ROCKY MOUNTAIN POWER
A DIVISION OF PACIFICORP

1407 W. North Temple, Suite 320
Salt Lake City, UT 84116

May 1, 2017

VIA ELECTRONIC FILING

Public Service Commission of Utah
Heber M. Wells Building, 4th Floor
160 East 300 South
Salt Lake City, UT 84114

Attention: Gary Widerburg
Commission Secretary

RE: In the Matter of the Application of PacifiCorp d/b/a Rocky Mountain Power's Request for a Declaratory Ruling regarding Allocation of Interconnection Costs under the Public Utility Regulatory Policies Act.
Docket No. 17-035-25

Dear Mr. Widerburg:

Rocky Mountain Power (the "Company") hereby submits for filing its Request for a Declaratory Ruling in the above referenced matter.

The Company respectfully requests that all formal correspondence and requests for additional information regarding this filing be addressed to the following:

By E-mail (preferred): datarequest@pacificorp.com
bob.lively@pacificorp.com

By regular mail: Data Request Response Center
PacifiCorp
825 NE Multnomah, Suite 2000
Portland, OR 97232

Informal inquiries may be directed to Bob Lively, Manager, Utah Regulatory Affairs at (801) 220-4052.

Sincerely,

Yvonne R. Hogle
Asssistant General Counsel, Rocky Mountain Power

Cc: Service List

R. Jeff Richards (7294)
Yvonne R. Hogle (7550)
PacifiCorp d/b/a Rocky Mountain Power
1407 West North Temple, Suite 320
Salt Lake City, UT 84116
Telephone: 801.220.4050
Facsimile: 801.220.3299
E-mail: Robert.Richards@pacificorp.com
E-mail: Yvonne.Hogle@pacificorp.com

Sarah K. Link
Karen J. Kruse
PacifiCorp d/b/a Pacific Power
825 NE Multnomah St., Suite 2000
Portland, Oregon 97232
Telephone: 503-813-5865
E-mail: Sarah.Kamman@pacificorp.com
E-mail: Karen.Kruse@pacificorp.com

Attorneys for Rocky Mountain Power

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of PacifiCorp d/b/a Rocky Mountain Power's Request for a Declaratory Ruling regarding Allocation of Interconnection Costs under the Public Utility Regulatory Policies Act.	)	Docket No. 17-035-25 Rocky Mountain Power's Request for Declaratory Ruling

I. INTRODUCTION

PacifiCorp d/b/a Rocky Mountain Power respectfully requests a declaratory ruling under Utah Code Ann. § 63G-4-503 and Utah Admin Code R746-101. Specifically, Rocky Mountain Power asks the Commission to clarify that the rules and orders listed below, when read together, require a qualifying facility (QF) to pay for all interconnection costs necessary to allow Rocky Mountain Power to receive the QF's net output on a firm basis.[1]

[1] Under the Commission's rules, "applicability" means the relationship of a statute, rule, or order to a given set of facts. R746-101-1(B)(3).

Rocky Mountain Power seeks this clarification because QFs continue to site generation facilities in transmission-constrained areas where interconnection costs under the Public Utility Regulatory Policies Act of 1978 (PURPA) can exceed hundreds of millions of dollars *for a single QF*. Although the Commission's rules and orders appear to resolve this issue, and specifically address the issue for QFs greater than 2 MW to 20 MW interconnected to the distribution system, Rocky Mountain Power seeks clarity given the magnitude of the interconnection costs identified in recent interconnection studies and the potential detrimental effect on retail customers. PURPA's customer-indifference standard requiring that retail customers remain financially indifferent to PURPA-mandated purchases necessitates a declaratory ruling to clarify the appropriate allocation of costs driven by QF interconnections to the transmission system, which can be hundreds of millions of dollars to build or upgrade high voltage transmission lines.

II. REQUEST FOR DECLARATORY RULING

A declaratory ruling from the Commission under Utah Admin. Code R746-101-3 requires the filing of a petition: (1) identifying the statute, rule, or order to be reviewed; (2) describing the reason or need for the review; and (3) describing adequately the facts and circumstances in which applicability is to be reviewed.[2] Rocky Mountain Power addresses each of these requirements in turn, then provides argument supporting its declaratory ruling request.

[2] Utah Admin. Code R746-101-3 also requires the petition to: (1) clearly designate the petition as a request for declaratory ruling; (2) include an address and telephone number where the petitioner can be reached; and (3) be signed by the petitioner or petitioner's duly authorized representative and be notarized. These requirements are satisfied elsewhere in this petition.

A. The Statute, Rule, or Order to be Reviewed

In this case, Rocky Mountain Power requests a review of certain statutes, orders, and rules implementing PURPA. When read together, these statutes, orders, and rules require a QF to pay for all interconnection costs needed to allow the company to receive the QF's net output on a firm basis (that is, to allow the QF to be fully integrated) at the site selected by a QF. But Rocky Mountain Power requests that the Commission clarify the applicability of the following statutes, rules, and orders in the context of QF interconnection to the transmission system:

- PURPA's Must-Purchase Obligation. PURPA's must-purchase obligation requires a utility to purchase *all* of a QF's net output at the QF's request. Utah Code Ann. § 54-12-2 and 16 U.S.C. § 824a-3(a). A QF interconnection must be sufficiently robust to allow the sale of the QF's full net output on a firm basis—that is, sufficiently robust to allow Rocky Mountain Power to purchase and deliver to customers *all* of a QF's net output.

- Allocation of QF Interconnection Costs to QFs. The Commission has said that PURPA "also specifies the obligation of the Company to make necessary interconnections with a QF, the costs of which, as approved by this Commission, are to be paid by the QF."[3] Rocky Mountain Power's Schedule 38, which applies to cogeneration facilities greater than 1 MW and small power production facilities greater than 3 MW interconnecting to the company's transmission or distribution system,[4] reflects this interconnection cost allocation policy, stating "[t]he QF project owner is responsible for all interconnection costs assessed by the Company on a nondiscriminatory basis."[5] The Commission's distribution interconnection rules applicable to the processing of QF interconnections less than or equal to 20 MW[6] state that level 3 QF interconnection costs include interconnection facilities and upgrades—which are defined as additions and

[3] *In the Matter of the Application of PacifiCorp for Approval of an IRP-Based Avoided Cost Method for QF Projects Larger than One Megawatt*, Docket No. 03-035-014, October 1, 2005 Report and Order at 4.
[4] Rocky Mountain Power's Schedule 38 at 38.3 (setting forth the size requirements for Schedule 38 applicability) and 38.9 (stating that QFs are "required to enter into an interconnection agreement that governs the physical interconnection of the project to the Company's *transmission or distribution system*.") (emphasis added).
[5] Rocky Mountain Power's Schedule 38 at 30.10.
[6] Rocky Mountain Power's Schedule 38 at 30.10 ("For interconnections equal to or less than twenty (20) megawatts, the Company will process the interconnection application in accordance with Utah Admin. Code R746-312.").

modifications beyond the point of interconnection—identified in the interconnection facilities study.[7]

- The Customer-Indifference Standard. The Commission has consistently held that Rocky Mountain Power's customers should remain indifferent to QF purchases. *See, e.g., In the Matter of the Application of Rocky Mountain Power for Modification of Contract Term of PURPA Power Purchase Agreements with Qualifying Facilities*, Docket No. 15-035-53, January 7, 2016 Order at 16-18; *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, December 20, 2012 Order at 13-14 (noting that customer indifference is a "primary" Commission concern in implementing PURPA).

Consistent with Commission policies, Rocky Mountain Power requests a declaratory ruling clarifying that these statutes, orders, and rules require a QF of any size seeking to sell its full net output to Rocky Mountain Power on a firm basis and seeking interconnection to the transmission system is financially responsible for all of the interconnection costs necessary to effectuate that sale, even if the interconnection costs are high due to transmission constraints in the area in which the QF chose to site its project. If QFs are not held responsible for the interconnection costs caused by their inefficient siting decisions, the additional costs needed to effectuate a firm PURPA purchase will be inappropriately borne by Rocky Mountain Power and its retail customers, in contravention of the Commission's established policies and PURPA's customer-indifference standard.

B. Need for the Commission's Review—Declaratory Ruling Would Eliminate Uncertainty Caused by Increasing Transmission Constraints that are Driving Interconnection Costs Up and Raising Disputes Regarding QF Interconnection Studies

[7] R746-312-10(2)(g)(v) ("Upon completion of the facilities study and receipt of agreement of the interconnection customer to pay for *interconnection facilities and upgrades identified in the facilities study*, the public utility shall approve the interconnection request.") (emphasis added); R746-312-2(35) (defining "Upgrades" as "the required additions and modifications to a public utility's distribution system beyond the point of interconnection."). Level 3 interconnection review applies to generators of greater than 2 MW but no larger than 20 MW. R746-312-10(1)(a).

Rocky Mountain Power is experiencing increased levels of constraints on its transmission system, particularly in southern Utah.[8] As the constraint levels have increased, so have new generator interconnection costs—in some cases, dramatically. For example, a recent interconnection study described in more detail later in this petition revealed that interconnecting a single generator on a firm basis would require more than $400 million in interconnection costs. Yet QF generators continue to site their projects in these highly constrained areas.

QFs have increasingly sought to avoid the financial implications of their choice to site in highly constrained areas. In one recent negotiation, for example, a Utah QF seeking to sell its full net output to Rocky Mountain Power on a long-term, firm contractual basis has taken the position that PacifiCorp transmission should study the QF's interconnection in a less robust, non-firm manner. Currently, PacifiCorp transmission conducts QF interconnection studies under the assumption that Rocky Mountain Power must take a QF's full net output on a firm basis, consistent with Federal Energy Regulatory Commission (FERC) precedent and PURPA. Nevertheless, the QF has insisted it be allowed to interconnect at a lower quality of interconnection service that supports delivery only on an "as-available"—rather than firm—basis.[9] In other words, this QF wants the benefits associated with a long-term contract for the

[8] Existing generators in southern Utah already exceed available area load. This means the output of any additional generation must be exported to load in the Wasatch front area. Delivering output to the Wasatch front requires crossing at least one, and sometimes two, transmission system constraint paths. These transmission constraints are referred to as the North of Huntington/Sigurd Cut Plane and the Wasatch front South Cut Plane, and they are both approaching full commitment of firm transmission capacity rights. As a result, adding generation south of the constraints will require new transmission lines to create additional transmission capacity to provide firm interconnection and transmission service.

[9] As discussed in more detail later in this petition, under FERC's nomenclature, a higher level, or more robust, interconnection is called a network resource or NR interconnection, which treats QF resources in a manner equivalent to Rocky Mountain Power's own resources used to serve load on a firm basis. A lower level, or less robust, interconnection is called an energy resource or ER interconnection, which provides only an as-available level of interconnection.

sale of its output on a firm basis, but it does not want to pay the interconnection costs associated with ensuring that firm sale.

The debate over the proper level of QF interconnection study is critical and, in highly constrained areas, has enormous financial implications for Rocky Mountain Power and its customers. For example, while the interconnection study noted above estimated $410 million in costs would be required to accommodate interconnection on a *firm* basis, it estimated only $15 million in costs to accommodate a generator on an *as-available* basis. An as-available level of interconnection is inadequate to effectuate a PURPA must-purchase obligation. PURPA compliance requires that someone pay the full $410 million for facilities needed to effectuate the PURPA sale—either the QF who chose to locate in the constrained area or Rocky Mountain Power and its customers will subsidize the QF's inefficient siting decision. PURPA requirements, existing Commission precedent, and fundamental fairness require that the company study the QFs at an appropriate level of interconnection and require that QFs—not retail customers—bear the interconnection costs driven by their own siting decisions.

The Commission has previously said that it expects Rocky Mountain Power to monitor carefully "the avoided cost calculations and other terms of its QF transactions in order to maintain the ratepayer indifference standard."[10] A declaratory ruling clearly articulating responsibility for costs driven by QF interconnection is needed given the increasing levels of transmission constraint, the large sums of money at issue to ensure firm delivery of the QF output, and increasing concerns voiced by QFs over whether QF interconnections should be studied on a firm or non-firm basis. A declaratory ruling on this issue would remove QF interconnection process uncertainty (a key purpose of declaratory

[10] *In the Matter of the Application of Rocky Mountain Power for Modification of Contract Term of PURPA Power Purchase Agreements with Qualifying Facilities*, Docket No. 15-035-53, January 7, 2016 Order at 14.

relief), reduce the likelihood of disputes, and ensure that customers remain indifferent to PURPA sales.

C. Relevant Facts and Circumstances

As discussed in more detail later in this petition, FERC has found that PURPA requires utilities to make firm transmission arrangements to deliver QF power to load. Significant costs associated with ensuring this level of QF power deliverability exist, particularly when a QF decides to site and interconnect in a constrained area of a utility's transmission system. Some of these firm deliverability costs are identified in the QF's interconnection studies and agreements because they are the costs of the facilities necessary to ensure the QF resource is eligible, from an interconnection perspective, to be delivered on the federally mandated firm transmission.

As discussed later in this petition, under PURPA, this Commission has jurisdiction over QF interconnection studies, interconnection agreements, and the allocation of any costs arising from QF interconnection. The Commission has already found that—to meet PURPA's customer-indifference standard—QFs must pay for all interconnection costs to preserve customer indifference. This standard should not change simply because a QF decided to locate in a transmission-constrained area and the resulting interconnection costs are higher. In fact, it is even more critical to maintain this cost-allocation standard under these circumstances to ensure that retail customers remain indifferent to the federally mandated purchase and are not forced to bear hundreds of millions of dollars to receive the output of, in the example used in this petition, one project.

The bulk of these increased interconnection costs are typically those necessary to accommodate the requisite firm level of interconnection service. QFs have attempted to shift these interconnection-service costs to Rocky Mountain Power's customers by arguing that

QFs should be able to choose a lower level of interconnection service that is designed for generators that will be delivered on as-available transmission, rather than on firm transmission.

To give context for Rocky Mountain Power's request and using representative facts the company is currently facing, Attachment A is a 2016 interconnection study of a generator proposing to site in a constrained area of the company's transmission system in Kane County, Utah. PacifiCorp transmission performed this study for a non-QF generator,[11] which means the study follows the FERC policy of estimating the cost and construction timing of both energy resource (ER) interconnection service and network resource (NR) interconnection service, and then allows the interconnecting generator to choose the type of interconnection service that reflects the level of transmission service the generator intends to use to deliver its power.[12]

The study estimates that an ER-level interconnection would cost $15.7 million with construction timing of two years, and a NR-level interconnection would cost $410 million with construction timing of ten years. The additional $394 million in interconnection facility costs would not be necessary but for the generator's interconnection, and yet would be shifted to Rocky Mountain Power's customers if a QF receives this study and is able to force the company to allow it to interconnect at the lower ER level.

After PacifiCorp transmission issued the interconnection study described above, the generator decided to sell its output as a QF, which means PacifiCorp transmission will restudy the interconnection request. While each interconnection study must take into account

[11] System Impact Study, Section 1.0 ("Interconnection Customer will NOT operate this generator as a Qualified Facility as defined by [PURPA].") (emphasis in original).
[12] System Impact Study, Section 3.0 ("The Interconnection Customer will select NR or ER prior to the Facilities Study.").

a variety of different request-specific factors and assumptions, including higher-queued requests,[13] PacifiCorp transmission believes the 2016 study's estimated level of facility and upgrade costs is generally representative of the costs likely to be identified in the future studies of other QF and non-QF generators seeking interconnection in this area of Utah until constraints are relieved, increasing the likelihood of future disputes on interconnection level. Therefore, the question of whether these types of interconnection costs should be borne by the QF or the utility and its customers is ripe for this Commission's review.

1. Study Overview

On July 27, 2016, PacifiCorp transmission issued a large generator interconnection system impact study report for a 240 MW generator proposing to interconnect to the Company's Sigurd-Glen Canyon 230 kV transmission line located in Kane County, Utah.[14] Generally speaking, the study evaluates the impact of the proposed interconnection on the reliability of the transmission system, provides a list of facilities required to accommodate the interconnection request, and offers a good faith estimate of the cost and construction time associated with those facilities.[15]

2. Facilities and Costs Identified as Necessary for ER Interconnection

The study first identifies the facility requirements associated with a lower-level ER interconnection service. Reiterating the FERC rule, the study states that this level of service allows the generator to interconnect with the transmission system and be eligible to deliver electric output on an as-available basis.[16]

[13] System Impact Study, Section 9.1 (listing all active higher priority transmission service or interconnection service requests that are assumed in-service for purposes of this study and noting that this study's results could significantly change if any of the higher priority requests are withdrawn).
[14] The study is publicly available on the Company's OASIS, and identifies the interconnection customer by queue number (Q0710).
[15] System Impact Study, Section 2.0.
[16] System Impact Study, Section 6.0.

The study then describes nine categories of requirements necessary to accommodate the request: (1) generating facility modifications; (2) transmission system modifications; (3) existing circuit breaker upgrades; (4) protection requirements; (5) data requirements; (6) substation requirements; (7) communication requirements; (8) metering requirements; and (9) transmission line requirements.[17]

The study next provides a cost estimate of approximately $15.7 million for these facilities, separating them into two categories: (1) approximately $3.9 million in direct-assigned facilities, which are also commonly referred to as interconnection facilities (similar to this Commission's use of the term "interconnection facilities" in its interconnection rules applicable to QFs); and (2) approximately $11.8 million in network upgrades (similar to this Commission's use of the term "upgrades" in its interconnection rules applicable to QFs).[18] The study also estimates it will require approximately two years to design, procure, and construct the facilities necessary for ER interconnection after an interconnection agreement is executed.[19]

3. Facilities and Costs Identified as Necessary for NR Interconnection

The study next identifies the additional network upgrade requirements associated with NR interconnection service. Reiterating the FERC rule, the study states that this level of service allows the generator to integrate with the transmission system in a way that is comparable to how the utility integrates its own generators to serve load. The study also explains that NR interconnection requires the study of the transmission system under a

[17] System Impact Study, Section 6.1.
[18] System Impact Study, Section 6.2. Generally speaking, direct-assigned facilities or interconnection facilities are facilities required up to the point of interconnection with the transmission system. Network upgrades are facilities required at or beyond the point of interconnection with the transmission system. The Commission's electric distribution interconnection rules use these same basic definitions for "interconnection facilities" and "upgrades" identified as necessary to accommodate an interconnection. R746-312-2(18) and (35).
[19] System Impact Study, Section 6.3.

variety of severely stressed conditions to determine the transmission modifications that are necessary to deliver the aggregate generation in the area to the aggregate load.[20]

The study then reviews the network upgrades required to accommodate an NR interconnection, identifying significant additional transmission system modifications that include two transmission lines: (1) the rebuilding of approximately 144 miles of the existing 230 kV line between the generator substation and the Sigurd substation; and (2) the construction of a new 345 kV line of approximately 130 miles between the Emery and Oquirrh substations.[21]

The study provides a cost estimate of approximately $394 million for these additional NR interconnection network upgrades, with approximately $318 million attributable to the new transmission lines.[22] This means NR interconnection would cost approximately $410 million total (i.e., ER plus NR costs). The study then estimates it will require approximately ten years to permit, design, procure, and construct the facilities necessary for NR interconnection after an interconnection agreement is executed.[23]

4. If This Were a QF, and the QF Were Allowed to Interconnect at an ER Level, the Interconnection Would Shift $394 Million to Rocky Mountain Power's Customers

The generator interconnection request analyzed in this study was a non-QF and, thus, was offered a choice in interconnection level. If a non-QF were to elect an ER level of interconnection, the non-QF would be responsible for any limitations imposed by that choice on its ability to get power onto the system, and, because it would need to make its own transmission arrangements, any curtailment limitations on its ability to use transmission

[20] System Impact Study, Section 7.0.
[21] System Impact Study, Section 7.1.2.
[22] System Impact Study, Section 7.2.
[23] System Impact Study, Section 7.3.

created by its as-available interconnection level choice. By contrast, any negative consequences of a QF choosing an inadequate level of interconnection would flow through to Rocky Mountain Power and its customers, who would pay for the upgrades through the required designated network service transmission request.

For this reason, if this (or any) generator were to submit an interconnection request *as a QF*, PacifiCorp transmission would estimate only the costs of the NR interconnection service for the reasons discussed above.[24] Thus, this study provides a clear picture of the serious cost consequences to Rocky Mountain Power's customers of allowing an interconnecting QF to instead choose ER (not NR) interconnection service, as in this case it would shift approximately $394 million in interconnection costs that would not be incurred but for the QF interconnection.

This study also highlights the point that the NR level costs do not simply go away if a QF is allowed to choose ER. The study states that *zero* MW of the interconnecting generator could be delivered to load on a firm basis without the NR-level interconnection facilities and upgrades because the Sigurd-Glen Canyon path is fully subscribed.[25] This means that all of the transmission system modifications identified for both ER interconnection and NR interconnection would be required to fulfill a (federally mandated) firm delivery of 100 percent of the generator's power to load.[26] If the transmission system modifications are not completed for purposes of the interconnection (i.e., only an ER interconnection is selected), then PacifiCorp transmission would identify the modifications (and their associated

[24] A generator may do this by submitting a new interconnection request identifying its QF status or by submitting a request to change its existing request to a QF interconnection, which prompts a restudy by PacifiCorp transmission. *See, e.g.*, System Impact Study, Section 5.0 ("The Transmission Provider reserves the right to restudy this project should the interconnection customer request a change in status to a Qualifying Facility.").
[25] System Impact Study, Section 6.3.1.
[26] System Impact Study, Section 6.3.2.

costs) as a prerequisite to designating the generator as a network resource for firm transmission purposes.

III. ARGUMENT SUPPORTING REQUEST FOR DECLARATORY RULING

A. This Commission's Statutes, Rules, and Orders addressing PURPA, when Taken Together, Hold that All Interconnection Costs Caused by a QF on a "But-For" Basis Should be Allocated to the QF.

1. PURPA Gives the Commission Jurisdiction Over QF Interconnections and Authority to Allocate All Interconnection Costs Caused by the QF to the QF

PURPA requires a utility to interconnect with a QF and gives state regulatory authorities exclusive jurisdiction over QF interconnections.[27] When a generator interconnects with a utility's transmission system, that interconnection is ordinarily under FERC's jurisdiction. Under PURPA, however, a state has unique authority over QF interconnections—whether that interconnection is with a utility's transmission system or its distribution system—so long as the QF is selling 100 percent of its net output to a state-regulated utility.

This state jurisdiction over QF interconnections includes broad cost-allocation authority. FERC's PURPA regulations set forth a "but-for" cost-allocation test that identifies the "interconnection costs" over which a state has jurisdiction to include the following wide range of facility costs:

[27] *See, e.g.*, 18 C.F.R. § 292.303(c); 18 C.F.R. § 292.396; *Prior Notice and Filing Requirements Under Part II of the Federal Power Act*, 62 FERC ¶ 61,128, *order on reh'g*, 64 FERC ¶ 61,139 at 61,991, *order on reh'g*, 65 FERC ¶ 61,081 (1993) (landmark order addressing various jurisdictional issues and reiterating previous FERC ruling that "the states have exclusive jurisdiction over direct interconnections between a QF and the public utility which purchases its power."); *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, 104 FERC ¶ 61,103 at PP 813-14 (2003) (Order No. 2003). FERC has also found that state-jurisdictional QF agreements do not need to be filed with FERC. *See, e.g.*, *Florida Power & Light*, 133 FERC ¶ 61,121 at P 21 (2010) (holding that FERC "will exercise jurisdiction or require the filing of an interconnection agreement only if there is some manifestation of a QF's 'plan to sell' output to third parties.").

> [T]he reasonable costs of connection, switching, metering, transmission, distribution, safety provisions and administrative costs incurred by the electric utility directly related to the installation and maintenance of the physical facilities necessary to permit interconnected operations with a qualifying facility, to the extent such costs are in excess of the corresponding costs which the electric utility would have incurred if it had not engaged in interconnected operations, but instead generated an equivalent amount of electric energy itself or purchased an equivalent amount of electric energy or capacity from other sources.[28]

FERC has explained that this broad definition is intended to provide state commissions with "the flexibility to ensure that *all costs which are shown to be reasonably incurred by the electric utility as a result of interconnection with the qualifying facility* will be considered as part of the obligation of the qualifying facility[.]"[29]

This broad definition includes all interconnection costs potentially attributable to a QF, and allows a state commission to allocate these "but-for" interconnection costs to a QF. Allocation of such costs to a QF is appropriate on a cost-causation basis, but also because it is essential to maintain customer indifference to a utility's purchases under PURPA.

2. In Recognition of its Authority Over QF Interconnections, the Commission has Adopted a Policy of Allocating Interconnection Costs to QFs on a "But-For" Basis

This Commission recognizes its jurisdiction over QF interconnections and has exercised its authority to make QFs financially responsible for the interconnection costs they cause.[30] As the Commission has stated, PURPA requires the Company "to make necessary interconnections with a QF, the costs of which, as approved by this Commission, *are to be*

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[28] 18 C.F.R. § 292.101(b)(7).

[29] *Small Power Production and Cogeneration Facilities; Regulations Implementing Section 210 of the Public Utility Regulatory Policies Act of 1978*, Order No. 69, FERC Stats. & Regs. P 30,128, *slip op.* at 13-14 (1980) (emphasis added).

[30] *See, e.g., In the Matter of the Utah Public Service Commission Exercising Jurisdiction Over Schedule 38 and, as Adopted, PacifiCorp's OATT Part IV*; Docket No. 15-2582-01, Notice of Denial of Request for Declaratory Rulings and Order Denying Motion to Dismiss and Motion to Strike as Moot at 5 (acknowledging that the Commission, not FERC, regulates and allocates interconnection costs under PURPA).

paid by the QF."[31] Rocky Mountain Power's Schedule 38, which applies to cogeneration facilities greater than 1 MW and small power production facilities greater than 3 MW interconnecting to the company's transmission or distribution system,[32] reflects this interconnection cost allocation policy, stating "[t]he QF project owner is responsible for all interconnection costs assessed by the Company on a nondiscriminatory basis."[33] The Commission's distribution interconnection rules applicable to the processing of QF interconnections less than or equal to 20 MW[34] state that level 3 QF interconnection costs include interconnection facilities and upgrades—which are defined as additions and modifications beyond the point of interconnection—identified in the interconnection facilities study.[35]

In short, the Commission has already exercised its authority under PURPA by adopting a general policy of allocating QF interconnection costs to QFs, which is appropriate and necessary to meet the customer-indifference standard. But clarity is needed regarding the appropriate level of interconnection (ER versus NR) and the allocation of interconnection costs in the context of QF interconnection to the transmission system in constrained areas.

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[31] *In the Matter of the Application of PacifiCorp For Approval of an IRP-Based Avoided Cost Method for QF Projects Larger than One Megawatt*, Docket No. 03-035-014, October 1, 2005 Report and Order at 4 (emphasis added).

[32] Rocky Mountain Power's Schedule 38 at 38.3 (setting forth the size requirements for Schedule 38 applicability) and 38.9 (stating that QFs are "required to enter into an interconnection agreement that governs the physical interconnection of the project to the Company's *transmission or distribution system*.") (emphasis added).

[33] Rocky Mountain Power's Schedule 38 at 30.10.

[34] Rocky Mountain Power's Schedule 38 at 30.10 ("For interconnections equal to or less than twenty (20) megawatts, the Company will process the interconnection application in accordance with Utah Admin. Code R746-312.").

[35] R746-312-10(2)(g)(v) ("Upon completion of the facilities study and receipt of agreement of the interconnection customer to pay for *interconnection facilities and upgrades identified in the facilities study*, the public utility shall approve the interconnection request.") (emphasis added); R746-312-2(35) (defining "Upgrades" as "the required additions and modifications to a public utility's distribution system beyond the point of interconnection."). Level 3 interconnection review applies to generators of greater than 2 MW but no larger than 20 MW. R746-312-10(1)(a).

3. The Commission's Customer-Indifference Policies Require Allocating All Interconnection Costs Caused by QFs to QFs

The Commission's QF interconnection cost-allocation policy is consistent with traditional cost-causation principles, and it should be reinforced and applied broadly on that basis alone.[36] More specific to PURPA, however, allocating all of a QF's "but-for" interconnection costs to a QF is also consistent with the Commission's commitment to ensuring customers remain indifferent to a utility's PURPA purchases.

PURPA creates a number of obligations for electric utilities, including the obligation to interconnect with a QF and the obligation to purchase all of the QF's power at the QF's request. The Commission has consistently held that Utah customers should not incur additional costs due to the Commission's implementation of PURPA. As the Commission has explained: "One of our key objectives in implementing PURPA is to maintain ratepayers' indifference to whether power is provided by the utility or the QF."[37] Requiring a utility and its customers to pay massive amounts of interconnection costs caused by a QF that are only necessary to effectuate a PURPA must-purchase obligation would be inconsistent with this objective.

It is clear from PURPA's legislative history that PURPA was not intended to provide subsidies to QFs.[38] This Commission has also recognized this, stating, "we do not read Chapter 12, PURPA, or any FERC regulation to require ratepayers to subsidize QF projects

[36] It is also consistent with the Commission's existing cost allocation policies for other generator interconnections. *See* R746-312.
[37] *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, December 20, 2012 Order at 13.
[38] *See, e.g.*, Joint Explanatory Statement of the Committee of Conference, H.R. Rep. No. 1750, 95th Cong. 2nd Sess. 98 (1978) (PURPA was "not intended to require the ratepayers of a utility to subsidize cogenerators or small power producers").

to make them profitable for investors."[39] Instead, the Commission has endeavored to advance PURPA consistent with its "primary duty to ensure the reliability of electric service and to do so 'on the basis of reasonable costs.'"[40]

B. A QF's Interconnection with a Utility's System Must Be Sufficiently Robust to Allow a QF to Sell All of Its Output to the Utility on a Firm Basis under PURPA's Mandatory-Purchase Obligation

As explained in more detail below, FERC requires utilities to make firm transmission arrangements for QF power. Rocky Mountain Power makes these firm transmission arrangements by requesting new network transmission service to deliver the QF power to load. This makes the QF a "network resource" for purposes of transmission delivery to Rocky Mountain Power customer loads. These transmission service details are important to a QF's interconnection because there is a type of interconnection—"network resource" interconnection—that was designed with the "principal purpose" of allowing a generator to qualify for designation as a network resource for transmission service.[41] This is the only level of interconnection that is appropriate for a QF because it is the only level of interconnection that allows Rocky Mountain Power to take *all* of the QF's power without interruption so it can deliver it on a firm basis to load.

This issue is contentious because the firmer NR interconnection is typically the primary driver of costs associated with a QF's interconnection when there are transmission

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[39] *In the Matter of the Application of Rocky Mountain Power for Modification of Contract Term of PURPA Power Purchase Agreements with Qualifying Facilities*, Docket No. 15-035-53, January 7, 2016 Order at 18.
[40] *Id.* at 16 (citing *Garkane Power Ass'n v. Public Serv. Comm'n of Utah*, 681 P.2d 1196, 1207 (Utah 1984)). *See also id.* at 14 ("It falls to this Commission to exercise its discretion to establish a contract term that advances the policy interests underlying PURPA and Chapter 12 [Utah Code Ann. § 54-12] without unduly burdening ratepayers with excessive price risk.").
[41] *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003-B, 109 FERC ¶ 61,287 at P 69 (2003) (Order No. 2003-B). ("Also, we disagree with TAPS's assertion that the name 'Network Resource Interconnection Service' is misleading. The name is suitable given that the principal purpose of the service is to allow the Generating Facility to qualify for designation as a Network Resource by a Network Customer.").

constraints. QFs have attempted to shift these firm interconnection service costs to Rocky Mountain Power's customers by arguing that QFs should be able to choose a lower-quality interconnection designed for generators that will be delivered on an as-available basis. Importantly, these same QF projects are not willing to reduce their output when the non-firm transmission capacity is unavailable. In other words, they want to be treated as a firm network resource for purposes of making QF sales (which Rocky Mountain Power is required to take under federal mandate) without meeting their obligation to pay for the interconnection costs needed to firmly deliver their output.

It is appropriate to offer multiple levels of interconnection service to FERC-jurisdictional, non-QF generators because they make their own interconnection service and transmission service arrangements, and they have the flexibility to use and deliver their power in a variety of different ways depending on economic considerations. They may, for example, use generation primarily for on-site activities and use transmission only when transmission is available; or they may sell power to others on any basis they deem appropriate, including an interruptible basis.

An electric utility with a must-purchase obligation under PURPA does not have that same flexibility when it makes transmission arrangements to deliver QF power. Rather, a utility has one transmission choice—firm NR status—and, thus, the QF's interconnection must also be at the NR interconnection level designed for that type of firm delivery. This is because a utility must take every kilowatt-hour of energy generated by the QF, it must take it anytime the QF is generating, and it must be able to deliver that energy on a firm basis. This makes it critically important for the Commission to clarify that its QF interconnection cost-

allocation polices apply to facilities and upgrades necessary to accommodate a higher quality of interconnection service to prevent future disputes between utilities and QFs.

1. NR Status Is Required for FERC-Jurisdictional Transmission Service

FERC has held that the PURPA mandatory purchase obligation requires utilities to: (1) make firm transmission arrangements for QFs; and (2) curtail QF power only in very limited circumstances.[42] These two principles go hand-in-hand because firm transmission service enjoys the highest level of curtailment priority. In other words, if curtailments are necessary, firm transmission service is the last to be cut.

As the company has explained to FERC, it makes the required firm transmission service arrangements by designating QF power purchase agreements (PPA) as network resources, which is another way of saying that it must acquire additional firm network transmission (for every QF PPA) to deliver QF power to load.[43]

While this transmission service is governed by a FERC-jurisdictional agreement between PacifiCorp transmission and Rocky Mountain Power, the required NR status of the QF PPA for transmission purposes must also require that QFs have NR status for interconnection purposes.

[42] *See, e.g.*, *PacifiCorp*, 151 FERC ¶ 61,170 at P 27 (2015) ("As PacifiCorp acknowledges, Commission precedent requires electric utilities, such as PacifiCorp, to deliver a QF's power on a firm basis and prohibits the curtailment of QF resources except under two very narrow circumstances: (1) system emergencies; and (2) extreme light loading conditions.").
[43] *See, e.g.*, *PacifiCorp*, 151 FERC ¶ 61,170 at P 3 (2015). *See also* Rocky Mountain Power's Schedule 38 at 38.8 (directing the company to submit a request for network transmission service within seven days of executing a QF PPA).

2. NR Status Is Required for State-Jurisdictional Interconnection Service

In 2003, FERC instituted a comprehensive rulemaking proceeding focused on the standardization of generator interconnection agreements and procedures,[44] including the establishment of two different levels of interconnection service designed to reflect how the interconnection customer plans to use its generator: (1) ER interconnection service, which is for generators planning to use as-available transmission service; and (2) NR interconnection service, which is for generators planning to be network resources using firm network transmission service.

These ER and NR interconnection levels are FERC concepts applicable only to FERC-jurisdictional interconnections. Indeed, FERC has found that its landmark interconnection policy orders establishing the ER and NR levels do not apply to state-jurisdictional QF interconnections.[45] Thus, a state commission with jurisdiction over QF interconnections has the authority to decide to take a different approach on QF interconnections than FERC does for non-QF interconnections.

Applied here, this Commission has the authority to clarify that its must-purchase policies, customer-indifference policies, and interconnection cost-allocation polices, taken together, make it inappropriate for QFs to choose an ER interconnection. Instead, the Commission's policies mandate that QFs be offered only one type of interconnection—the

[44] *See generally*, FERC Docket No. RM02-1 (Order No. 2003 proceeding focused on the standardization of large generator interconnection procedures and agreements). *See also* FERC Docket No. RM02-12 (Order No. 2006 proceeding instituted in 2005 and focused on the standardization of small generator interconnection procedures and agreements).

[45] *See, e.g.*, Order No. 2003 at P 814 (stating that the landmark interconnection order applies only to FERC jurisdictional QF interconnections, *i.e.*, where the QF seeks interconnection to a transmission system and sells any of its output to a third party).

NR level—and pay for the cost of any facilities or upgrades necessary to accommodate the NR interconnection without reimbursement from the utility or its customers.

a. ER Interconnection Service—Lower-Quality Interconnection

A QF requests interconnection service to interconnect its project to the Company's transmission system by submitting a request with PacifiCorp transmission. PacifiCorp transmission, in turn, studies the request to determine what, if any, new facilities or upgrades are required to accommodate the request. The study differs based on the level of interconnection requested.

The lower-quality ER interconnection service is a non-firm interconnection service,[46] sometimes referred to as the "plug in" service. The transmission provider's study for ER interconnection service involves no deliverability assessment. Rather, ER interconnection service allows the interconnection customer to simply connect its generator to the transmission system and be eligible to deliver its output using existing transmission capacity on an as-available basis.[47] Generators with ER interconnection service typically deliver their power by using lower-priority transmission services, such as non-firm point-to-point or secondary network transmission service.[48]

FERC has held that utilities like Rocky Mountain Power cannot deliver QF power on non-firm transmission, but instead are required to accept and deliver QF power on a firm basis, making this lower level of interconnection inappropriate for QF interconnections.

[46] *See, e.g.*, Order No. 2003 at P 752 (describing ER interconnection as "a basic or minimal interconnection service").
[47] *Id*. at P 753.
[48] *Id*.

b. NR Interconnection Service—Firm Interconnection

NR interconnection service is a more flexible and comprehensive interconnection service, designed to reflect an integration level that is comparable to a utility's own load-serving generators.[49] Thus, the transmission provider must incorporate a deliverability assessment into its NR interconnection studies before it can grant an NR interconnection. FERC has described NR interconnection as having the "principal purpose" of allowing a generator to qualify for designation as a network resource for transmission service purposes.[50]

This deliverability assessment requires the transmission provider to study the transmission system at peak load, under a variety of severely stressed conditions, to determine whether, with the interconnecting generator at full output, the aggregate of generation in the local area can be delivered to the aggregate of load.[51] FERC has described this interconnection deliverability assessment as one that allows the interconnecting generator to be capable of load service delivered on firm network transmission—transmission service that must be arranged separately by requesting designation of the QF PPA as a network resource under a network transmission service agreement.[52]

As described above, requesting designated network resource status for QFs interconnecting with the company's system is precisely how Rocky Mountain Power makes the FERC-required (and PURPA-required) firm transmission arrangements to deliver QF

[49] *Id*. at PP 752, 754-56.
[50] Order No. 2003-B at P 69.
[51] *See, e.g., Standardization of Generator Interconnection Agreements and Procedures,* Order No. 2003-A, 106 FERC ¶ 61,220 at P 531 (2004) (Order No. 2003-A).
[52] *See, e.g.*, Order No. 2003-A at P 533.

power to load. This makes the firmer NR interconnection the only appropriate interconnection service type for QFs.

C. All Costs Caused by a QF Interconnection Needed to Effectuate the Sale of the QF's Power on a Firm Basis under PURPA's Mandatory-Purchase Obligation Should Be Allocated to QFs, Not to the Company or its Customers, Consistent with Existing Commission Precedent

The issue of ER versus NR interconnection is contentious because the firmer-level NR interconnection is typically the primary driver of costs associated with a QF's interconnection agreement when there are transmission constraints. This is why QFs have argued for the lower-level interconnection—a change that would shift significant costs to Rocky Mountain Power customers in violation of the Commission's QF interconnection policies and customer indifference standards. NR interconnection is the only appropriate type of interconnection for QFs.[53]

If the facilities or upgrades necessary to accommodate an NR interconnection are not identified in a QF's interconnection studies and allocated to the QF in the interconnection agreement, they do not simply go away. Rather, they will be identified as necessary upgrades when PacifiCorp transmission studies Rocky Mountain Power's later request for

[53]Once a QF signs an NR interconnection agreement, then Rocky Mountain Power will update that QF's avoided cost pricing to reflect interconnection network upgrades to the extent applicable and in accordance with the Commission-approved avoided cost price methodology.

FERC-jurisdictional network transmission service[54] and reflected in increased FERC-jurisdictional transmission service rates—the vast majority of which are passed through to Rocky Mountain Power's customers.

This shift of costs from the QF's responsibility through the interconnection study to Rocky Mountain Power's customers through the transmission study is not consistent with customer indifference under PURPA. Rather, allowing a QF to select the lower-quality ER interconnection would result in a woefully inaccurate identification of the true facilities or upgrades that must be built to accommodate the interconnection of a generator that the utility is federally obligated to deliver using firm transmission service. This would violate: (1) the Commission's policies mandating that a QF must pay the costs caused by its interconnection by allowing for an incomplete list of facility and upgrade costs in the interconnection study; and (2) the customer-indifference standard by requiring a utility's customers to make up for this shortfall in the form of increased rates.

[54] QFs have argued that these NR-level interconnection costs can simply be avoided altogether if they are shifted from the QF interconnection agreement to the Rocky Mountain Power's transmission service agreement, and then Rocky Mountain Power agrees to back down its own resources instead of upgrading the transmission system to accommodate the QF's power. QFs cite to a planning redispatch protocol set forth in a FERC-jurisdictional Network Operating Agreement (NOA) that contains operational details of the company's FERC-jurisdictional network transmission service agreement. In short, the NOA planning redispatch protocol is an operational tool approved by FERC that allows Rocky Mountain Power to manage transmission constraints by allowing Rocky Mountain Power, as transmission customer, to choose to back down its own resources instead of constructing upgrades required for *transmission service* (as opposed to interconnection service) when Rocky Mountain Power determines it is economically and operationally appropriate to do so in constrained areas. *PacifiCorp*, 151 FERC ¶ 61,170 (2015). The NOA redispatch protocol is *not* intended as a tool for QFs to avoid upgrades required for *interconnection service* (and upgrade cost responsibility) in constrained areas. If QFs are permitted to force Rocky Mountain Power to back down its own resources in constrained areas to accommodate QF power, then: (1) QFs would be shifting their interconnection costs to Rocky Mountain Power in the form of increased risk of curtailment of Rocky Mountain Power's own resources; and (2) the operational effectiveness of the NOA protocol and its benefits to customers, as approved by FERC, would rapidly diminish. Rocky Mountain Power does not discuss this misguided view of the NOA redispatch protocol in more detail in this petition because it believes a Commission ruling on the proper allocation of interconnection costs to QFs will settle this issue.

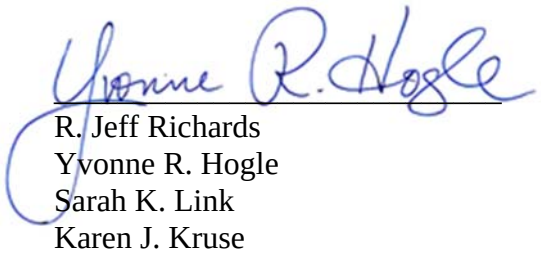
IV. CONCLUSION

The Commission has stated that it expects Rocky Mountain Power to monitor the terms of its QF transactions carefully to maintain the customer-indifference standard. Rocky Mountain Power respectfully requests a declaratory ruling clarifying that its rules and orders require a QF to pay for all costs associated with a firm, NR interconnection because it is the level of interconnection necessary to allow Rocky Mountain Power to fulfill its PURPA obligation to receive the QF's net output on a firm basis. Rocky Mountain Power seeks this clarification because QFs continue to site generation facilities in areas with transmission constraints where interconnection costs under PURPA can exceed hundreds of millions of dollars for a single QF—costs that, if not borne by the QF, will have a detrimental effect on retail customers in violation of PURPA's customer-indifference standard. Clarification of the applicability of the Commission's statutes, orders, and rules to the facts presented here will resolve uncertainty and help eliminate disputes.

Dated: May 1, 2017

RESPECTFULLY SUBMITTED,

ROCKY MOUNTAIN POWER



R. Jeff Richards
Yvonne R. Hogle
Sarah K. Link
Karen J. Kruse

Attorneys for Rocky Mountain Power

VERIFICATION

I, Karen J. Kruse, am Deputy General Counsel for PacifiCorp d/b/a Pacific Power and am authorized to make this verification on its behalf. Based on my personal knowledge about the attached Request for Declaratory Ruling, I verify that the Request for Declaratory Ruling is a true and accurate copy of the original.

I declare upon the penalty of perjury, that the foregoing is true and correct.

Executed on May 1, 2017 at Portland, Oregon.

Karen Kruse

Karen J. Kruse
Deputy General Counsel

Subscribed and sworn to me on this 1 day of May, 2017.

Notary Public for Oregon

My Commission expires: 11/30/2020

Official Stamp
Sara Megan Dueno
Notary Public - Oregon
Commission No. 956778
My Commission Expires November 30, 2020

CERTIFICATE OF SERVICE

Docket 17-035-25

I hereby certify that on May 1, 2017, a true and correct copy of the foregoing was served by electronic mail to the following:

Utah Office of Consumer Services
Cheryl Murray - cmurray@utah.gov
Michele Beck - mbeck@utah.gov

Division of Public Utilities
Chris Parker - ChrisParker@utah.gov
William Powell - wpowell@utah.gov
Erika Tedder - etedder@utah.gov

Jennifer Angell
Supervisor, Regulatory Operations