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Department of Commerce Division of Public Utilities

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Action Request Response

To: Public Service Commission of Utah

From: Utah Division of Public Utilities

Chris Parker, Director

Artie Powell, Manager

Doug Wheelwright, Utility Technical Consultant Supervisor

Bob Davis, Utility Technical Consultant

Date: April 28, 2020

Re: **Docket No. 16-035-36**, Rocky Mountain Power's Corrected Compliance Filing. The Application of Rocky Mountain Power to Implement Programs Authorized by the Sustainable Transportation and Energy Plan Act.

Recommendation (Acknowledge)

The Division of Public Utilities ("Division") recommends the Utah Public Service Commission ("Commission") acknowledge Rocky Mountain Power's ("RMP") corrected compliance filing in regards to the Battery DR Project ("Soleil"). The Division's review determined that RMP's filing complies with the Commission's June 28, 2019 Report and Order.¹ The Commission directed RMP to add language to the contract with Wasatch Development indemnifying RMP and its ratepayers from any legal actions resulting from the Soleil batteries. The Division finds the language in the contract conforms to the Commission's Order.

¹ See <https://pscdocs.utah.gov/electric/16docs/1603536/3089131603536rao6-28-2019.pdf>, page 9, (iv).

Background and Issue

On June 28, 2019, the Commission issued its Order in Docket No. 16-035-36 (“Order”) for Phase Five of the Sustainable Transportation and Energy Plan Act (“STEP”) Program directing RMP to provide an approved building permit for the Soleil project and a revised contract indemnifying RMP and its ratepayers from any legal actions resulting from the batteries. On August 28, 2019, RMP filed a confidential copy of the approved building permit issued by the City of Herriman where the Soleil project is located. On April 16, 2020, RMP filed its confidential indemnification contract with the Commission. On April 20, 2020, RMP filed its corrected contract including missing pages from its initial filing. On April 20, 2020, the Commission issued an action request to the Division asking it to review RMP’s filing for compliance and make recommendations by May 18, 2020. This memorandum represents the Division’s response to the Commission’s request.

Discussion

In its Order, the Commission directed RMP to add language to the contract with Wasatch Development indemnifying RMP and its ratepayers from any legal actions resulting from the Soleil batteries.

(iv) with respect to the Battery DR Project, RMP will provide the approval or permitting for the residential battery installations once it is available, will add language to the contract with Wasatch Development indemnifying RMP and its ratepayers from any legal actions resulting from the batteries...²

The Division finds that the contract is technically consistent with the Commission's order. The contract has language indemnifying RMP and its ratepayers. The Division notes that the indemnity clause is not with Wasatch Development as originally filed, but rather with Soleil Solar, LLC. The Division expects that RMP, as part of its prudent contract negotiations, vetted the financial ability of Soleil to indemnify RMP and its ratepayers. Therefore, the Division concludes the contract is consistent with the intent of the Commission’s Order.

² Id.

Conclusion

The Division reviewed RMP's corrected contract filing for the Soleil Project and concludes that it complies with the Commission's Order issued on June 28, 2019. Therefore, the Division recommends the Commission acknowledge RMP's compliance filing at this time.

Cc: Joelle Steward, RMP
Jana Saba, RMP
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