

August 3, 2018

VIA ELECTRONIC FILING

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

Attention: Gary Widerburg
Commission Secretary

RE: Docket No. 17-035-40
**Application for Approval of a Significant Energy Resource Decision and
Voluntary Request for Approval of Resource Decision**

In accordance with Utah Code Ann. §§ 54-17-501, 63G-4-301 and Public Service Commission Administrative Procedures Act Rule § 746-1-801, Rocky Mountain Power, a division of PacifiCorp hereby submits this response to the Joint Petition for Review or Clarification of the Office of Consumer Services and Division of Public Utilities filed July 19, 2018, with the Public Service Commission of Utah.

Rocky Mountain Power respectfully requests that all formal correspondence and requests for additional information regarding this filing be addressed to the following:

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Sincerely,


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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

Application of Rocky Mountain Power for Approval of a Significant Energy Resource Decision and Voluntary Request for Approval of Resource Decision	Docket No. 17-035-40 RESPONSE TO JOINT PETITION FOR REVIEW OR CLARIFICATION
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In accordance with Utah Code Ann. §§ 54-17-501, 63G-4-301 and Public Service Commission Administrative Procedures Act Rule § 746-1-801, Rocky Mountain Power, a division of PacifiCorp (the “Company”) hereby submits this response to the Joint Petition for Review or Clarification of the Office of Consumer Services (“OCS”) and Division of Public Utilities (“DPU”) (“Petition”) filed July 19, 2018, with the Public Service Commission of Utah (“Commission”). The Petition asks the Commission to review and clarify the Commission’s order in the above-captioned docket, issued June 22, 2018 (“Order”). Specifically, the Petition alleges that the Order fails to adequately address the Company’s express commitment to assume the risks that the proposed new Wind Projects will not qualify for 100 percent of the projected production tax credits (“PTC”) as a result of conditions within the Company’s or its contractors’ reasonable control.¹ The Petition characterizes that commitment incorrectly, however, omitting the language specifying that the Company is assuming risks within its reasonable control, and including exceptions only for a

¹ Joint Petition for Review or Rehearing, p. 1.

force majeure event or a change in law.

Rocky Mountain Power does not challenge the basic premise of the Petition, which is that the Company made a commitment to bear the risk of PTC qualification for conditions or events within the reasonable control of the Company or its contractors. Implicit in that commitment is an exception to the Company's assumption of the risk of PTC qualification: that the Company does not assume the risk of PTC qualification for conditions or events that are not within its or its contractors' reasonable control. The Petition cites the hearing testimony of the Company's Chief Executive Officer Ms. Cindy Crane, which plainly states this commitment. Similarly, the Company's Vice President of Regulation Ms. Joelle Steward testified:

As in the repowering case, the company bears the risk for meeting the PTC qualifications for the new wind resources, except due to changes in law or an event that is beyond the reasonable control of the company, or those with whom the company has contracted for project development.

Hearing Trans. Vol. II, ps. 516 - 517.

Accordingly, the Commission should reject the additional language sought by the DPU and OCS because it goes beyond the commitment made by the Company. Furthermore, adding a sentence in the Order noting the commitment that was actually made by the Company is unhelpful and unnecessary. In its Order, the Commission made clear that it would be "impracticable and inefficient to attempt to summarize all the parties' positions or to discuss every point raised in support or in opposition to the Application."² The Commission also made clear that the "absence of discussion of any particular portion of testimony or evidence should not be construed as our declining or failing to consider it in reaching our determination."³

Because the Company's PTC commitment is clear and unconditional, the Commission did

² Order at 11.

³ *Id.*

not need to include a specific provision in the Order requiring the Company to honor its commitment to make that commitment effective. As stated in the Order, the absence of discussion of the PTC commitment in the Order does imply that the Commission failed to consider and accept the commitment. Therefore, clarification of the Order is unnecessary.

However, if the Commission chooses to include language in the Order regarding this commitment, the Company respectfully requests that the Commission use the language from the final order in the repowering docket, No. 17-035-39, which includes the exception for events beyond the Company's reasonable control:

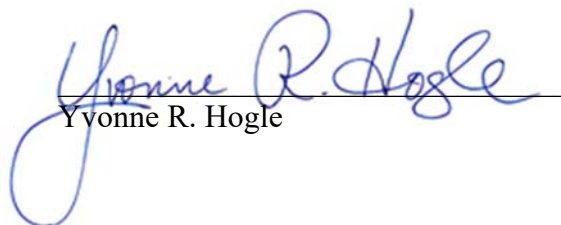
We therefore conclude that PacifiCorp must honor its commitment that PacifiCorp will bear the risk related to any portion of the [proposed Wind Projects] that does not qualify for the maximum PTCs available unless the failure to qualify for PTCs is a result of either: 1) a change of law; or 2) an event that is beyond the reasonable control of PacifiCorp and the entities with whom PacifiCorp has contracted for services including contractors, vendors, and suppliers.⁴

CONCLUSION

The Company clearly stated during the hearing that it assumes the PTC qualification risk for the proposed new wind resources, except for changes in law or an event that is beyond the reasonable control of the Company, or those with whom the Company has contracted for project development. The Company stands by this commitment. Clarification of the Order is unnecessary.

RESPECTFULLY SUBMITTED, this 3rd day of August, 2018.

Rocky Mountain Power


Yvonne R. Hogle

⁴ *Voluntary Request of Rocky Mountain Power for Approval of Resource Decision to Repower Wind Facilities, Docket 17-035-39, Order at 22 (Utah PSC May 25, 2018).*

CERTIFICATE OF SERVICE

Docket No. 17-035-40

I hereby certify that on August 3, 2018, a true and correct copy of the foregoing was served by electronic mail to the following:

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