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State of Utah
DEPARTMENT OF COMMERCE
Office of Consumer Services

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To: The Public Service Commission of Utah

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Date: November 19, 2012

Subject: In the Matter of the Application of Rocky Mountain Power for Approval of Changes to Tariff Schedule No. 38, Qualifying Facility Procedures.
Docket No. 12-035-101

1 Background

On October 19, 2012, Rocky Mountain Power (Company) filed for Public Service Commission (Commission) approval authorizing the Company to revise Tariff Schedule 38 describing the bidding process requirements for Qualifying Facilities (QFs) 100 MW or greater and seeking terms of ten years or more. The Company states that the revisions are in accordance with the Commission's Report and Order issued October 31, 2005, (2005 Order) in Docket No. 03-035-14.

The Company points specifically to Paragraph 13 of the 2005 Order, which reads:

13. The Company is directed to work with parties to develop a proposed revision to Schedule No. 38 **incorporating language informing QFs of available informal and formal dispute resolution procedures**. Also the revisions should include language informing QFs of the bidding process requirements for QFs 100 megawatts or greater and seeking terms of ten years or more. We further direct the Company to create on its web site (with reference to this site shown on Schedule No. 38) a transparent check list or table which incorporates the decisions in this order and allows QF developers to view the process for determining indicative pricing. [Emphasis added]

In its application the Company states that Exhibit A, a revised Tariff Sheet No. 38.1 (attached to the application) incorporates the changes ordered by the Commission in Paragraph 13 of the 2005 Order. Further, the Company indicates that it is “implementing on its website a transparent check list or table which incorporates the decisions in this order and allows QF developers to view the process for determining indicative pricing”.

2 Discussion

Dispute Resolution

In its review of Tariff Sheet 38.1 the Office of Consumer Services (Office) was unable to identify the dispute resolution procedures required in the 2005 Order. Informally the Office posed the question to the Company as to where information about dispute resolution was located within Schedule 38. The Company responded that “Section 1.B.6 and 1.B.7 talk about the PPA negotiation process and include some description of how the back and forth discussions between the Company and the QF are to occur during the process”.

The Office interprets the dispute resolution process referred to in Paragraph 13 not to mean the back and forth discussions inherent in the negotiation process but rather a conflict that remains unresolved between the parties. If, in fact, the Commission did mean an unresolved conflict when it required a dispute resolution procedure in Paragraph 13 then Tariff Sheet No. 38.1 does not meet the requirements of the 2005 Order and should be further revised.

Website

The Company indicates that it is implementing the website check list to comply with the Commission’s 2005 Order. As the website is still under development the Office cannot comment on its compliance with the 2005 Order. The Office recommends that the Commission Order the Company to file a notice with the Commission once the website is complete. The Office would like opportunity to comment on the website at that time.

3 Recommendation

The Office recommends that the Commission clarify its intent regarding “dispute resolution process” in the 2005 Order and if appropriate require the Company to include that process information in Tariff Schedule 38. The Office also recommends that the Commission keep this docket open to further address the Company’s website once it is complete.