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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

Reply Comments of Utah Clean Energy

Utah Clean Energy hereby submits the following comments in reply to the initial comments of the Office of Consumer Services (“the Office”) and the Division of Public Utilities (“the Division”) regarding the application of Rocky Mountain Power (“the Company”) for approval of a power purchase agreement (“PPA”) with Latigo Wind Park, LLC (“Latigo”). Utah Clean Energy is a public interest organization and these reply comments are limited to public policy-based support for additional Utah-based wind QF resource development. Utah Clean Energy has not reviewed and these reply comments do not address the specific complaints and motions of Ellis-Hall Consultants.

REPLY COMMENTS

In its initial Comments, the Division concludes that the Commission can approve the Latigo PPA taking into consideration the following: 1) the PPA appears to comply with Commission orders; 2) the PPA parties appear to have negotiated in good faith in reliance on prior Commission orders; and 3) although it is appropriate to change approved [avoided cost

pricing] methods as circumstances change, deviating from past Commission orders in this case would undermine the stability, predictability, and reliability of Commission orders.¹ Utah Clean Energy agrees with the Division’s conclusions and recommends that the Commission approve the Latigo PPA.

In its initial comments, the Office explained that, although pricing for the Latigo Qualifying Facility (“QF”) PPA complies with Commission order, the Office does not recommend approval of the contract, based on its opposition to the market proxy pricing method; however, neither does the Office recommend disapproval of the PPA.²

As explained in Utah Clean Energy’s initial comments, the Market Proxy method was utilized consistent with past Commission orders to establish QF pricing for the Latigo PPA, which was executed prior to the issuance of the Commission Order in Phase II of Docket No. 12-035-100.³ The Company, Office, Division, and Utah Clean Energy agree that the QF PPA was executed in compliance with then-effective avoided cost pricing procedures.⁴ The fact that avoided cost pricing methods have been reevaluated and adjusted in a subsequent Commission order cannot retroactively change the standards applied to QF contracts negotiated in good faith in reliance upon prior Commission orders.

Although it did not recommend disapproval of the Latigo PPA, the Office reiterated its position from Docket No. 12-035-100 that the market proxy method produces out-of-date pricing. The Office referenced a report by the Lawrence Berkeley National Lab (“LBNL”) that found national average levelized prices for wind PPAs is around \$40/MWh. The Office

¹ Docket No. 13-035-115, *DPU Action Request Response* (filed August 26, 2013), page 6-7.

² Docket No. 13-035-115, *Office of Consumer Services Comments* (filed August 26, 2013), page 4.

³ Docket No. 13-035-115, *Initial Comments of Utah Clean Energy*, page 3.

⁴ *Supra*, notes 1-3; Docket No. 13-035-115, *Application of Rocky Mountain Power* (filed July 9, 2013), page 3.

recognized that PPA prices in the western region, including Utah, are higher than this average⁵— according to the report, between \$50 and \$90/MWh.⁶ \$60/MWh is well within the (lower) range of recent PPA prices in the West, but, as the Office notes, higher prices in the west “may be due, in part, to aggressive renewable energy policies...in California.”⁷ The report’s wind project sample included PPA prices from 28 projects from the Interior region (with the lowest PPA prices) but only seven projects from the West.⁸ Therefore, it is unclear to what extent the LBNL report provides sufficient information upon which to base a conclusion that market proxy pricing, in this case, is out of date.

As explained in Utah Clean Energy’s initial comments, the Market Proxy method was utilized consistent with past Commission orders to establish QF pricing for the Latigo PPA, which was executed prior to the issuance of the Commission Order in Phase II of Docket No. 12-035-100.⁹ The Company, Office, Division, and Utah Clean Energy agree that the QF PPA was executed in compliance with then-effective avoided cost pricing procedures.¹⁰ The fact that avoided cost pricing methods have been reevaluated and adjusted in a subsequent Commission order cannot retroactively change the standards applied to QF contracts negotiated in good faith in reliance upon prior Commission orders.

Furthermore, because wind PPAs are long term, fuel-free, fixed price resources, they are categorically different from natural gas resources or market purchases (which have volatile and rising variable costs) and cannot be easily compared prospectively on a long term basis. It is inaccurate and an oversimplification to say that a long term, fixed price power purchase

⁵ *Id.*, note 8.

⁶ Ryan Wiser and Mark Bolinger, *2012 Wind Technologies Market Report* (Department of Energy 2013), page 52, available at <http://emp.lbl.gov/reports/re>; see *Exhibit A* for Chapter 6 of the report, “Wind Power Price Trends.”

⁷ *Office Comments*, note 8.

⁸ *Id.* at 53.

⁹ Docket No. 13-035-115, *Initial Comments of Utah Clean Energy*, page 3.

¹⁰ *Supra*, notes 1-3; Docket No. 13-035-115, *Application of Rocky Mountain Power* (filed July 9, 2013), page 3.

agreement with a wind resource is not just and reasonable compared to a one-time snapshot prediction of natural gas and wholesale market prices, particularly when ratepayers bear the brunt of fuel price risk because of Rocky Mountain Power's energy balancing account. In conclusion, Utah Clean Energy recommends that the Commission approve the Latigo QF PPA as just and reasonable and in the public interest.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by email this 9th day of September, 2013, on the following:

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