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State of Utah
DEPARTMENT OF COMMERCE
Office of Consumer Services

MICHELE BECK
Director

To: The Public Service Commission of Utah
From: The Office of Consumer Services
Michele Beck, Director
Béla Vastag, Utility Analyst
Date: October 30, 2015
Subject: Office of Consumer Services Reply Comments. Docket No. 15-035-70,
Application of Rocky Mountain Power for Approval of the Power Purchase
Agreement between PacifiCorp and Three Peaks Power, LLC

Introduction

On August 27, 2015 Rocky Mountain Power (Company) filed an application with the Utah Public Service Commission (Commission) requesting approval of a Power Purchase Agreement (PPA) between PacifiCorp and Three Peaks Power, LLC (Three Peaks). On September 10, 2015, the Commission issued a scheduling order setting a deadline of October 20, 2015 for initial comments and October 30, 2015 for reply comments.

On October 20, 2015, the Office of Consumer Services (Office), the Division of Public Utilities (Division) and Three Peaks filed initial comments with the Commission. In response, the Office offers the following reply comments to the initial comments of Three Peaks Power, LLC.

Reply Comments

The initial comments submitted by Three Peaks make some statements that the Office finds puzzling. First, Three Peaks states that the 6-month price update required by Schedule 38 does not apply to them because the Company did not provide notice to Three Peaks of this requirement.¹ Second, Three Peaks states that the new requirements in Schedule 38 are “inconsistent with FERC policy and decisions implementing PURPA, and should not serve as a limitation on the parties’ mutual intent to buy and sell power at the indicative prices quoted by RMP on January 16, 2015.”²

The Office notes that Scatec Solar North America (Scatec), the developer of Three Peaks, is a signatory of the Schedule 38 settlement which implemented the new

¹ Three Peaks Power, LLC initial comments, October 20, 2015, page 3 – 4.

² Ibid, page 5.

Schedule 38 requirements and was a full participant in the docket leading to the settlement.³ The Office presumes that Scatec must have understood that it was agreeing to new limits on QF PPAs, thus making it difficult to understand why Three Peaks is now complaining about these terms. It is equally unclear why Scatec would sign a settlement agreeing to tariff terms that it believes are inconsistent with FERC policy and decisions.

In its initial comments, Three Peaks also claims that the Company is at fault for delaying the PPA beyond the Schedule 38 six-month requirement;⁴ however, they do not provide any evidence supporting this claim – evidence that the Commission can rely on. The Schedule 38 settlement that Scatec signed was filed with the Commission on May 5, 2015.⁵ Considering this date and looking at the PPA timeline provided as Attachment 1 to the Office's initial comments, it is still unclear who caused the delay in executing the PPA.

Recommendation

The Office is still unable to provide a recommendation on this PPA because its compliance with Schedule 38 requirements is still uncertain at this time.

CC: Chris Parker, Division of Public Utilities
Yvonne R. Hogle, Rocky Mountain Power
Jerold G. Oldroyd, Three Peaks Power, LLC

³ Docket No. 14-035-140, Review of Electric Service Schedule No. 38, and Other Related Procedural Issues

⁴ Three Peaks Power, LLC initial comments, October 20, 2015, page 4.

⁵<http://www.psc.utah.gov/utilities/electric/14docs/14035140/266080RMP%20Settlement%20Stipulation%205-5-2015.docx>