	DOCKET NO. 12-035-100 ORDER GRANTING IN PART AND DENYING IN PART ROCKY MOUNTAIN POWER'S PETITION FOR REVIEW AND CLARIFICATION

ISSUED: October 4, 2013

By The Commission:

INTRODUCTION

On September 16, 2013, PacifiCorp, dba Rocky Mountain Power ("PacifiCorp" or "Company") filed a petition for review and clarification ("Petition") of the following issues addressed in the Commission's August 16, 2013, Order on Phase II Issues ("August Order") in this docket:

- The ownership of Renewable Energy Credits ("RECs") when the next deferrable resource in PacifiCorp's Integrated Resource Plan ("IRP") is a renewable resource;
- Wind integration charges; and
- Solar integration charges.

On October 1, 2013, the Utah Office of Consumer Services ("Office"); Kennecott Utah Copper, LLC and Tesoro Refining and Marketing Company ("KUCC/Tesoro"); and Utah Clean Energy ("UCE") filed responses to PacifiCorp's Petition.

DISCUSSION, FINDINGS AND CONCLUSIONS

I. Ownership of Renewable Energy Credits

A. Parties' Positions

1. PacifiCorp

PacifiCorp seeks clarification of that portion of the August Order indicating RECs are retained by the qualifying facility ("QF") unless the QF and purchasing utility have agreed by negotiated contract to an alternate REC ownership structure. In support of its request, the Company explains that regardless of whether it acquires, builds or contracts for the output of a renewable resource identified in its Integrated Resource Plan ("IRP") Action Plan, the Company assumes it will own the RECs. Therefore, the capital costs used for the IRP for the renewable resource are "inclusive of the Company receiving the RECs as part of the output associated with that renewable resource."[1]

Because IRP renewable resource capital costs are "inclusive" of PacifiCorp REC ownership, the Company argues QF avoided costs based on IRP renewable resource capital costs (as directed in the August Order) would result in a direct conflict with the ratepayer indifference standard under the Public Utility Regulatory Policies Act of 1978 ("PURPA"). PacifiCorp explains that "under the IRP, ratepayers incur the capital costs of the renewable resource and keep the RECs. However, the [August Order] as written infers that ratepayers incur that same capital cost of a renewable resource but do not retain the RECs."[2]

[1] Petition at p. 3.
[2] Petition at p. 3.

PacifiCorp also addresses the Commission's October 31, 2005 order,[3] ("2005 Order"), where the Commission found that "[a]ll parties agree that if PacifiCorp pays for the RECs, it owns the RECs."[4] The Company further explains that "[u]nder the "'market proxy'" method approved in the 2005 Order, the Commission determined, "'[S]ince the payment to a wind QF is the same as a wind resource procured through competitive bidding, the ratepayer indifference standard is addressed . . .'" PacifiCorp states the "2005 Order then addresses the issue of REC ownership by establishing that the Company retains the RECs from wind QFs if the Company retains the RECs under the market proxy contract since the market proxy contract price is what is used to set the avoided cost."[5] The Company argues this same concept applies when using the IRP renewable resource proxy method that was approved in the August Order. "If the Company retains the RECs from a renewable resource acquired through the IRP, which it does, then the Company should retain the RECs from a QF contract that uses the capital cost of an IRP renewable resource to set the avoided costs."[6]

2. Office

The Office supports PacifiCorp's request for clarification regarding REC ownership when avoided costs are based on the capital costs of a Company owned or developed project. The Office asserts that when PacifiCorp's IRP calls for the development and ownership of a renewable resource and a contract with a QF allows the Company to defer development of this resource, the August Order deprives ratepayers of the full value that would have been realized

[3] See *In the Matter of the Application of PacifiCorp for Approval of an IRP-Based Avoided Cost Methodology For QF Projects Larger Than One Megawatt*, Docket No. 03-035-14 (Report and Order; October 31, 2005).
[4] Petition at p. 4, citing 2005 Order at p. 21.
[5] Id.
[6] Id.

had the Company moved forward with its own development of the resource: the energy and the associated RECs.[7] The Office reasons that because PURPA mandates that PacifiCorp, and ultimately ratepayers, purchase QF generated energy, the Company is not privileged to simply elect to develop and/or own an alternate resource and keep the associated RECs. According to the Office, this inequality stands in conflict with PURPA's ratepayer indifference standard.[8]

3. KUCC/Tesoro

KUCC/Tesoro opposes PacifiCorp's request for clarification regarding REC ownership and asserts PURPA's ratepayer indifference standard is not violated by the August Order. Rather, KUCC/Tesoro argues that the Federal Energy Regulatory Commission ("FERC") regulations and jurisprudence require that avoided cost rates be set without regard to REC ownership and therefore ratepayers remain indifferent when the utility pays the PURPA avoided cost rate.[9] KUCC/Tesoro further indicates "[a]s long as the REC is not part of the avoided cost calculation, the notion of '"ratepayer indifference'" is not offended."[10]

KUCC/Tesoro also addresses the following language from the Petition:

> If the Company retains the RECs from a renewable resource acquired through the IRP, which it does, then the Company should retain the RECs from a QF contract <u>that uses the capital cost of an IRP renewable resource to set the avoided costs.</u>[11]

KUCC/Tesoro asserts the use of the phrase "capital cost . . . to set [the] avoided costs" in this context suggests the Company believes the value of a REC retained by the Company

[7] Office Response at p. 3.
[8] Id.
[9] KUCC/Tesoro Response at p. 4.
[10] KUCC/Tesoro Response at p. 5.
[11] KUCC/Tesoro Response at p. 4, citing Petition at p. 3 (emphasis added).

would somehow go to reduce its avoided costs because it might be counted as a credit against the capital cost. KUCC/Tesoro argues while the value of a REC might reduce capital costs, REC value can never reduce PURPA avoided costs, for the reasons discussed above.[12]

Additionally, KUCC/Tesoro addresses PacifiCorp's argument that, like the market proxy method that bases QF avoided costs on a proxy wind contract allowing PacifiCorp to retain RECs, the result should be the same "when using the IRP renewable resource proxy method that was approved in the [August] Order."[13] KUCC/Tesoro counters that PacifiCorp fails to recognize that as long as the contract price includes the value of a REC, the contract price cannot be used to "set the avoided cost" without running afoul of PURPA.

4. UCE

UCE also opposes PacifiCorp's request for clarification regarding REC ownership and asserts the Company's position is not supported by the record in this case or past Commission precedent. In support of its opposition, UCE argues that because PacifiCorp's IRP does not recognize a quantified REC value, avoided cost pricing based on IRP resource costs does not include compensation for RECs and therefore RECs should be retained by QFs unless otherwise compensated or provided for in a negotiated contract.[14]

UCE further explains that renewable resources in the IRP have to compete with non-renewable resources without consideration given to their additional value associated with RECs.[15] Therefore, although RECs provide additional actual value to PacifiCorp, that value is not

[12] KUCC/Tesoro Response at pp. 4-5.
[13] KUCC/Tesoro Response at p. 5, citing Petition at p. 4.
[14] UCE Response at p. 2.
[15] UCE Response at p. 3.

quantified as a REC price in the resource selection process and cannot therefore be compensated by pricing based on IRP assumptions.[16]

UCE also addresses PacifiCorp's argument that allowing the Company to retain RECs when avoided cost pricing is based on IRP renewable resource costs (assuming PacifiCorp REC ownership) is consistent with the market proxy method approved in the 2005 Order. UCE points out the Commission's consideration in the 2005 Order was focused on a market-based wind contract in which PacifiCorp paid for the RECs and owned the RECs and therefore the proxy price included the value of the RECs.[17] UCE notes, however, that under the August Order, "if the IRP selects renewables without a REC credit applied to their costs, the Company does not pay for RECs through avoided costs pricing and cannot therefore own the RECs."[18]

Finally, UCE recommends that to the extent REC ownership under the August Order is clarified, the Commission make an express finding that when avoided cost payments are based on IRP resource costs, RECs are retained by the QF unless the IRP resource costs include a specific REC-price credit. In the event that IRP resource costs include a specific REC price (or price curve), such that avoided cost compensation includes compensation for RECs, UCE recommends the Commission should clarify that a renewable QF may "buy back" the REC from the Company at the IRP REC price.[19]

B. Findings and Conclusions

As an initial matter, we agree with UCE that many premises on which PacifiCorp bases its request for clarification of REC ownership are not developed in the record of this

[16] UCE Response at p. 4.
[17] UCE Response at p. 5.
[18] UCE Response at p. 5.
[19] UCE Response at p. 6.

proceeding. For example, PacifiCorp notes "[t]he assumption in the IRP is that the Company keeps the RECs from any renewable resource it acquires through the IRP action plan."[20] Although the Company provides a citation to its IRP to support this premise[21], it is not apparent from reviewing the reference that the IRP assumes Company ownership of RECs. Moreover, UCE represents PacifiCorp's IRP does not recognize a quantified REC value. Therefore, avoided cost pricing based on IRP resource costs does not include compensation for RECs and RECs should be retained by QFs unless otherwise provided for in a negotiated contract. The record in this case does not address these conflicting assertions and their implications.

PacifiCorp further asserts the capital costs used in the IRP for renewable resources are "inclusive of the Company receiving the RECs as part of the output associated with that renewable resource." [22] We assume that by this statement PacifiCorp means the value of RECs it assumes it will receive for either building, acquiring or contracting for a renewable resource identified in its IRP Action Plan, acts as an offset to the IRP renewable resource capital costs. Again, the record is not sufficiently developed in this proceeding to support this premise. Moreover, it is unnecessary to address a potential conflict with PURPA's ratepayer indifference standard at this time based on potential future IRP scenarios. Accordingly, we deny PacifiCorp's request for clarification on this issue. PacifiCorp's concerns may be more appropriately addressed and vetted by the Commission when a renewable QF is actually poised to defer a cost-effective renewable resource included in the IRP Action Plan. Based on the evidence in the record that no

[20] Petition at p. 3.
[21] Petition at fn. 4.
[22] Petition at p.3.

renewable QF is scheduled to defer a like cost-effective renewable resource in the near future, we find no existing, potential, or threatened violation of PURPA's ratepayer indifference standard.

II. Wind Integration Charges

A. Parties' Positions

1. PacifiCorp

PacifiCorp cites the following language from the August Order stating "based on the general consensus among the parties to rely on the 2012 [Wind Integration Study], we find that for the present, the $4.35 per megawatt hour wind integration charge is reasonable for calculating Schedule 38 avoided energy costs for wind QF resources."[23] The Company states it is not clear from the Commission's finding if the stream of dollars per megawatt hour that was used to arrive at the $4.35 wind integration charge can be updated as per the Company's methodology.

PacifiCorp further states it is important for the Commission to find that the nominal yearly wind integration costs may be updated to incorporate the 2012 Wind Integration Study, the 2013 IRP, and changing market conditions over time.[24] To that end, PacifiCorp states "[t]he Commission should expressly find that the methodology used by the Company to arrive at the $4.35 per megawatt hour is reasonable and that the Company may periodically update the stream of dollars per megawatt hour through its Schedule 38 compliance filings to capture changing market conditions."[25] In support of its request, PacifiCorp indicates "no party challenged the Company's methodology in this case."[26] PacifiCorp further asserts that the Office

[23] Petition at p. 4, citing August Order at p. 21.
[24] Petition at p. 5.
[25] Petition at p. 5.
[26] Id.

indicated it was acceptable to use the method proposed by the Company, relying on the results from the 2012 Wind Integration Study and updated as appropriate.[27]

2. Office

The Office agrees with PacifiCorp that the wind integration charge should be open to updating and modification in the future, rather than set as a firm $4.35 per megawatt charge.[28] The Office, however, does not concur with PacifiCorp's request that the underlying method for determining this rate should be deemed as reasonable by the Commission at this time.[29]

In support of this position, the Office indicates it has opined throughout this proceeding that the 2012 Wind Integration Study is acceptable to use to calculate wind integration costs by the Company for the present.[30] Accordingly, the Office agrees the Company should be able to update the integration charge as necessary, "after an updated [Wind Integration Study] is presented to the Commission through an established approval/acknowledgment process that provides for stakeholder input."[31] The Office further states ". . . at this time, the evidence in the record is not adequate to allow the Commission to endorse the underlying methods as reasonable, as requested by the Company, without further analysis, discussion and evaluation."[32]

3. UCE

UCE does not object to the Commission providing clarification that "cost streams" based on PacifiCorp's wind integration calculations may be updated periodically to reflect more

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[27] Id.
[28] Office Response at p. 4.
[29] Id.
[30] Id., *citing* OCS Ex. 1D Dir. Test. Falkenberg pg. 10, l. 254-263.
[31] Id.
[32] Office Response at pp. 4-5.

accurate and current costs, so long as those cost streams are reviewable.[33] UCE asserts such a clarification is consistent with the Commission's interest in keeping avoided costs up to date and the requirement for setting avoided costs in a manner consistent with integrated resource planning.[34]

Like the Office, however, UCE opposes PacifiCorp's request to the extent it asks the Commission to approve the 2012 Wind Integration Study in this docket. UCE further states "IRP dockets and rate cases provide appropriate forums for vetting, updating, and acknowledging integration methodologies on an ongoing basis. Methods employed to calculate integration charges (in addition to cost streams) should be improved upon and updated over time, rather than fixed."[35]

UCE further asserts that because avoided costs must be calculated in a manner consistent with the IRP and because the IRP and integration studies are updated on a regular basis, the Commission need not approve a specific integration charge methodology for avoided costs in this docket.[36] In support of this assertion, UCE points to IRP guidance stating that avoided costs '"shall be determined in a manner consistent with the Company's Integrated Resource Plan."'[37] UCE states the Commission expressed an interest in the August Order in keeping avoided costs current with changing conditions and consistent with the Company's IRP.[38]

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[33] UCE Response at pp. 6-7.
[34] UCE Response at p. 7.
[35] UCE Response at p. 7.
[36] UCE Response at p. 7.
[37] UCE Response at p. 7, *citing* Docket No. 90-2035-01(Report and Order on Standards and Guidelines; June 18, 1992 at p. 48)
[38] Id.

B. Findings and Conclusions

To address PacifiCorp's request for clarification on this issue, we begin by providing the Company's description in this docket of its method for calculating wind integration charges in the IRP and general rate cases:

> This method was also presented in the Company's 2012.Q2 Schedule 38 compliance filing identifying changes made to the Proxy/PDDRR modeling.[39] In the compliance filing, the wind integration value represented the incremental cost of wind reserves on the Company's system and was calculated nominally for each year based on differential GRID model runs. The differential GRID model runs calculated the cost of 20 average megawatts of incremental reserves to integrate wind capacity (equivalent to about 192 MW of wind based on the 2010 Wind Integration Study) in excess of the wind additions in the 2011 IRP Update. In the 2012.Q2 Schedule 38 compliance filing, the Company calculated wind integration cost to be $4.35 per megawatt hour on a 20 year nominal levelized basis beginning in 2013.[40]

In the August Order, we approved use of the $4.35 per megawatt hour nominal levelized value in 2013 which the Company represents is based on its 2010 wind integration study. We note the Office and UCE take issue with the use of the 2010 wind integration study which acts as an input to the method described above. No party, however, has disputed the method described above to calculate wind integration charges for QF indicative pricing.

Based on our review of the record, the Petition, and the responses, we clarify the August Order and find the above-described method for calculating nominal yearly wind integration charges is reasonable and approve its use for calculating wind integration charges for QF contracts. We further clarify that the calculation of wind integration charges should be

[39] In its 2012.Q2 Schedule 38 compliance filing the Company proposed to calculate the price of wind QFs using the PDDRR methodology.
[40] Duvall Direct, pp. 20-21, ll. 428-439

updated, using the Company's method, to reflect updated wind integration studies and relevant analyses, or other changing market conditions, following the acknowledgment or approval of these updates in an IRP proceeding or general rate case.

III. Solar Integration Charges

A. Parties' Positions

1. PacifiCorp

Similar to PacifiCorp's request regarding wind integration charges, PacifiCorp states it is not clear from the August Order whether the Commission adopted specific amounts of $2.83 per megawatt hour for fixed solar QF resources and $2.18 per megawatt hour for tracking solar QF resources, or whether the amounts are tied to a percentage of the wind integration charges. To address this question, PacifiCorp recommends the Commission expressly find that the dollars per megawatt hour used for solar integration charges are based on a percentage of the wind integration charges, and not necessarily the set amounts of $2.83 per megawatt hour for fixed solar QF resources and $2.18 per megawatt hour for tracking solar QF resources.[41]

2. Office

To the extent the August Order employs the wind integration charge as a variable formula to calculate solar integration charges, the Office agrees with PacifiCorp that the Commission should provide clarity that the solar integration charge may be modified and updated, as appropriate and necessary based upon updates to the wind integration charge.[42] The Office asserts, however, that use of wind integration charges to inform the solar integration

[41] Petition at pp. 5-6.
[42] Office Response at p. 5.

charge should be temporary, pending the completion of a satisfactory solar integration study.[43] The Office further states its position that the Commission does not have sufficient evidence to endorse the underlying methods employed to calculate the wind integration charges that inform the solar integration charges.[44]

3. UCE

UCE opposes PacifiCorp's request for clarification regarding solar integration charges to the extent the Company requests approval to indefinitely calculate solar integration costs as percentages of wind integration costs.[45] UCE further states a "proper solar integration study is a prerequisite to establishing non-arbitrary solar integration costs; therefore, the Commission should not approve adjustments to its approved solar integration charge values until a well-vetted solar-specific integration study has been concluded."[46] UCE indicates, however, that it does not oppose insignificant adjustments to the approved solar integration values based on reviewable updates to "cost streams" feeding into the wind integration calculation.[47]

UCE further asserts the August Order did not approve use of the wind integration charge to inform solar integration charges as a method but rather as an interim measure to establish solar integration cost values until the Company provides a solar integration study and evidence supporting specific solar integration costs. As such, UCE recommends that if the Commission provides clarification on the solar integration charge, it should do so in a manner that

[43] Id.
[44] Id.
[45] UCE Response at p. 8.
[46] Id.
[47] Id.

avoids stating or implying that calculating solar integration costs as a percentage of wind integration costs is a reasonable method.[48]

B. Findings and Conclusions

In the August Order, use of the wind integration charge as a basis to derive solar integration charges was not intended to be permanent. Rather, in the absence of a solar integration study, we accepted the Utah Division of Public Utilities proposal to apply 65 percent and 50 percent of PacifiCorp's wind integration charges to fixed solar and tracking solar resources, respectively. We therefore directed PacifiCorp to apply a solar integration charge of $2.83 per megawatt hour for Fixed Solar resources and a $2.18 per megawatt hour solar integration cost for Tracking Solar resources based on the wind integration charge of $4.35 per megawatt hour levelized starting in 2013. We further noted these values will remain in effect pending PacifiCorp filing a solar integration study. To that end, we fully anticipate that PacifiCorp will file a solar integration study in the near future.

We agree with PacifiCorp that the solar integration charges require updating. Following the filing of a solar integration study, we intend for the Company to update its solar integration charges for changes in relevant studies or market conditions, similar to what is required for wind integration charges. To that extent, PacifiCorp's request for ongoing updates to solar integration charges is approved.

[48] UCE Response at pp. 8-9.

ORDER

Pursuant to the foregoing discussion, findings and conclusions, we order:

1. PacifiCorp's request for clarification of the August Order regarding the ownership of RECs is denied.

2. PacifiCorp's request for clarification of the August Order regarding wind integration charges is approved as described herein.

3. PacifiCorp's request for clarification of the August Order regarding solar integration charges is approved as described herein.

DATED at Salt Lake City, Utah, this 4th day of October, 2013.

/s/ Ron Allen, Chairman

/s/ David R. Clark, Commissioner

/s/ Thad LeVar, Commissioner

Attest:

/s/ Gary L. Widerburg
Commission Secretary
DW#247653

Review of this order is governed by Utah Admin. Code § R746-100-11, Utah Code Ann. §§ 54-7-15, 63G-4-302(b) and 63G-4-401(3), which requires the filing of a petition for judicial review of an order constituting final agency action within 30 days of issuance.

CERTIFICATE OF SERVICE

I CERTIFY that on the 4th day of October, 2013, a true and correct copy of the foregoing ORDER GRANTING IN PART AND DENYING IN PART ROCKY MOUNTAIN POWER'S PETITION FOR REVIEW AND CLARIFICATION was served upon the following as indicated below:

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