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Department of Commerce
Division of Public Utilities

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MEMORANDUM

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To: Utah Public Service Commission

From: Utah Division of Public Utilities

Chris Parker, Director

Artie Powell, Energy Section Manager

Matt Croft, Technical Consultant

Date: October 4, 2013

Subject: **No Action — EPC Contract for SCR Installation at Jim Bridger Units 3 and 4 meets expectations set forth in the Commission's Orders in Docket 12-035-92**

INTRODUCTION

This memorandum confirms that the Utah Division of Public Utilities (Division) has reviewed Rocky Mountain Power Company's (Company) signed EPC contract and that the Contract complies with the Utah Public Service Commission's (Commission) Order of Clarification in Docket 12-035-92 (Order).

BACKGROUND

On May 30, 2013 the Commission issued its Order in Docket 12-035-92. In its Order, the Commission clarified the total approved project costs and EPC costs for the Jim Bridger Units 3 and 4 SCR Systems. Page three of the Commission's Order states:

> *Therefore, if the actual final EPC contract to achieve a 0.07 MMBtu NOx emissions limit is less than* [redacted]*, the lesser amount shall replace the projected EPC contract*

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> *cost of* [redacted] *and the total approved projected Project cost shall be adjusted downward accordingly. Likewise, if the actual final EPC contract to achieve a 0.05 MMBtu NOx emissions limit is less than* [redacted]*, the lesser amount shall replace the projected EPC contract cost of* [redacted] *and the total approved projected Project cost shall be adjusted downward accordingly.*

The Order further clarifies that under a 0.07 lb/MMBtu NOX limit the "Company's share of the approved projected cost of the Project is [redacted], conditioned upon our review of final and actual EPC contract(s) as discussed herein."[1] The Commission's order also states that:

> *In the event the EPA issues a final rule imposing a 0.05 lbs/MMBtu NOx emissions limit, the approved projected cost of the Project is* [redacted]*, conditioned upon our review of final and actual EPC contract costs as discussed herein.* [2]

ISSUE

The Division reviewed the EPC Contract in order to verify that the signed contract was consistent with the Company's filed testimony in Docket 12-035-92 and the Commission's Order. Principally, the Division sought to verify that the EPC Contract costs were aligned with the cost limits in the Commission's Order. The Division found the EPC Contract costs to be consistent with the Commission's order. The analysis of this issue is presented below as well as other observations of the EPC contract and revised budget costs for the Jim Bridger SCR project.

ANALYSIS

EPC Contract Costs

While the Division has concluded that the signed EPC contract meets the requirements set out in the Commission's Order, a few clarifications are in order. In the Division's previously filed comments (and subsequently reflected in the Commission's Order) to the Company's request for clarification, EPC costs were determined to be all costs not specifically identified as "non-EPC" costs on pages 6-8 of RMP Exhibit CAT-1. However, after the Commission's Order, the Division held conversations with the Company in which it was determined that many of the costs

[1] See page four of the Order.
[2] Id.

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are not easily classified as EPC or non-EPC costs but rather are indirect costs consisting of capital surcharges, AFUDC, and escalation costs. Hence, the [redacted] million (.07 limit) and [redacted] million (0.05 limit) "EPC contract" costs in the Commission Order and Division comments are literally EPC contract costs plus indirect costs.

The Division elected to review the signed EPC contract from two perspectives. The first considers the literal EPC Contract line item and the indirect costs together as "EPC Costs." The second perspective considers just the EPC Contract line item as "EPC Costs." Table 1 below compares these perspectives.

Table 1: EPC and Total Project Costs[3]- PacifiCorp Share -CONFIDENTIAL

[redacted]

[3] Note: The Division obtained an updated line item detail for the project direct costs and indirect costs. This budget was dated 4/30/13 (Unit 4) and 4/22/13 (Unit 3) and included the signed EPC contract amount. The other line items consisted of 2011 and 2012 actuals and a revised budget for 2013 and the years after. Indirect costs consist of a revised budget amount for years 2013 through 2016 and actuals for 2011 and 2012. The detail for direct and indirect costs can be found in Confidential Exhibit 1 attached to this memo.

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As can be seen from Table 1, the EPC Costs under either perspective are below the EPC Cost "cap." However, the total project costs under either scenario are above the amount approved by the Commission. The Division recognizes that the rate recovery of the total project costs will be more directly addressed in a future rate case. The main purpose of this memorandum is to demonstrate that the Company's signed EPC Contract is in compliance with the Commission's Order. With regards to EPC costs, the Division finds the signed EPC contract to be in compliance with the Commission's reconsideration order regardless of which interpretation is used to define EPC costs.

Other EPC Contract Observations

While the Division has already demonstrated compliance with the Commission's reconsideration order, there are a few other comments the Division would like to make with regards to the actual EPC contract.

The EPC contract was signed May 31, 2013 [redacted]

[redacted]

The Division understands that some of the non-construction work has already begun. Some of this work consists of site surveying and laser scanning, structural designs, baseline performance testing on Unit 3, and some confirmation (from the ground surface perspective) of underground utilities.

The signed EPC contract date, the work performed thus far and the [redacted] date appear to be lagging behind the dates testified to by the Company in

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Docket 12-035-92. Page 2, lines 5-10 of Mr. Teply's surrebuttal testimony in Docket 12-035-92 state:

> *The Company has negotiated bid validity periods with the short-listed EPC contract bidders which allow contract execution no later than May 15, 2013. This timeframe is intended to align with the anticipated worst-case procedural schedule outcomes in the ongoing regulatory proceedings in the states of Wyoming and Utah reviewing the proposed SCR Project, while still supporting the SCR Project critical path implementation timeline in the most cost effective manner.*

Page 12, lines 19-22 of Mr. Teply's rebuttal testimony in Docket 12-035-92 state:

> *Site activities are currently expected to start in the second quarter of 2013 with confirmation of underground utilities being the initial focus. Foundation construction is currently expected to begin in the third quarter of 2013 with piling installation.*

The Division understands that the [redacted] was chosen to protect customers in the event that the EPA's November 21, 2013 final Wyoming SIP ruling requires emission limits beyond the capabilities of the SCR systems. The Division notes that the most recent re-proposal by the EPA requires a 0.07 NOX limit which is consistent with the Company's filing in Docket No. 12-035-92. The payment schedule included in the EPC contract protects rate payers from the larger payments that will be made to the contractor once construction begins. An excerpt of PacifiCorp's share of the payment schedule included in the EPC contract is shown on the next page:

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Table 2: EPC Contract Payment Schedule - PacifiCorp Share -CONFIDENTIAL

[redacted]

As can be seen from the table above, the more significant payments to the EPC contractor do not begin [redacted]

Under the signed EPC contract, the contractor has a NOX emission limit performance obligation [redacted] This [redacted] between the performance of the SCRs and the actual limit imposed by the EPA (presumed to be 0.07). The Division understands that there are times when NOX emissions may be greater than 0.07 due to certain operating conditions of the plant (ramping up or down). Thus, the [redacted] well help to offset those greater emissions such that the average is below 0.07. In the case of the EPA issuing a final order requiring a 0.05 limit, the performance guarantee would be changed to [redacted]

This [redacted] increase is substantially lower than the approximate [redacted] initial capital cost increase represented on lines 13-23 (page 3) of Mr. Teply's surrebuttal testimony in Docket 12-035-92. Most of the increase in cost was due to the need of an

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[redacted][4] to help meet the 0.05 limit. Since that time, the Company has decided that in either a 0.07 or 0.05 EPA limit scenario, the [redacted] Thus, estimated costs for an [redacted] are included in the total project costs (EPC, Non EPC and indirect) shown previously in Table 1. At this point, the contractor and costs related to the [redacted] have not been finalized.

Concluding Comments

The Division has reviewed the EPC Contract and finds the agreed upon costs to be consistent with the EPC Cost limits or "caps" presented in the Commission's Order. The total project costs at this point appear to be higher than the limits contained in the Commission's Order. The issue of recovering these additional costs will be reviewed in the next general rate case. The construction schedule agreed to in the EPC contract appears to be lagging behind the schedule presented in the Company's testimony in Docket No. 12-035-92. However, under the contract, as long as a full notice to proceed is given by [redacted] the EPC Contractor is obligated to finish the work necessary to meet the December 31, 2015 and December 31, 2016 deadlines required by the state of Wyoming. Additionally, the payment schedule shown above will help protect rate payers in the event that EPA's final ruling in November 2013 requires a significant, unexpected change in emission requirements.

CC David Taylor, Rocky Mountain Power
Michele Beck, Office of Consumer Services

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[4] [redacted] in Mr. Teply's rebuttal testimony.