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State of Utah
DEPARTMENT OF COMMERCE
Office of Consumer Services

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The Division of Public Utilities
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Date: August 26, 2013

Subject: Office of Consumer Services Comments. Docket No. 13-035-115, Application of Rocky Mountain Power for Approval of the Power Purchase Agreement between PacifiCorp and Blue Mountain Power Partners, LLC

Introduction

On July 9, 2013 Rocky Mountain Power (Company) filed an application with the Utah Public Service Commission (Commission) requesting approval of a Power Purchase Agreement (PPA) dated July 3, 2013 between PacifiCorp and Blue Mountain Power Partners, LLC (Blue Mountain). On August 6, 2013, the Commission issued a scheduling order setting a deadline of August 26, 2013 by which parties may submit initial comments.

The Office offers the following comments regarding the PPA between the Company and Blue Mountain Power Partners, LLC.

Background

In this PPA, Blue Mountain has received pricing as a qualifying facility (QF) pursuant to the provisions of Section 210 the Public Utility Regulatory Policies Act (PURPA). The Federal Energy Regulatory Commission (FERC) issued regulations which provided guidance to states as to how QF pricing shall be determined under PURPA. These FERC regulations are often referred to as the avoided cost rule because PURPA requires that the rate paid to QFs not exceed the incremental cost to the utility of alternative sources of

electric energy. The Utah Commission established the current methodology for avoided cost pricing for Utah wind QFs eight years ago in its 2005 Order in Docket No. 03-035-14. The pricing method ordered by the Commission for wind QFs is referred to as the Market Proxy methodology and is unique to wind.[1]

Because the Company has not acquired a new wind facility through a competitive bid process or Request for Proposals (RFP) for several years, the proxy currently in place is based on the Dunlap I wind project which resulted from the Company's 2009 RFP. Dunlap is still used as the proxy because it meets the requirements from the Commission's 2005 Order as the most recent executed wind contract from a Company issued renewable RFP. Significantly, Blue Mountain is receiving pricing which incorporates wind facility costs and other market prices that are now over 4 years outdated.

Recently, concerns have been raised before the Commission that continuing to use the Market Proxy method based on a 2009 project produces out-of-date avoided cost pricing. The Commission, however, has issued two recent decisions which allowed the method to remain in place. In its September 2012 Order in Docket No. 12-2557-01[2], the Commission ordered the Company to continue to use the Market Proxy method for wind QFs. In Phase 1 of Docket No. 12-035-100[3], both the Company and the Office supported a stay of the use of the Market Proxy method because, among other issues, wind farm construction costs and wind power prices in new PPA contracts had both declined significantly since 2009. The Office argued that QF pricing based on an out-of-date proxy no longer reasonably approximated the Company's actual avoided costs. In its December 2012 Order, the Commission denied the Company's motion to stay the use of the Market Proxy method for wind QF pricing.

Phase 2 of Docket No. 12-035-100 provided parties the opportunity to recommend changes to the Commission on the avoided cost methodology for renewable QFs. Three rounds of testimony were submitted and a hearing was held on June 6, 2013. In this proceeding, certain parties, including the Office, advocated that the Market Proxy method be replaced with the Proxy/PDDRR method. The Commission issued its order on Phase 2 on August 16, 2013 in which it decided to discontinue the use of the Market Proxy method. Instead, the Commission ordered the Company to use the Proxy/PDDRR method for all QFs because it "will reflect appropriately the costs reasonably expected to be avoided."[4] The Commission also reasoned: "Because PacifiCorp is not actively conducting any system-wide RFPs for wind resources, the last executed wind contract from an RFP (i.e., the 2009R RFP) upon which Market Proxy indicative pricing is currently

[1] The Market Proxy method is to be used for wind QFs when the Company has wind resources in its most recent IRP. Otherwise, the pricing for wind would be the same as for other types of QFs, the PDDRR method.

[2] In the Matter of Blue Mountain Power Partners, LLC's Request that the Public Service Commission of Utah Require PacifiCorp to Provide the Approved Price for Wind Power for the Blue Mountain Project, Docket No. 12-2557-01, opened August 1, 2012.

[3] 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, Motion to Stay, Docket No. 12-035-100, opened October 11, 2012.

based, runs the risk of becoming out of date."[4] In our comments, we show that this is no longer just a risk but has been a reality for some time.

Comments

With respect to the pricing given to Blue Mountain in this PPA, the Office recognizes that the Company has met the requirements ordered by the Commission as discussed above.

However, the Office still asserts that the prices given to Blue Mountain are not based on the Company's current avoided costs as required by PURPA; and instead, are based on out-of-date market data and are not just and reasonable for Utah ratepayers. As compared to PDDRR based avoided cost pricing, Blue Mountain is receiving a premium of about $17/MWh over the Company's avoided costs. See Table 1 below.

Table 1 – Blue Mountain – 20 Year Nominal Levelized Payment per MWh[5]

PDDRR Pricing	Dunlap I Pricing
$43.92	$60.66

Over the 20 year life of this PPA, this additional $17/MWh premium over PDDRR pricing will cost Utah ratepayers over $66 million.[6]

Furthermore, a recent publication[7] from the US Department of Energy (DOE) has confirmed that the downward trend in wind PPA prices is continuing since prices peaked in 2009. Attached to this memo is an email dated August 6, 2013 from DOE's Lawrence Berkeley National Laboratory (LBNL) announcing the release of the "2012 Wind Technologies Market Report." The subject line of this email reads: "New Study Finds that the Price of Wind Energy in the United States Is Near an All-Time Low." Below is an excerpt from this announcement:

> *"**Wind energy prices have been falling since 2009, and now rival previous lows.** Lower wind turbine prices and installed project costs, along with improved capacity factors, are enabling aggressive wind power pricing. After topping out at nearly $70/MWh in 2009, the average levelized long-term price from wind power sales agreements signed in 2011/2012 – many of which were for projects built in 2012 – fell to around $40/MWh nationwide."*

[4] Docket No. 12-035-100, Order on Phase II Issues, August 16, 2013, page 18.
[5] See Company response to Division of Public Utilities' data request 1.2, Attachment DPU 1.2.xlsx, in Docket No. 13-035-115. PDDRR pricing in Table 1 above assumes a 15% capacity contribution.
[6] Assumes annual generation of 200,000 MWh (or about a 29% capacity factor) for the Blue Mountain wind facility. This is a conservative estimate and actual costs to ratepayers will be higher than $66 million.
[7] http://emp.lbl.gov/publications/2012-wind-technologies-market-report

This report supports the Office's assertion that a Market Proxy price based on a 2009 project when wind power PPA prices were peaking is not reasonable. LBNL reports that the average levelized price for wind power for PPAs signed in 2011 and 2012 is around $40/MWh.[8] The PDDRR price for Blue Mountain of $43.92 compares reasonably with what LBNL is reporting for 2012 wind PPAs. Blue Mountain's Market Proxy price (Dunlap I Pricing) of $60.66 is excessive for today's market, despite being reasonable in 2009 when the Dunlap I project was contracted.

Conclusion

Our analysis in this docket, as in Docket No. 12-035-100, demonstrates that the Market Proxy method does not meet the PURPA ratepayer neutrality standard. The Office does not dispute that the Company has followed the Commission ordered method in establishing pricing for Blue Mountain; however, the Office cannot recommend approval of the Blue Mountain PPA because the outdated pricing is clearly not the Company's avoided cost and not just and reasonable for ratepayers.

In addition, with the Commission's Order on August 16, 2013 in Docket No. 12-035-100 that discontinues the use of the Market Proxy method, the Office expects that any new wind QF PPAs that come before the Commission for approval in the future will incorporate pricing based on the Proxy/PDDRR method.

[8] On a regional basis, PPA prices from the LBNL report are higher than $40/MWh in the West due to high prices in California. Footnote 64 in the "2012 Wind Technologies Market Report" states: "For example, recent high prices in the West may be due, in part, to aggressive renewable energy policies (along with certain elements of policy design) in California, which gives developers a strong negotiating position. Relatively stringent permitting and regulatory requirements may also make California a particularly expensive state in which to build wind power projects."