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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 Avoided Cost Methodology for Qualifying Facilities Projects Larger than Three Megawatts) DOCKETS NO. 12-035-100 AND 14-035-140
In the Matter of the Review of Electric Service Schedule No. 38, and Other Related Procedural Issues) MOTION FOR EXPEDITED APPROVAL OF CAPACITY CONTRIBUTION STUDY AND CF METHOD VALUES

Pursuant to R746-100-3(J) of the Utah Administrative Code, PacifiCorp, doing business as Rocky Mountain Power (the “Company”), respectfully moves the Commission for expedited approval of the Company’s Capacity Contribution Study, including the capacity contribution values (“CF Method Values”), filed with the Commission October 9, 2014 in this docket (“Schedule 38 Compliance Filing”). The Company further requests that the Commission immediately discontinue the use of the Interim Values (as defined below). Simultaneously with this filing, the Company is filing a Petition for Reconsideration, Review or Rehearing of the Commission’s December 30, 2014 Order on Review and Motion to Stay (“Schedule 37 Petition”) in Docket Nos. 14-035-T04 and 14-035-55.

The Company is entitled to relief because if the Interim Values are used for purposes of calculating avoided costs pricing for Schedule 37 qualifying facilities, prices will be nearly double the avoided costs for Schedule 38 qualifying facilities (“QFs”), in violation of the ratepayer indifference standard under the Public Utility Regulatory Policies Act of 1978 (“PURPA”). Expedited approval of the CF Method Values is reasonable because (1) there is a substantial likelihood the Commission will ultimately approve them in this on-going proceeding, (2) a balance of hardships favors approving them, (3) the public interest supports their approval and (4) if the Commission denies the Company’s Schedule 37 Petition, not approving and implementing them on an expedited basis will result in substantial harm to the Company and its retail customers.

In support of this request, Rocky Mountain Power states as follows:

INTRODUCTION

On August 16, 2013, the Commission issued its Order on Phase II Issues in Docket No. 12-035-100 (“Avoided Cost Order”), approving an avoided cost method to determine indicative prices for power purchases from certain QF projects larger than three megawatts. In that order, the Commission made significant changes in the avoided cost method previously approved. Among other things, the Commission directed the Company to perform and file a study calculating capacity contribution for wind and solar resources for the Proxy/Partial Displacement Differential Revenue Requirement (“PDDRR”) method using the Effective Load Carrying Capability (“ELCC”) method or the Capacity Factor Allocation (“CF”) method considering Loss of Load Probability (“LOLP”). The order further provided that the Company should apply certain interim capacity contribution percentages for wind and solar QFs pending the filing of the study.

On October 9, 2014, pursuant to the Avoided Cost Order, the Company filed its Schedule 38 Compliance Filing. The Company requested that the Commission adopt the CF Method Values

derived from the capacity contribution study for purposes of calculating capacity payments for wind and solar Schedule 38 QF projects under the currently effective Proxy/PDDRR method. Further the Company requested that the CF Method Values replace the Interim Values. With the support of the parties in Docket Nos. 14-035-T04 and 14-035-55 (“Schedule 37 Avoided Costs Docket”); the Interim Values are also currently being used to calculate avoided costs for Schedule 37 QF projects. In the Schedule 37 Petition, the Company is requesting, among other things, to immediately replace the Interim Values with the CF Method Values for purposes of calculating avoided costs for Schedule 37 QFs.

When the Company made its Schedule 38 Compliance Filing, the Commission had not yet issued its orders in the Schedule 37 Avoided Costs Docket. Given the significant changes to the Schedule 37 avoided costs methodology recently ordered by the Commission in the Order on Review in that docket, the Company is filing its Schedule 37 Petition in the Schedule 37 Avoided Costs Docket simultaneously with this Motion.

ARGUMENT

- A. The Company’s Capacity Contribution Values of 34.1 Percent for Fixed Solar and 39.1 Percent for Tracking Solar Should Immediately Replace the Interim Values of 68 Percent and 84 Percent, Respectively (“Interim Values”).

The Commission’s ordered Interim Values were the result of a lack of alternatives and were intended to be temporary. The Commission’s Avoided Cost Order stated “[i]n this proceeding, however, no party provides a capacity contribution study for wind or solar resources using ... the CF Method considering LOLP and Company data.”¹ The Commission subsequently ordered, “[p]ending PacifiCorp’s filing of the results of the ELCC or CF study, PacifiCorp shall apply a 68 percent capacity contribution for Fixed Solar QFs and an 84 percent capacity contribution for

¹ Avoided Cost Order, p. 30 (August 16, 2013).

Tracking Solar QFs for the purpose of determining Schedule 38 capacity payments.”² Implicit in the Avoided Cost Order was the understanding that once the Company filed its capacity contribution study using the CF Method considering LOLP and Company data, the resulting values (CF Method Values) would replace the Interim Values. Following the Commission’s direction, the Company completed and filed the Study using the CF Method considering LOLP and Company data.

The Commission’s intent was for the CF Method Values to replace the Interim Values if they were derived using the Commission-ordered method, and they were. The Interim Values are based on a study from the National Renewable Energy Laboratory (“NREL Study”) using *estimates* which we now know are *double* those produced using the CF Method considering LOLP and Company data. Importantly, the NREL study itself warned against using the values in its study at an individual utility level since they were based on WECC-wide load and resource data rather than the individual utility load data.³ Conversely, the CF Method Values were derived from the CF Method considering LOLP with data specific to the Company’s system. The CF Method Values are therefore more accurate and reliable. Thus, it is reasonable for the Commission to approve the CF Method Values on an expedited basis and to immediately discontinue the use of the Interim Values for purposes of calculating avoided costs under both Schedules 37 and 38.

B. QF Rates Must Be Just and Reasonable and Be No More Than Avoided Costs to Be in the Public Interest.

² *Id.*

³ *In the Matter of the Application of Rocky Mountain Power for Approval of Changes to Avoided Cost Methodology for Qualifying Facilities Projects Larger than Three Megawatts*, Sarah Wright, Direct Testimony, UCE Exhibit 4.1, Comparison of Capacity Value Methods for Photovoltaics in the Western U.S., (Technical Report, p. 11, NREL/TP-6A20-54704 July 2012).

The Commission has wide discretion to approve the CF Method Values on an expedited basis here given that the Interim Values no longer produce avoided costs that are in the public interest. The Federal Energy Regulatory Commission (“FERC”) provides state commissions wide latitude in implementing FERC’s regulations so long as such implementation does not run contrary to FERC’s laws and regulations.⁴ The CF Method Values were derived using the Commission-ordered method in the Avoided Cost Order and, the preferred method of the parties in Docket No. 12-035-100:

In light of the complexity of the ELCC and ECP methods, the DPU, the OCS and UCE support the use of the CF Method also described in the NREL study. They testify the CF Method is a much simpler method that reasonably approximates the results achieved by the ELCC method for calculating capacity values for renewable QFs. These parties argue the CF method is a reasonable alternative approach due to its simplicity and its relative accuracy. The CF method is a capacity value approximation technique that considers the renewable resource’s output in each hour of a study period.”⁵

With parties’ support and given the wide discretion this Commission has in implementing QF rates that are in the public interest, it is not necessary for the Commission to wait to implement the CF Method Values until all aspects of this case have been concluded. The Commission should, therefore, approve immediate discontinuance of the use of the Interim Values and use of the CF Method Values on an expedited basis.

C. The Motion for Expedited Approval of the CF Method Values Should Be Granted Because the Likelihood of Their Approval Pending Further Review Is Substantial and Not

⁴ See, e.g., *American REF-FUEL Company of Hempstead*, 47 FERC ¶61,161 at 61,533 (1989) (“States are allowed a wide degree of latitude in establishing an implementation plan for section 210 of PURPA, as long as such plans are consistent with our regulations. Similarly, with regard to review and enforcement of avoided cost determinations under such implementation plans, we have said that our role is generally limited to ensuring that the plans are consistent with section 210 of PURPA . . .”)

⁵ Avoided Cost Order, pp. 25- 26.

Approving the CF Method Values on an Expedited Basis Will Cause Substantial Harm to Retail Customers.

It is reasonable for the Commission to grant the Company's Motion for Expedited Approval because (1) there is a substantial likelihood of approval of the CF Method Values pending review of the Company's Capacity Contribution Study in this case and (2) not using the CF Method Values will cause substantial harm to the Company's retail customers. To justify preliminary injunctive relief, a party must show that (1) there is a substantial likelihood that the party will ultimately succeed on the merits, (2) not obtaining injunctive relief will cause irreparable harm, (3) the balance of hardships favors granting the injunction, and (4) the public interest supports the injunction.⁶

Because the CF Method Values were derived using the CF Method considering LOLP and using Company data, as ordered by the Commission in the Avoided Cost Order, and given parties' support of the ordered method, there is a substantial likelihood of approval and implementation upon further review of the Schedule 38 Compliance Filing. Further, if the Commission rejects the Company's Schedule 37 Petition, continued use of the Interim Values will produce Schedule 37 QF pricing that is nearly double the Company's Schedule 38 avoided costs. Table 1 below shows the difference in avoided costs pricing using the Interim Values relative to the CF Method Values:

TABLE 1

	Interim Capacity Contribution	CF Method	Order on Review	Order on Review Using CF Method
Fixed Solar	68.0%	34.1%	\$78.29	\$58.08
Tracking Solar	84.0%	39.1%	\$70.34	\$53.26

⁶ See *Bad Ass Coffee Company of Hawaii, Inc. v. JH Enterprises, LLC*, 636 F.Supp. 2d 1237 (Dist. Utah 2009) and *Water & Energy Sys. Tech. Inc. v. Keil*, 974 P.2d 821, 822 (Utah 1999).

The harm to customers of the difference between using the Interim Values relative to the CF Method Values, over a 20-year term for Schedule 37 QF pricing, is approximately \$16.4 million for Fixed Solar and \$21.7 million for Tracking Solar.⁷ Clearly, if the CF Method Values are not used, avoided cost prices will be far too high, not reflective of the Company's avoided costs and will cause substantial harm to the Company's retail customers. This hardship to retail customers far outweighs the hardship to a few Schedule 37 QFs that might otherwise obtain improper pricing pending the conclusion of this case. QFs should have no expectation that they will be paid more than avoided costs for electricity they produce. Furthermore, the expectation was and still is that the Interim Values would be replaced once the Study was completed and filed. Finally, the public interest favors replacing the Interim Values with the CF Method Values because otherwise retail customers will be saddled with contracts requiring them to pay far more than avoided costs for electricity for 20 years. On the other hand, investments by Schedule 37 QFs based on incorrect pricing signals would be uneconomic and contrary to the public interest. The continued use of the Interim Values is therefore not in the public interest and should be discontinued.

For the foregoing reasons, the Company respectfully requests that the Commission approve the CF Method Values on an expedited basis, pending final review of the Study in these dockets and discontinue the use of the Interim Values for purposes of calculating Schedules 37 and 38 avoided costs pricing.

CONCLUSION

Based on the foregoing, the Company respectfully requests that the Commission grant this Motion in the public interest.

⁷ Calculated as follows: 25 MW x 8,760 hours x 18.5% capacity factor x 20 years x \$20.21/MWh for Fixed Solar = \$16.4 million and 25 MW x 8,760 hours x 29.0% capacity factor x 20 years x \$17.08/MWh for Tracking Solar = \$21.7 million.

DATED this 9th day of January, 2015.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "R. Jeff Richards". The signature is stylized with large, flowing letters and a prominent flourish at the end.

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