

- 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 Pavant Solar II, LLC	<u>DOCKET NO. 15-035-40</u> <u>ORDER APPROVING POWER PURCHASE AGREEMENT</u>
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ISSUED: July 8, 2015

<p style="text-align: center;">SHORT TITLE</p> <p style="text-align: center;"><b>The Commission approves a Power Purchase Agreement between PacifiCorp and Pavant Solar II, LLC</b></p>
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**PROCEDURAL HISTORY**

On April 9, 2015, PacifiCorp, doing business in Utah as Rocky Mountain Power (“PacifiCorp”), filed with the Commission an application (“Application”) for approval of a power purchase agreement (“PPA”) between PacifiCorp and Pavant Solar II, LLC (“Pavant II”). The PPA provides for the sale of electric energy to PacifiCorp to be generated from the Pavant II solar generation project (“Facility”) located in Millard County, Utah for a period of 20 years. Pavant II and PacifiCorp represent the Facility is a qualifying facility (“QF”) under the Public Utility Regulatory Policies Act of 1978 (“PURPA”).

On April 16, 2015, the Commission held a scheduling conference and on April 17, 2015, issued a Scheduling Order and Notice of Hearing (“Scheduling Order”). On June 5, 2015, the Division of Public Utilities (“Division”) and the Office of Consumer Services (“Office”) filed comments on the Application. On June 12, 2015, PacifiCorp filed reply comments.

On June 24, 2015, the Commission's designated Presiding Officer conducted a hearing to consider the Application. At the hearing, PacifiCorp and the Division provided testimony supporting Commission approval of the PPA and the Office testified it does not oppose the PPA.

**DISCUSSION, FINDINGS AND CONCLUSIONS**

**I. Parties' Positions**

**A. PacifiCorp**

PacifiCorp represents in the Application it is a "purchasing utility" and as such is obligated to purchase power from QFs under PURPA, Utah Code Ann. § 54-12-1, *et seq.*, and Commission orders. PacifiCorp also represents it calculated the purchase prices set forth in the PPA using the method the Commission approved in Docket No. 12-035-100,<sup>1</sup> all interconnection requirements will be met and the Facility will be fully integrated with PacifiCorp's system.

PacifiCorp states the PPA constitutes a "New QF Contract" under the 2010 Protocol inter-jurisdictional cost allocation method. PacifiCorp also states that according to the terms of the 2010 Protocol, the costs of the QF will be allocated as a system resource, unless any portion of those costs exceed the cost PacifiCorp would have otherwise incurred acquiring comparable resources.

**B. The Division**

The Division recommends the Commission approve the PPA. Based on its review of the PPA, the Division indicates the pricing set forth in Exhibit 5.1 of the PPA appears to be

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<sup>1</sup> See *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*, Docket No. 12-035-100 (August 16, 2013 Order on Phase II Issues).

consistent with the Commission's previous orders. Specifically, the Division states PacifiCorp appears to have correctly applied the Proxy/PDDRR method the Commission approved along with the appropriate capacity contribution values the Commission approved in Docket No. 12-035-100 on an interim basis.<sup>2</sup> The Division testifies the PPA is just, reasonable, and is in the public interest.

**C. The Office**

In its comments, the Office expresses concerns regarding the timeliness of the pricing and compliance with federal siting requirements relating to the minimum distance between QF facilities. However, the Office states it has not found any evidence the PPA is not in compliance with applicable schedules and prior Commission orders. The Office represents the June 9, 2015 Stipulation ("Stipulation") the Commission approved in Docket No. 14-035-140<sup>3</sup> will alleviate its concerns going forward and testified it does not oppose Commission approval of this PPA.

**D. PacifiCorp's Reply**

In response to concerns the Office raises, PacifiCorp claims it negotiated the PPA in accordance with Electric Service Schedule No. 38 and all other applicable Commission orders. PacifiCorp also states the PPA does not violate any federal siting requirement relating to minimum distance between commonly owned QF facilities. PacifiCorp also testified the

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<sup>2</sup> See *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*, Docket No. 12-035-100 (August 16, 2013 Order on Phase II Issues).

<sup>3</sup> See *In the Matter of the Review of Electric Service Schedule No. 38, Qualifying Facilities Procedures, and Other Related Procedural Issues*, Docket No. 14-035-140 (June 9, 2015 Order Approving Settlement Agreement on Schedule 38 Procedures).

Stipulation will address the Office's pricing concerns going forward. PacifiCorp notes no party opposes the Commission's approval of the PPA.

**II. Findings and Conclusions**

Based on the current regulatory framework in place as established by PURPA, the Commission's orders and PacifiCorp's tariff, the Commission reviews the PPA to assure PacifiCorp has properly administered its tariff in its dealings with Pavant II and, in particular, that PacifiCorp has properly determined avoided cost pricing for the PPA based on the appropriate Commission-approved methodology.

Based on our review of the Application, the PPA, the comments filed in this docket, and the testimony provided at the hearing, and hearing no opposition to the Application, we find the prices, terms and conditions of the PPA are consistent with applicable state laws, relevant Commission orders, and Schedule 38. Therefore, we conclude the PPA is just, reasonable, and in the public interest.

**ORDER**

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

1. PacifiCorp's Application in this docket is approved. The PPA between PacifiCorp and Pavant Solar II, LLC is approved, effective June 24, 2015.

DATED at Salt Lake City, Utah, this 8<sup>th</sup> day of July, 2015.

/s/ Michael Hammer  
Presiding Officer

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Approved and Confirmed this 8<sup>th</sup> day of July, 2015, as the Order of the Public Service  
Commission of Utah.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Attest:

/s/ Gary L. Widerburg  
Commission Secretary  
DW#267352

Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this order by filing a request for review or rehearing with the Commission within 30 days after the issuance of this written 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 fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, 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 Utah Code Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on the 8<sup>th</sup> day of July, 2015, a true and correct copy of the foregoing was delivered upon the following as indicated below:

By Electronic-Mail:

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

Robert C. Lively ([bob.lively@pacificorp.com](mailto:bob.lively@pacificorp.com))  
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Administrative Assistant