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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

**IN THE MATTER OF ROCKY
MOUNTAIN POWER'S PROPOSED
REVISIONS TO ELECTRIC SERVICE
SCHEDULE NO. 37, AVOIDED COST
PURCHASES FROM QUALIFYING
FACILITIES**

Docket No. 14-035-T04
**REPLY TO COMMENTS REGARDING
INTERIM APPLICATION OF 25,000 KW
CUMULATIVE CAP**

Pursuant to Utah Code Ann. § 54-4a-1 and Utah Admin. Code r746-100 the Utah Division of Public Utilities (“Division”), hereby submits these Reply Comments Regarding Interim Application of 25,000 kW Cumulative Cap to the Public Service Commission of Utah (“Commission”).

INTRODUCTION

On June 12, 2014 parties to this docket including Rocky Mountain Power (“Company”), the Office of Consumer Services (“Office”), Utah Clean Energy (“UCE”) and Sun Edison and First Wind filed comments on whether Schedule 37 cap should be reset for small qualifying facilities (“QF”). The Division recommends that the Commission not reset the Schedule 37 cap and if the Commission chooses to reset the cap it should do so only for energy generated during the interim and at the prices proposed in this docket by the Company.

DISCUSSION

The Commission is not required to reset the cap immediately under the 2013 pricing and may reset the cap at the conclusion of this docket. If the cap is reset the Commission must set new pricing and should not do so at the prices set in Docket No. 13-035-T09 (“2013 Prices”). The Commission should only do so to set interim pricing for energy produced during the pendency of this docket and require that any long term pricing be subject to update. Moreover, the interim pricing, if set, should be at the Company’s proposed prices.

The Division agrees with UCE and Sun Edison and First Wind that the cap was intended to act as a trigger to recalculate the pricing for Schedule 37. The reasoning behind this is sound; the pricing is based on avoiding the highest cost alternative first, therefore additional QF generation tends to avoid consecutively lower cost alternatives. Therefore it is reasonable to set Schedule 37 pricing in blocks of generation. Even if the prior method were to be used to calculate a new block of pricing for Schedule 37, the prices would not be the same as the last block. When Schedule 37 caps are reached pricing is to be recalculated and new pricing is set to reflect the most current avoided costs. The current process is just that – a recalculation of the avoided cost pricing for Schedule 37.

While UCE and Sun Edison and First Wind have meritorious claims that PURPA and FERC regulations require purchase of energy from QFs, fixed rate 20 year contract terms are not required. If the Commission wishes to reset the Schedule 37 cap it may do so with fixed short term prices on an interim basis. The Commission must set new prices if it wishes to reset the cap and it should not do so at the previous pricing or under the pricing method previously adopted.

The previously approved 2013 Prices are not approved for additional generation beyond the current unfilled cap. Whether under the prior formula or a new one the Commission must set

new prices even if it does reset the cap. PURPA is unequivocal that the pricing shall not be set at “a rate which exceeds the incremental cost to the electric utility of alternative electric energy.”¹ In Docket No. 13-035-100 this Commission stated that “inclusion of additional capacity value when a FOT is displaced would over-compensate the QF and violate the ratepayer neutrality objective.” While that docket was a review of Schedule 38, Schedule 37 is merely the published price for smaller entities of the same nature. Setting pricing that the Commission recognizes are higher than avoided costs directly violate the plan language of PURPA.

The best alternative if the Commission does wish to reset the Schedule 37 cap is to offer pricing to the QFs under Schedule 37 on an interim basis for any energy produced and delivered prior to the completion of this docket. An interim pricing schedule would result in a significantly smaller impact on customers as the pricing would be updated to a current avoided cost calculation. The Division has reviewed the calculations filed by the Company and the Company has properly calculated the pricing based on the Commission’s findings in Docket No. 12-035-100. Because the 2013 Prices only applied to a specific block of capacity and the Commission must set new rates the most accurate pricing terms should be used for Schedule 37 in the interim. As between pricing that this Commission has already recognized violates the rate payer neutrality standard, and pricing that is based upon this Commission’s most recent order on avoided cost, the latter is the most reasonable choice.

PURPA does not prohibit reasonable periods of analysis and review prior to setting pricing for QF contracts. PURPA does prohibit setting mandatory purchase prices higher than the Company’s avoided cost and this Commission has already found that the prior avoided cost calculation formula results in rates higher than the Company’s avoided costs. For these reasons

¹ 16 U.S.C.A. § 824a-3

the Commission should not reset the cap at the 2013 Prices. If the Commission does reset the cap it should do so on an interim basis with pricing based on the Company's filed pricing and subject to update at the conclusion of this docket.

Submitted this 19th day of June, 2014.

/s/ Justin C. Jetter

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CERTIFICATE OF SERVICE

I CERTIFY that on the 19th day of June, 2014, a true and correct copy of the foregoing was delivered upon the following as indicated below:

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/s/_____