

- 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 Rocky Mountain Power and Kennecott Utah Copper LLC (Refinery)

DOCKET NO. 15-035-75

In the Matter of the Application of Rocky Mountain Power for Approval of the Power Purchase Agreement between Rocky Mountain Power and Kennecott Utah Copper LLC (Smelter)

DOCKET NO. 15-035-76

ORDER APPROVING QUALIFYING FACILITY POWER PURCHASE AGREEMENTS

ISSUED: November 24, 2015

SYNOPSIS

The Commission approves two qualifying facilities power purchase agreements between PacifiCorp and Kennecott Utah Copper LLC.

BACKGROUND AND PROCEDURAL HISTORY

On September 25, 2015, PacifiCorp, doing business as Rocky Mountain Power (PacifiCorp), filed applications (Applications) for approval of power purchase agreements (PPAs) between PacifiCorp and Kennecott Utah Copper LLC (Kennecott) concerning Kennecott's Refinery (Refinery PPA) in Docket No. 15-035-75, and Kennecott's Smelter (Smelter PPA) in Docket No. 15-035-76 (collectively, PPA Dockets). The PPAs each provide for the sale of net-electric energy for a period of 12 months, beginning January 1, 2016. PacifiCorp represents that Kennecott's Refinery facility generates 7.54 megawatts (MW) and Kennecott's Smelter facility generates 31.8 MW, and that both facilities are qualifying facilities (QFs) as defined in 18 C.F.R. Part 292 of the Public Utility Regulatory Policies Act of 1978 (PURPA). Accordingly, PacifiCorp seeks Commission approval of the PPAs consistent with the pricing

methodology for QFs under Rocky Mountain Power Electric Service Schedule No. 38 – Qualifying Facility Procedures (Schedule 38) as authorized by the Commission in Docket Nos. 03-035-14 and 12-035-100.¹

On October 5, 2015, the Commission held a scheduling conference and on October 6, 2015, issued a scheduling order and notice of hearing in the PPA Dockets. Pursuant to the Commission’s scheduling order and notice of hearing, the Division of Public Utilities (Division) filed comments on November 3, 2015, recommending the Commission approve the PPAs. Additionally, the Division recommends that PacifiCorp continue to provide, at least quarterly, hourly power purchased so that the Division can continue to monitor the PPAs.

On November 19, 2015, the Commission’s designated presiding officer held a hearing to consider the Applications. At the hearing, PacifiCorp and the Division provided testimony supporting Commission approval of the PPAs and the Office of Consumer Services did not appear. The evidence supporting the Applications is uncontested and is briefly summarized below.

DISCUSSION, FINDINGS AND CONCLUSIONS

A. The PPAs

1. The Kennecott Refinery PPA

Kennecott owns, operates, and maintains a waste-heat-fired steam cogeneration facility for the generation of electric power near Magna, Utah. The facility is operated as a QF with a

¹ See, e.g., *In the Matter of the Application of PacifiCorp for Approval of an IRP-Based Avoided Cost Methodology for QF Projects Larger than One Megawatt*, Docket No. 03-035-14; *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.

nameplate capacity rating of 7.54 MW and expected average monthly output of about 5.4 MW. All interconnection requirements have been met and the facility is fully integrated with PacifiCorp's system.

Under the Refinery PPA, Kennecott has the option, but not the obligation, to sell to PacifiCorp all of Kennecott Refinery's QF net output. 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 Refinery PPA.

2. The Kennecott Smelter PPA

Kennecott also 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 with a nameplate capacity rating of 31.8 MW and expected average monthly output of approximately 18.5 MW. All interconnection requirements have been met and the facility is fully integrated with PacifiCorp's system.

Under the Smelter PPA, Kennecott has the option, but not the obligation, to deliver to PacifiCorp all of the net electric power output generated by the Kennecott Smelter QF. Kennecott may offset its own retail load before selling any excess power to PacifiCorp, but it may not sell any portion of its net output to other parties.

B. Parties' Positions

1. PacifiCorp

PacifiCorp represents in the Applications that it is a "purchasing utility" pursuant to Utah Code Ann. § 54-12-1, and, as such, is obligated to purchase power from QFs under PURPA,

Utah Code Ann. § 54-12-1 and Commission orders. PacifiCorp also represents it calculated the purchase prices set forth in the PPAs using the method approved in Docket Nos. 03-035-14 and 12-035-100.²

At hearing, PacifiCorp testified that the PPAs are compliant with relevant Commission orders on avoided cost and with Schedule 38 and recommends the Commission approve the PPAs.

2. The Division

The Division recommends the Commission approve the PPAs. Based on its review of the PPAs, the Division indicates the pricing set forth in Exhibit E of each PPA appears to be consistent with the Commission's previous orders. Specifically, the Division states that PacifiCorp appears to have correctly applied the pricing method the Commission approved along with the appropriate capacity contribution values the Commission approved in Docket No. 12-035-100.

The Refinery and Smelter PPAs constitute "New QF Contracts" under the PacifiCorp Inter-Jurisdictional Cost Allocation 2010 Protocol. Consequently, costs associated with the Refinery and Smelter 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

² See *id.*

analysis of PacifiCorp's avoided cost reports. We acknowledge and rely upon these representations in reaching the findings and conclusions in this order.

The Division testified at hearing that the PPAs are just, reasonable, and in the public interest and recommends the Commission approve the PPAs as such. No one testified in opposition of the PPAs.

C. Findings and Conclusions

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

Based on our review of the Applications, the PPAs, the comments filed in the dockets, and the testimony provided at hearing, and the lack of opposition to the Applications, we find the prices, terms and conditions of the PPAs are consistent with the applicable state laws, relevant Commission orders, and Schedule 38. We conclude that the PPAs are just and reasonable, and in the public interest.

ORDER

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

1. PacifiCorp's Application in Docket No. 15-035-75 is approved. The Refinery PPA between PacifiCorp and Kennecott is approved.

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2. PacifiCorp's Application in Docket No. 15-035-76 is approved. The Smelter PPA between PacifiCorp and Kennecott is approved.
3. As with past practice, PacifiCorp shall provide to the Division, at least quarterly, data reflecting the hourly power purchased under the Refinery and Smelter PPAs to allow the Division to monitor contract performance.

DATED at Salt Lake City, Utah, this 24th day of November, 2015.

/s/ Melanie A. Reif
Presiding Officer

Approved and Confirmed this 24th day of November, 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#270693

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 24th day of November, 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)
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