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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of Rocky Mountain Power for Approval of the Power Purchase Agreement between PacifiCorp and Latigo Wind Park, LLC

DOCKET NO. 13-035-116

Initial Comments of Utah Clean Energy

Utah Clean Energy hereby submits the following general comments in support of Rocky Mountain Power’s (“the Company”) application for approval of a power purchase agreement with Latigo Wind Park, LLC (“Latigo”).

In 2005, in Docket No. 03-035-14, the Commission established an avoided cost method for pricing electricity from wind Qualifying Facilities (“QF”), pursuant to the Public Utilities Regulatory Policy Act of 1978 (“PURPA”) and in conformance with Utah Code Title 54, Chapter 12. In its Order establishing a pricing method for wind QFs, the Commission concluded,

We approve a market price proxy for determination of avoided costs from Wind QFs up to the Company’s IRP target megawatt level of wind resources. The Company’s most recent executed wind contract from its Renewable RFP will serve as the proxy against which project specific adjustments are made to produce an indicative price for wind QFs in Utah... For wind resources exceeding the IRP target, wind QF indicative pricing will be based, as it is for non-wind QFs, on the Proxy and PDDRR methods.¹

¹ Docket No. 03-035-14, In the Matter of the Application of PacifiCorp for Approval of an IRP-Based Avoided Cost Methodology for QF Projects Larger than One Megawatt, *Report and Order* (Issued October 31, 2005), page 33.

In 2012, in Docket No. 12-2557-01, in response to a request from Blue Mountain Wind, LLC (“Blue Mountain”), the Commission affirmed that the market price proxy (“Market Proxy method”) was the currently effective method for pricing electricity for wind QF resources up to the IRP target, and clarified that the IRP target represented the cumulative amount of wind called for in the PacifiCorp IRP—then around 2,100 MW, based on the 2011 IRP.² The Commission ordered Rocky Mountain Power to provide indicative pricing to the Blue Mountain QF project based on its most recently executed wind contract (the Dunlap I contract), and invited any party wishing to reexamine the 2005 pricing method to request agency action.³

In response to this Order, Rocky Mountain Power filed a request with the Commission for approval of changes to the “renewable avoided cost methodology” and a motion for an immediate stay of the application of the 2005 Order (excluding the Blue Mountain wind project that was the subject of Docket No. 12-2557-01).⁴ After testimony and a hearing in Phase One of Docket No. 12-035-100 (the “avoided costs docket”), the Commission denied the Company’s motion to stay the 2005 Order during the pendency of Phase Two:

We find RMP’s concerns regarding the continuing suitability of the Market Proxy method warrant a reexamination of avoided cost calculations for large wind QFs... The record before us, however, does not warrant the additional extraordinary step of suspending application of the Market Proxy method. Indeed, we do not find sufficient evidence on which to conclude the Market Proxy method is currently producing prices in excess of avoided cost.⁵

² Docket No. 12-2557-01, In the Matter of Blue Mountain Power Partners, LLC Request that the Public Service Commission of Utah Require PacifiCorp to Provide the Approved Price for Wind Power for the Blue Mountain Project, *Report and Order* (Issued September 20, 2012), pages 9-11.

³*Id.* at 11.

⁴*Rocky Mountain Power’s Request for Approval of Changes to Renewable Avoided Cost Methodology and Motion to Stay Agency Action* (October 9 2012), Docket No. 12-035-100, page 1.

⁵ Docket No. 12-035-100, 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, *Report and Order* (Issued December 20, 2013), pages 14-15.

The Commission cited evidence showing that current capacity-weighted pricing for wind projects in the West was “consistent with RMP’s calculation of the current Market Proxy method price of \$59.68 per megawatt hour for a typical wind QF project.”⁶

Additionally, the Commission concluded,

Under the current schedule in this docket, we will issue a new order on large wind QF project avoided cost methodology by mid-summer, 2013... We acknowledge the possibility the outcome of the Phase Two hearings and the interests of ratepayers may require the application of new avoided cost calculations for all large wind QF projects *not in possession of executed power purchase agreements when the Phase Two order is issued.*⁷

On July 3, 2013, Latigo and PacifiCorp signed a 20-year power purchase agreement (PPA).⁸ On July 9, 2013, Rocky Mountain Power applied to the Commission for approval of the signed power purchase agreement, certifying that the purchase price contained therein was calculated using the methodology approved in Docket No. 03-035-14.⁹

On August 16, 2013, the Commission issued its order on Phase Two of the avoided costs docket (Phase Two order), discontinuing use of the Market Proxy method for renewable resources and approving use of the Proxy/PDDRR method for both renewable and non-renewable QFs.

COMMENTS IN SUPPORT OF THE COMPANY’S APPLICATION

The PPA between PacifiCorp and Latigo, based on the market proxy avoided cost pricing method in effect at the time of contract execution, is in the public interest for the following reasons.

⁶*Id.* at 15.

⁷*Id.* at 17-18 (emphasis added).

⁸Application of RMP for approval of Latigo PPA, page 1.

⁹Application of RMP for approval of Latigo PPA, page 3.

1. It is in the public interest and consistent with state policy to protect the contractual abilities of parties by maintaining a period of regulatory certainty during a transition from one avoided cost pricing method to another.

In Phase One of the avoided costs docket, the Commission provided a window of regulatory certainty for QF projects to negotiate PPAs pursuant to the Market Proxy method, while putting them on notice that the pricing method might change upon issuance of the Phase Two order. The Latigo PPA must be evaluated in terms of its compliance with the methodology in place at the time of its execution, not based on the newly approved avoided cost method. Consistent with Commission direction to utilize the Market Proxy method based on the wind targets identified in the 2011 IRP, the Latigo PPA was negotiated and signed before the Phase Two order was issued. The Commission upheld the Market Proxy method during the pendency of Phase Two of the avoided costs docket based on evidence that, although several years old, the Dunlap I proxy price (around \$60/MWh) was consistent with other, current wind projects in the West.¹⁰

The Commission's decision to provide a window of regulatory certainty amidst a potentially significant shift in avoided cost pricing methodologies is important for the economic well-being of the state, and is also consistent with Utah state policy. It is the explicit policy of the state of Utah to be business friendly. In *Utah's Economic Development Plan*, Governor Herbert lays out his vision for the state ("Utah will lead the nation as the best performing economy and be recognized as a premier global business destination") and the mission statement toward achieving his vision: "Utah will excel in job creation, innovation, entrepreneurship, global business, and quality workforce and have *a stable and sustainable business friendly*

¹⁰See *supra*, note 6.

environment.”¹¹Regulatory stability (certainty and predictability) is a critical component of a business-friendly environment.

Not allowing for a period of regulatory certainty pending a significant change in pricing methodology would significantly impair the rights of parties and harm Utah’s ability to attract investment in Utah. It is likely that Latigo invested significant time and money in pursuit of its Utah QF projects specifically in reliance upon the Commission’s ruling in Phase One to maintain the then effective avoided cost pricing methodology. Without the window of regulatory predictability provided by the Commission’s Phase One ruling, QF developers would not have had the certainty necessary to continue investing in QF development in Utah and engaging in the contract negotiation process.

2. A 20-year PPA for electricity from wind a QF at around \$60/MWh represents a resource that will provide significant benefits to Utah ratepayers both in terms of economics and risk mitigation over the long term.

A long term, flat rate power purchase agreement with a fuel-free resource, like a wind QF, insulates ratepayers from risks associated with fuel price volatility. Fuel-free renewable resources are unique among electricity generation resources in that the utility can lock in long-term rates for 20 years or more. Rates for electricity from a wind QF will not increase for the next 20 years. In the meantime, gas prices will continue to fluctuate and rise over the same 20-year period. In addition to mitigating fuel price risk, a wind QF will reduce ratepayers’ vulnerabilities to emissions-related regulations and externality costs. Carbon regulation, for example, could start impacting fossil-fueled plants as soon as 2016, according to a recent memo from President Obama to the Environmental Protection Agency.¹² These additional costs will not impact wind

¹¹*Utah’s Economic Development Plan*, page 3 (Fall 2010), available at <http://business.utah.gov/start/econ-plan/>.

¹²Exhibit A: Memo from President Obama to the Administrator of the Environmental Protection Agency regarding Power Sector Carbon Pollution Standards (June 25, 2013).

resources; indeed, approving this PPA will reduce ratepayers' risk exposure from and reliance on fossil-fueled resources.

This QF resource provides ratepayers an extraordinary opportunity to diversify their resource mix and lock in prices that are not subject to fluctuation or environmental regulation. Furthermore, approval of this PPA will allow ratepayers to acquire a clean, non-polluting energy resource in Utah, without additional investments in transmission infrastructure, and while taking advantage of the production tax credit (set to expire at the end of the year). This PPA, in short, is a good, long term investment for Utah ratepayers.

Furthermore, approving this QF PPA will bring jobs and economic benefits to the state. Utah Clean Energy utilized NREL's Jobs and Economic Development Impacts (JEDI) model¹³ to estimate economic impacts of developing an 80 MW wind project in Utah, using PacifiCorp's 2013 IRP supply-side resource cost assumptions for Utah wind resources and JEDI's default values. Impacts (including induced impacts) include the following:

- over \$184 million invested in Utah;
- almost \$900,000 in property taxes and \$240,000 in land lease payments;
- 437 full-time equivalent jobs (FTEs) during the construction period;
- 20 FTEs annually during the plant's operating years;
- earnings impacts of \$20,680,000 during the construction period; and
- \$900,000 in annual earnings impacts during operating years.¹⁴

CONCLUSION

Utah Clean Energy urges the Commission to approve the Latigo PPA as just and reasonable and in the public interest. It will mitigate risk for ratepayers: not only will it diversify ratepayers' resource mix, it will lock in reasonable prices for 20 years, in the face of volatile and rising fuel prices and increasing environmental compliance costs.

¹³All of NREL's JEDI models are available for download at <http://www.nrel.gov/analysis/jedi/download.html>.

¹⁴ Exhibit B: On-shore wind JEDI model output for an 80 MW wind facility in Utah (August 21, 2013).

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by email this 26th day of August, 2013, on the following:

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