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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
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**REPLY COMMENTS OF GLEN CANYON SOLAR A, LLC
AND GLEN CANYON SOLAR B, LLC ON ROCKY MOUNTAIN
POWER’S REQUEST FOR DECLARATORY RULING**

INTRODUCTION

Rocky Mountain Power (“**RMP**”) filed a Request for Declaratory Ruling (“**Request**”) on May 1, 2017 in the above referenced docket. The Public Service Commission of Utah (“**Commission**”) issued a Notice of Filing and Comment Period on May 2, 2017. Glen Canyon Solar A, LLC and Glen Canyon Solar B, LLC (collectively “**Glen Canyon Solar**”), the Division of Public Utilities (“**Division**”), the Office of Consumer Services (“**Office**”), the Joint Industrial Petitioners Kennecott Utah Copper LLC and Tesoro Refining and Marketing Company LLC (“**Industrial Petitioners**”), and Enyo Renewable Energy, LLC (“**Enyo**”) each filed comments (or testimony) on June 1,

2017 (collectively, the “**Comments**”). Glen Canyon Solar hereby submits these reply comments in response to the Comments filed by others.

As explained in Glen Canyon Solar’s Initial Comments (“**Initial Comments**”), RMP’s Request is procedurally defective in that it seeks to substantially affect the rights of parties without their written consent, fails to provide specific factual circumstances needed to determine the applicability of statutes, regulations or orders, and relies upon an inapplicable regulation while ignoring applicable tariff language.¹ The Comments filed by others (other than Enyo) did not address any of these procedural deficiencies. Otherwise, however, the Comments are all generally consistent with Glen Canyon Solar’s primary position in this docket as it relates to the Glen Canyon Solar QF projects: ***RMP must satisfy its PURPA and Schedule 38 obligations by using available rights and procedures in a manner consistent with avoided cost pricing assumptions to avoid unnecessary transmission network upgrades.***

GLEN CANYON SOLAR’S RESPONSE TO COMMENTS

Division Comments

Like Glen Canyon Solar, the Division recognizes the complex jurisdictional issues at play in dealing with network transmission upgrades and suggests use of an adjudicative or rulemaking procedure to address such issues.² The Division also properly notes that avoided cost pricing reflects financial impacts of purchasing QF energy³ and recognizes that QF resources can become network resources in the absence

¹ See Initial Comments at 12-21.

² Division Comments at 2-3.

³ *Id.* at 6-7.

of transmission capacity under RMP's amended Network Operating Agreement ("NOA").⁴

The Division incorrectly suggests that *transmission upgrade* costs not reflected in avoided cost prices and not avoidable through NOA procedures can be allocated to a QF as interconnection costs,⁵ but the Division's comments are ultimately consistent with Glen Canyon Solar's position, in that avoided cost pricing for the Glen Canyon Solar QFs does include the impacts of redispatching RMP's resources as contemplated by the NOA and will avoid unnecessary upgrades.⁶

Office Comments

The Office emphasizes the PURPA ratepayer indifference standard⁷ and recognizes that the impacts of using RMP's existing resources are reflected in avoided cost pricing, consistent with Glen Canyon Solar's positions.⁸ Similar to the Division, the Office comments improperly conflate interconnection costs and transmission upgrade costs,⁹ but are otherwise generally consistent with Glen Canyon Solar's position that RMP can and must ensure ratepayer indifference by utilizing available rights and procedures in a manner consistent with avoided cost pricing to avoid unnecessary and uneconomic transmission system upgrades.

⁴ *Id.* at 7-8.

⁵ As discussed in more detail below, costs of transmission upgrades cannot properly be considered or allocated as part of interconnection costs.

⁶ *See* Division Comments at 2, 8.

⁷ Office Comments at 4-5.

⁸ *Id.* at 2-3.

⁹ *See* n.5, *supra*.

Industrial Petitioners Comments

The comments of the Industrial Petitioners are consistent with Glen Canyon Solar's position, in that they highlight due process and other concerns raised by RMP's Request to modify existing procedures to the extent they may be applied to existing QF projects.¹⁰ Because RMP's request would require substantive change to Schedule 38, retroactive application of such changes would violate due process.¹¹

Enyo Comments

Enyo's testimony is also consistent with Glen Canyon Solar's position in that they accurately point out that RMP's Request is inconsistent with the intent of PURPA,¹² would have unintended consequences,¹³ and can properly be adjudicated only upon proper notice and satisfaction of other due process requirements.¹⁴

GLEN CANYON SOLAR'S QF PROJECTS

Glen Canyon Solar's Initial Comments demonstrate, and the Comments filed by others confirm, that RMP'S Request is inappropriate and unhelpful in resolving any specific disputes, and particularly those relating to the Glen Canyon Solar QF projects. RMP can comply with its Schedule 38 and PURPA obligations only by utilizing available

¹⁰ See e.g. Initial Comments at 14-15; Industrial Petitioners Comments at 1.

¹¹ See Initial Comments at 18-19 (explaining that RMP's characterization of its Request as seeking "clarification" is misleading because the relief sought by RMP would require the Commission to modify existing rules and amend Schedule 38; that even if appropriate and lawful, such changes cannot be made in a declaratory ruling proceeding; and that even if adopted in an appropriate proceeding could not be applied retroactively to existing projects).

¹² Enyo Comments at 2.

¹³ *Id.* at 4-5.

¹⁴ *Id.* at 4 (to change the status quo "due process requires, at a minimum, an evidentiary process with discovery, testimony and an opportunity to examine RMP's study and sponsoring witnesses").

rights and procedures assumed in setting avoided cost prices, thus avoiding unnecessary transmission upgrades.

1. The Ratepayer Indifference Standard is Satisfied with respect to the Glen Canyon QFs.

Existing avoided cost procedures approved by the Commission ensure PURPA compliance. A QF is treated as a “must take” resource consistent with the utility’s obligation to purchase QF energy on a firm basis, while economic indifference for RMP’s customers is maintained through prices that reflect the resulting cost impacts.¹⁵ QF pricing is set at precisely the level of costs that the model indicates can be avoided by RMP.

As recognized by the Division, costs of curtailing RMP resources to alleviate transmission constraints for a QF are accounted for in pricing QF energy and a QF can be designated as a network resource under the NOA without unnecessary network upgrades.¹⁶ All that is required is for RMP to utilize its resources in the manner assumed in determining avoided cost prices for the Glen Canyon Solar QFs.

2. Transmission Upgrade Costs Cannot be Assigned to a QF as Interconnection Costs.

As explained in the Initial Comments, if the Glen Canyon Solar QFs are properly processed by RMP as contemplated by Schedule 38, the PacifiCorp Transmission (“**PacTrans**”) Open Access Transmission Tariff (“**OATT**”) and the NOA, uneconomic and unnecessary transmission upgrade costs will be avoided with respect to the Glen

¹⁵ Initial Comments at 11-12; 16 USCS 824a-3(b) (requiring that rates for purchases from QFs “shall be just and reasonable to the electric consumers of the electric utility and in the public interest”); 71 FERC ¶ 61,269, 62,080 (1995) (finding that “[t]he intention [of PURPA] was to make ratepayers indifferent as to whether the utility used more traditional sources of power or the newly-encouraged alternatives.”).

¹⁶ Division Comments at 7-8.

Canyon Solar QFs. RMP's Request in this docket is thus not relevant to the Glen Canyon Solar QFs. However, in any evaluation of cost assignment for QF resources, clarity is important with respect to critical differences between interconnection costs and transmission upgrade costs.

Interconnection facilities and *transmission* facilities are distinct and separate, and responsibility for the costs of the same are assigned in different ways.¹⁷ Transmission upgrades are deemed to benefit all users of the transmission system and, as such, FERC requires that the entity that pays the cost of such upgrades be reimbursed by other transmission customers over a reasonable timeframe.¹⁸ By comparison, interconnection costs are directly assignable (i.e. not reimbursable) because they benefit only the interconnected generator, not other users of the transmission system.

There is a clear distinction between how "interconnection costs" and network transmission "upgrade costs" are allocated. Under Schedule 38 and FERC precedent, interconnection costs cannot be discriminatory,¹⁹ and the ratepayer indifference standard must be satisfied. Schedule 38 is clear in its requirement that RMP process applications for QFs greater than 20 MW pursuant to the OATT, while applications for QFs 20 MW or less are processed pursuant to Utah Admin. Code R746-312.²⁰ Utah regulations and

¹⁷ See Initial Comments at 28-29

¹⁸ FERC Order 2003, 104 FERC ¶ 61,103 at P. 21.

¹⁹ See e.g. Schedule 38 II.B. ("The QF project owner is responsible for all interconnection costs assessed by the Company on a nondiscriminatory basis."); FERC Order 2003, 104 FERC ¶ 61,103 at P. 696 (discussing concern that a transmission provider would be incentivized to discriminate against a competing generator by allocating a disproportionate share of network upgrade costs that also serve the transmission provider's own power customers and adopting a policy that a non-independent transmission provider must provide transmission credits for network upgrades needed for a generating facility interconnection).

²⁰ Schedule 38 II B.

the OATT both clearly distinguish among (a) distribution upgrades; (b) transmission upgrades; (c) interconnection facilities; and (d) the respective cost assignment policies for each.

Utah regulations permit direct assignment to a QF of costs for (1) *interconnection* facilities required for interconnecting to the utility distribution system; and (2) *distribution* system upgrades.²¹ Moreover, this assignment of cost responsibility²² is consistent with FERC policies for distribution-level interconnections.²³ However, neither state nor federal regulations or policies conflate distribution upgrades and interconnection costs into a singular category of “interconnection costs.” Moreover, no Utah regulations provide for the assignment (direct or reimbursable) of *transmission upgrades* to a QF; indeed, Utah regulations do not address cost assignment of network transmission upgrades in any manner; Schedule 38 looks to the OATT for such purposes.²⁴

Similar to how Utah regulations distinguish between distribution upgrades and interconnection facilities, the OATT distinguishes between network transmission upgrades and interconnection facilities. Under the OATT, and consistent with FERC policies, interconnection facility costs are directly assigned to the interconnection

²¹ 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.”).

²² R746-312-2(18) (defining “Interconnection Facilities” as “the facilities required by a public utility to accommodate the interconnection of a generating facility to the public utility’s electric *distribution* system and used exclusively for that interconnection. Interconnection Facilities do not include upgrades”) (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.”) (emphasis added).

²³ See e.g., FERC Order 2006, 111 FERC ¶ 61,220 (2005) at P. 40 (“The costs of Distribution Upgrades are directly assigned to the Interconnection Customer.”).

²⁴ Schedule 38 II.B.

customer (here, the QF), while network transmission upgrades are funded by all users of the transmission system (here, RMP and other PacTrans customers).²⁵ FERC, like Utah, does not conflate “interconnection” costs and network “upgrade” costs into a singular category of “interconnection costs,” as does the RMP Request.

RMP’s request that the Commission “clarify” that Utah law allows RMP to assign network upgrade costs to QFs—as interconnection costs or otherwise—ignores (a) the clear distinctions between distribution upgrades and interconnection facilities as defined in Utah regulations; (b) the clear distinction between the transmission system and the distribution system; (c) Schedule 38 requirements that large QF interconnections be processed pursuant to the OATT; (d) the OATT’s clear distinction between network transmission upgrades and interconnection facilities; and (e) OATT and FERC requirements that apply different cost assignment policies to network upgrades and interconnection facilities.

Interconnection facility costs can properly be assigned to large QFs, but network upgrade costs are allocated to RMP, as the transmission customer responsible for delivering QF output, subject to reimbursement under the OATT and FERC’s

²⁵ See e.g. OATT Part IV, Section 36 (“Interconnection Facilities”) (“Interconnection Facilities are sole use facilities and shall not include Distribution Upgrades, Stand Alone Network Upgrades or Network Upgrades.”); OATT, Sections 32.3 and 32.4; OATT Attachment N, Large Generator Interconnection Agreement, Section 4.1.2.2 (Transmission Delivery Service Implications) (“The provision of Network Integration Transmission Service or firm Point-to-Point Transmission Service may require additional studies and the construction of additional upgrades. Because such studies and upgrades would be associated with a request for delivery service under the Tariff, cost responsibility for the studies and upgrades would be in accordance with FERC’s policy for pricing transmission delivery services”); FERC Order 2003, 104 FERC ¶ 61,103 at P. 21-22 (discussing the distinction between interconnection facilities and network upgrades and disallowing the direct assignment of network upgrades to interconnection customers and requiring these costs to ultimately be borne by transmission provider and rolled into transmission rates.)

transmission cost allocation policies.²⁶ By mischaracterizing transmission network upgrade costs as directly-assignable interconnection costs, RMP invites the Commission to violate applicable non-discrimination requirements and cost-allocation policies, and to improperly place the entire burden of network transmission upgrades on the developer of a single generation project.

3. RMP Can Avoid Uneconomic Network Upgrades and Fulfill its PURPA Obligations to the Glen Canyon QFs and Ratepayers.

While the distinction between transmission upgrades and interconnection costs is critical, the issue of transmission upgrade cost assignment as presented in RMP's Request is not relevant to the Glen Canyon Solar QFs. RMP need only process the Glen Canyon QFs pursuant to the OATT and the NOA as contemplated by Schedule 38.²⁷ The Division's comments properly recognize that, under the OATT and the NOA, RMP can utilize redispatch protocols to designate a QF as a network resource while avoiding uneconomic and unnecessary transmission upgrades.²⁸

RMP's suggestion that uneconomic network upgrade costs might have to be borne by RMP ratepayers is disingenuous.²⁹ That claim is based on a system impact study conducted for a non-QF resource,³⁰ and ignores clear procedural requirements and operational protocols available to RMP pursuant to the OATT and the NOA.³¹ The Glen Canyon Solar QFs can be properly interconnected and utilized by RMP in a matter that

²⁶ Initial Comments at 29; *see also* Schedule 38; OATT Sections 32.3 and 32.4.

²⁷ Initial Comments at 29; *see also* OATT Section 32.3 (System Impact Study Procedures); PacifiCorp Network Operating Agreement Amendment, Docket No. ER15-____-000 (Dec. 24, 2014); Order Accepting Proposed Network Operating Agreement Amendment, Docket No. ER15-741-000 (May 21, 2015).

²⁸ *See e.g.* Division Comments at 7-8.

²⁹ *See* Initial Comments at 27.

³⁰ *See* Request at 8, n. 11; *see also* Initial Comments at 25; Enyo Comments at 4.

³¹ OATT Section 35.2; Initial Comments at 23, note 59.

fully satisfies the ratepayer indifference standard so long as RMP properly proceeds in compliance with Schedule 38, the OATT, and available NOA protocols.

Ultimately, the Comments are all consistent with Glen Canyon Solar's request in Docket 17-035-36 that the Commission direct RMP to process the Glen Canyon QFs' interconnection and transmission applications and studies pursuant to the OATT, including notification of RMP's intent to utilize available resource redispatch procedures under the NOA to avoid uneconomic network upgrades.

ISSUES RELATING TO PROSPECTIVE TRANSMISSION UPGRADE COST ASSIGNMENT CAN BE EXPLORED IN A DIFFERENT PROCEEDING

To the extent the Commission or any participant wishes to further investigate jurisdictional, cost allocation and reimbursement, and related issues associated with network transmission upgrades for QF projects, such investigation must be done in a procedurally appropriate docket. As noted by the Division, a Commission determination on such issues would apply only to prospective or future QFs.³² As also noted by the Division, any such investigation would involve complicated areas of potentially overlapping state and federal jurisdiction, as well as interrelationships among avoided cost pricing methods, interconnection and network upgrade cost assignment, and reimbursement policies.³³

³² Division Comments at 2 (“It would be administratively efficient to provide guidance as to the application of the interconnection costs so that *prospective* QFs have clarity in planning projects.”) (emphasis added).

³³ See e.g., Division Comments 2-3; see also Office Comments at 3 FN 2 (noting Oregon QF order intended generally to make interconnection customer responsible for network upgrade costs. Any consideration of the legality or propriety of a similar policy for Utah cannot be done pursuant to a declaratory ruling in this docket).

CONCLUSION

RMP's suggestion that the Commission "clarify" in this docket that Utah law allows RMP to allocate transmission network "upgrade costs" as directly-assignable "interconnection costs" is an improper attempt by RMP to avoid its PURPA obligations and should be rejected. If further investigation is warranted into the complex issues relating to prospective cost allocation of network transmission upgrades for QF projects, such investigation should proceed in a proper procedural context in which relevant issues can be fully explored and properly resolved.

DATED this 13th day of June 2017.

Respectfully submitted,

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By: _____

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Certificate of Service
Docket No. 17-035-25

I hereby certify that a true and correct copy of the foregoing was served by email this 13th day of June 2017 on the following:

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