

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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In the Matter of the Application of Rocky ) DOCKET NO. 14-035-117  
Mountain Power for Approval of an )  
Electric Service Agreement between Rocky )  
Mountain Power and Kennecott Utah )  
Copper, LLC )  
)  
In the Matter of the Application of Rocky ) DOCKET NO. 14-035-121  
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. 14-035-122  
Mountain Power for Approval of the Power )  
Purchase Agreement between PacifiCorp ) ORDER CONFIRMING BENCH RULINGS  
and Kennecott Utah Copper LLC (Refinery) ) APPROVING ELECTRIC SERVICE AND  
) QUALIFYING FACILITY POWER  
) PURCHASE AGREEMENTS  
)  
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ISSUED: January 9, 2015

**SYNOPSIS**

The Commission approves an electric service agreement (“ESA”) and two qualifying facility (“QF”) power purchase agreements (“PPA”) (the “Smelter” and “Refinery” PPAs, respectively) between PacifiCorp and Kennecott Utah Copper LLC (“Kennecott”), with effective dates of January 1, 2015.

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**PROCEDURAL HISTORY**

PacifiCorp, doing business in Utah as Rocky Mountain Power (“PacifiCorp”), filed an application for approval of the ESA in Docket No. 14-035-117 (“ESA Docket”) on September 8, 2014. PacifiCorp filed applications for approval of the Smelter PPA in Docket No. 14-035-121 and the Refinery PPA in Docket No. 14-035-122 (collectively, the “PPA Dockets”) on September 19, 2014.

Pursuant to the Commission's September 18, 2014, scheduling order and notice of hearing issued in the ESA Docket ("ESA Scheduling Order"), the Division of Public Utilities ("Division") filed comments recommending approval of the ESA on October 30, 2014, and the Office of Consumer Services ("Office") filed comments on October 31, 2014, recommending approval of the ESA subject to certain conditions discussed below.

Pursuant to the Commission's September 25, 2014, scheduling order and notice of hearing issued in the PPA Dockets ("PPA Dockets Scheduling Order"), the Division filed comments on November 3, 2014, recommending the Commission not approve the Refinery and Smelter PPAs until PacifiCorp corrected line loss factors contained in Section 5 (Purchase Prices) of both PPAs. On November 19, 2014, PacifiCorp filed amended Refinery and Smelter PPAs correcting line loss factors identified by the Division. The amended PPAs also include corrections to Exhibit E (Pricing) of the PPAs to properly account for the daylight savings time changes adopted under Section 110 of the U.S. Energy Policy Act of 2005.

On November 20, 2014, the Commission's designated Presiding Officer held consecutive hearings to consider PacifiCorp's applications for approval of the ESA and the PPAs. At the conclusion of the hearings, the Commission authorized its designated Presiding Officer to issue a bench ruling approving the ESA and the PPAs, as modified by the verbal commitments made by the parties at hearing and as discussed in detail below. This written order memorializes that bench ruling. On December 23, 2014, the Commission issued a notice of bench ruling in the ESA Docket.



[REDACTED]

PacifiCorp testified it was authorized to represent that Kennecott is in agreement with the additional terms and conditions. PacifiCorp testified that the terms and conditions of the ESA and the additional terms and conditions agreed to by Kennecott and PacifiCorp discussed above are just, reasonable, and in the public interest.

PacifiCorp further testified that Kennecott and PacifiCorp do not intend to enter into any additional agreements to memorialize the additional terms and conditions discussed at hearing but rather agree to comply with the additional terms and conditions if included in a Commission order.

At hearing, the Division testified that it did not object to any of the additional ESA terms and conditions presented by PacifiCorp at hearing and that the Division continues to support its recommendation for approval of the ESA as provided in its written comments. The

Division further testified that it was unaware of any opposition to the ESA and that approval of the ESA is just, reasonable, and in the public interest.

Based on our review of the ESA application, the ESA, and the comments filed in the ESA Docket, the testimony provided at hearing, and hearing no opposition, we find the prices, terms and conditions of the ESA, as modified by the additional confidential terms and conditions discussed above, are consistent with applicable state laws and Commission orders. Therefore, we conclude the ESA is just, reasonable, and in the public interest.

## **II. The Amended PPAs**

Kennecott owns, operates, and maintains a waste-heat-fired steam cogeneration facility for the generation of electric power located at its Magna, Utah smelter. The facility is operated as a QF, as defined in 18 C.F.R Part 292, with a nameplate capacity rating of 31.8 megawatts (“MW”). The facility is referred to informally as the Kennecott-Smelter QF. All interconnection requirements have been met, and the Kennecott-Smelter QF is fully integrated with PacifiCorp’s system.

Under the amended Smelter PPA, Kennecott has the option, but not the obligation, to deliver to PacifiCorp the net electric power output generated by the Kennecott-Smelter QF. Kennecott is not permitted to sell any portion of the net output to parties other than PacifiCorp; however, Kennecott is allowed to offset its own retail load before selling any excess power. Kennecott estimates the average net monthly output of the facility will be about 14,000 megawatt-hours (“MWh”).

Kennecott also owns, operates, and maintains near Magna, Utah a waste-heat-fired steam cogeneration facility for the generation of electric power. The facility is referred to informally as the Kennecott-Refinery QF. The facility is operated as a QF with a nameplate capacity rating of 7.54 MW. The average monthly output is expected to be about 5.4 MW. All interconnection requirements have been met, and the Kennecott-Refinery QF is fully integrated with PacifiCorp's system.

Under the amended Refinery PPA, Kennecott has the option, but not the obligation, to sell to PacifiCorp all of the Kennecott-Refinery QF net output. Kennecott estimates the average net monthly output of the facility will be about 3,900 MWh. While Kennecott is not permitted to sell any portion of the output to parties other than PacifiCorp, Kennecott may offset its own retail load before selling any excess power under the PPA.

At hearing, PacifiCorp testified the amended PPAs are compliant with relevant Commission orders on avoided cost and with Rocky Mountain Power Electric Service Schedule No. 38 – Qualifying Facility Procedures (“Schedule 38”). PacifiCorp further testifies that the amended PPAs address all issues raised by parties in the docket and therefore recommends the Commission approve the amended PPAs.

The Division testified at hearing the amended PPAs satisfy the concerns identified in the Division's November 3, 2014, written comments and the Division recommends the Commission approve the amended PPAs as just, reasonable, and in the public interest.

Based on our review of the PPA applications, the amended PPAs, the comments filed in the PPA Dockets, the testimony provided at hearing, and hearing no opposition, we find

the prices, terms and conditions of the amended PPAs filed by PacifiCorp on November 19, 2014, are consistent with applicable state laws and Commission orders and Schedule 38.

Therefore, we conclude the amended PPAs are just, reasonable, and in the public interest.

The Smelter and Refinery PPAs constitute “New QF Contracts” under the PacifiCorp Inter-Jurisdictional Cost Allocation 2010 Protocol. Consequently, costs associated with the Smelter and Refinery PPAs are allocated as system resources, unless any portion of those costs exceeds the costs PacifiCorp would have otherwise incurred acquiring comparable resources. In that event, the 2010 Protocol assigns those excess costs on a situs basis to Utah. PacifiCorp represents that its costs under these PPAs do not exceed the costs it would have incurred acquiring other market resources. The Division accepts this representation based upon its prior analysis of PacifiCorp’s avoided cost reports. We acknowledge and rely upon these statements in reaching the findings and conclusions in this order.

**ORDER**

1. The ESA, modified by the additional confidential terms and conditions agreed to by PacifiCorp and Kennecott and discussed herein, is approved, effective January 1, 2015.

2. The amended PPAs filed by PacifiCorp in the PPA Dockets on November 19, 2014, are approved, effective January 1, 2015. As with past practice, PacifiCorp shall provide to the Division, at least quarterly, data reflecting the hourly power purchased under the Smelter and Refinery PPAs to allow the Division to monitor contract performance.

DATED at Salt Lake City, Utah, this 9<sup>th</sup> day of January, 2015.

/s/ Jordan A. White  
Presiding Officer

Approved and Confirmed this 9<sup>th</sup> day of January, 2015, as the Order of the Public  
Service Commission of Utah.

/s/ Ron Allen, Chairman

/s/ David R. Clark, Commissioner

/s/ Thad LeVar, Commissioner

Attest:

/s/ Gary L. Widerburg  
Commission Secretary  
DW#262933

Notice of Opportunity for Agency Review or Rehearing

Pursuant to §§ 63G-4-301 and 54-7-15 of the Utah Code, an aggrieved party may request agency review or rehearing of this written Order by filing a written request with the Commission within 30 days after the issuance of this Order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission does not grant a request for review or rehearing within 20 days after the filing of the request, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a petition for review with the Utah Supreme Court within 30 days after final agency action. Any petition for review must comply with the requirements of §§ 63G-4-401 and 63G-4-403 of the Utah Code and Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on the 9<sup>th</sup> day of January, 2015, a true and correct copy of the foregoing was served upon the following as indicated below:

By Electronic-Mail:

Data Request Response Center ([datarequest@pacificorp.com](mailto:datarequest@pacificorp.com))  
PacifiCorp

Bob Lively ([bob.lively@pacificorp.com](mailto:bob.lively@pacificorp.com))  
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By Hand-Delivery:

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Administrative Assistant