

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

)
In the Matter of the Application of Rocky) DOCKET NO. 13-035-152
Mountain Power for Approval of the Power)
Purchase Agreement between PacifiCorp)
and Kennecott Utah Copper LLC (Smelter))
)
In the Matter of the Application of Rocky) DOCKET NO. 13-035-153
Mountain Power for Approval of the Power)
Purchase Agreement between PacifiCorp)
and Kennecott Utah Copper LLC (Refinery))
)
In the Matter of the Application of Rocky) DOCKET NO. 13-035-154
Mountain Power for Approval of the Power)
Purchase Agreement between PacifiCorp)
and Tesoro Refining and Marketing) ORDER CONFIRMING BENCH RULINGS
Company) APPROVING QUALIFYING FACILITY
) CONTRACTS
)

ISSUED: December 23, 2013

SYNOPSIS

The Commission approves the Power Purchase Agreements (“PPAs”) between PacifiCorp and Kennecott Utah Copper LLC, (“Kennecott”) for purchase of energy from Kennecott’s cogeneration facilities associated with its smelter (“Smelter PPA”) and refinery (“Refinery PPA”), and the PPA between PacifiCorp and Tesoro Refining and Marketing (“Tesoro”) for purchase of energy from Tesoro’s cogeneration facility (“Tesoro PPA”).

By The Commission:

PROCEDURAL HISTORY AND BACKGROUND

On September 13, 2013, PacifiCorp, doing business in Utah as Rocky Mountain Power (“PacifiCorp”), filed with the Commission applications for approval of the Smelter PPA in Docket No. 13-035-152 (“Smelter PPA Application”) and the Refinery PPA in Docket No. 13-035-153 (“Refinery PPA Application”). On September 20, 2013, PacifiCorp filed an

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application for approval of the Tesoro PPA in Docket 13-035-154 (“Tesoro PPA Application”). The Smelter PPA Application, Refinery PPA Application and Tesoro PPA Application are collectively referred to as the “Applications.”

On September 24, 2013, the Commission held a duly-noticed scheduling conference and issued a scheduling order and notice of hearings (“Scheduling Order”). Pursuant to the Scheduling Order, the Division of Public Utilities (“Division”) filed comments on the Tesoro Application on October 24, 2013, recommending approval.

The Division also filed comments on the Smelter and Refinery Applications on October 24, 2013, recommending the Commission require PacifiCorp to file new Smelter and Refinery PPAs reflecting pricing based on the average of the actual historic output and operational characteristics of the facilities as opposed to nameplate capacity. PacifiCorp filed reply comments on November 1, 2013 and the Division filed additional comments on November 7, 2013. Based on the Division’s recommendations, PacifiCorp filed amended Smelter and Refinery PPAs on November 8, 2013 with revised pricing. On November 12, 2013, the Division filed comments recommending approval of the amended Smelter and Refinery PPAs.

On November 13, 2013, the Commission’s designated Presiding Officer held a duly-noticed hearing to consider the Applications. At hearing, PacifiCorp and the Division provided testimony supporting Commission approval of the Applications. No party provided testimony in opposition to approval of the Applications. At the conclusion of the hearing, the Presiding Officer issued bench orders approving the amended Smelter and Refinery PPAs and the Tesoro PPA, effective November 13, 2013. This order memorializes those bench rulings.

DISCUSSION, FINDINGS AND CONCLUSIONS

I. Smelter PPA

The Smelter PPA provides for the sale of energy to PacifiCorp to be generated by Kennecott up to 31.8 MW, from a cogeneration facility located at Kennecott's smelter in Magna, Utah (the "Smelter Facility"). The Smelter PPA is for a term of 12 months; January 1, 2014, through December 31, 2014.

A. Parties' Positions

1. Applicant

In the Smelter Application, PacifiCorp represents it is a "purchasing utility" pursuant to Utah Code Ann. ("UCA") § 54-12-2, and as such is obligated to purchase power from qualifying facilities ("QFs") under the Public Utility Regulatory Policies Act of 1978 ("PURPA"), UCA § 54-12-1, *et seq.*, and Commission orders. The Smelter Application further notes that, under the Smelter PPA, Kennecott represents itself to be a QF.

According to PacifiCorp, the purchase prices set forth in the amended Smelter PPA were calculated using the methodology approved by the Commission orders in Docket No. 03-05-14. PacifiCorp further testifies the amended Smelter PPA is compliant with relevant Commission orders and with Rocky Mountain Power Electric Service Schedule No. 38, "Qualifying Facilities Procedures" ("Schedule 38"); the tariff that governs the procedures PacifiCorp must use when processing requests for indicative pricing and negotiating and executing QF PPAs. PacifiCorp represents all interconnection requirements have been met and the Smelter Facility will be fully integrated with the PacifiCorp system.

2. The Division

At hearing, the Division recommended approval of the amended Smelter PPA.

The Division further testified that the pricing and other terms of the amended Smelter PPA are just, reasonable and in the public interest, as applied to Smelter Facility.

II. Refinery PPA

The Refinery PPA provides for the sale of energy to PacifiCorp to be generated by Kennecott up to 7.54 MW, from a cogeneration facility located at Kennecott's refinery located in Magna, Utah (the "Refinery Facility"). The Refinery PPA is for a term of 12 months; January 1, 2014, through December 31, 2014.

A. Parties' Positions

1. Applicant

In the Refinery Application, PacifiCorp represents it is a "purchasing utility" pursuant to UCA § 54-12-2, and as such is obligated to purchase power from QFs under PURPA, UCA § 54-12-1, *et seq.*, and Commission orders. The Refinery Application further notes that, under the Refinery PPA, Kennecott represents itself to be a QF.

According to PacifiCorp, the purchase prices set forth in the amended Refinery PPA were calculated using the methodology approved by the Commission orders in Docket No. 03-05-14. PacifiCorp further testifies the amended Refinery PPA is compliant with relevant Commission orders and with Schedule 38. PacifiCorp represents all interconnection requirements have been met and the Refinery Facility will be fully integrated with the PacifiCorp system.

2. The Division

At hearing, the Division recommended approval of the amended Refinery PPA. The Division further testified that the pricing and other terms of the amended Refinery PPA are just, reasonable and in the public interest, as applied to Refinery Facility.

III. Tesoro PPA

The Tesoro PPA provides for the sale of energy to PacifiCorp to be generated by Tesoro up to 25.0 MW, from Tesoro's cogeneration facility located in Salt Lake City, Utah. The Tesoro PPA is for a term of 12 months; January 1, 2014, through December 31, 2014.

A. Parties' Positions

1. Applicant

In the Tesoro Application, PacifiCorp represents it is a "purchasing utility" pursuant to UCA § 54-12-2, and as such is obligated to purchase power from QFs under PURPA, UCA § 54-12-1, *et seq.*, and Commission orders. The Tesoro Application further notes that, under the Tesoro PPA, Tesoro represents itself to be a QF.

According to PacifiCorp, the purchase prices set forth in the Tesoro PPA were calculated using the methodology approved by the Commission orders in Docket No. 03-05-14. PacifiCorp further testifies the Tesoro PPA is compliant with relevant Commission orders and with Schedule 38. PacifiCorp represents all interconnection requirements have been met and the Tesoro Facility will be fully integrated with the PacifiCorp system.

2. The Division

At hearing, the Division recommended approval of the amended Tesoro PPA. The Division further testified that the pricing and other terms of the Tesoro PPA is just, reasonable and in the public interest, as applied to Tesoro Facility.

IV. Findings and Conclusions

Based upon the Applications, our review of the Tesoro PPA and the amended Smelter and Refinery PPAs, the comments filed in these dockets, the testimony provided at the hearing, and the lack of opposition to the Applications, we find the prices, terms and conditions of the PPAs are consistent with applicable state laws, relevant Commission orders, and Schedule 38. Therefore, we conclude the Tesoro PPA and the amended Smelter and Refinery PPAs are just and reasonable and in the public interest.

ORDER

Pursuant to the foregoing discussion, findings and conclusions, we order:

1. The amended Smelter PPA between PacifiCorp and Kennecott is approved, effective November 13, 2013.
2. The amended Refinery PPA between PacifiCorp and Kennecott is approved, effective November 13, 2013.
3. The amended Tesoro PPA between PacifiCorp and Tesoro is approved, effective November 13, 2013.

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DATED at Salt Lake City, Utah, this 23rd day of December, 2013.

/s/ Jordan A. White
Presiding Officer

Attest:

/s/ Gary L. Widerburg
Commission Secretary
DW#249512

CERTIFICATE OF SERVICE

I CERTIFY that on the 23rd day of December, 2013, a true and correct copy of the foregoing ORDER CONFIRMING BENCH RULINGS APPROVING QUALIFYING FACILITY CONTRACTS was served upon the following as indicated below:

By Electronic-Mail:

Data Request Response Center (datarequest@pacificorp.com)
PacifiCorp

Dave Taylor (dave.taylor@pacificorp.com)
Daniel E. Solander (daniel.solander@pacificorp.com)
Rocky Mountain Power

By Hand-Delivery:

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