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October 23, 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 Formal Complaint under Schedule 38, Jason Ellsworth/Clenera, LLC
against Rocky Mountain Power – Docket No. 17-035-52

Dear Mr. Widerburg:

Rocky Mountain Power (“Company”) hereby submits for filing its Response and Motion to Dismiss 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): datareq@pacificorp.com
jana.saba@pacificorp.com

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

Informal inquiries may be directed to Jana Saba at (801) 220-2823.

Sincerely,

Daniel E. Solander
Senior Attorney

Enclosure

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Attorney for Rocky Mountain Power

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of Formal Complaint under : Docket No. 17-035-52
Schedule 38, Jason Ellsworth/Clenera, LLC :
against Rocky Mountain Power : **ROCKY MOUNTAIN POWER’S**
: **RESPONSE TO THE FORMAL**
: **COMPLAINT OF CLENERA, LLC AND**
: **MOTION TO DISMISS**
:

Rocky Mountain Power, a division of PacifiCorp (the “Company”), under Utah Code Ann. §§ 63G-4-204(1) and Utah Admin. Code R746-1-201 and 206, provides its Response and Motion to Dismiss to the Formal Complaint under Schedule 38 filed by Jason Ellsworth/Clenera, LLC (“Complaint”).

I. PRELIMINARY MATTERS

Communications regarding this docket should be addressed to:

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II. BACKGROUND

1. On September 22, 2017, Clenera, LLC (“Clenera”) filed a formal complaint in its capacity as manager of 1.21 gigawatt LLC seeking an extension of deadlines under Electric Service Schedule 38, Qualifying Facility Procedures. The complaint is specific to Clenera’s fourteen 80 megawatt solar projects proposed in Tooele and Utah counties, totaling over 1,100 megawatts (“MW”) of solar capacity.¹ These 14 projects² are proposed to share common points of interconnection and are each proposed to interconnect to the Company’s 345 kilovolt Mona–Oquirrh transmission line.

2. In the complaint, Clenera alleges that it is entitled to an extension of the “Indicative Pricing” and “Pricing Queue” deadlines provided in Part I.B.9 and Part I.B.10(e) of Schedule 38, respectively,³ for its Faraday and Goshen Valley projects due to delays caused by PacifiCorp. The specific delays alleged by Clenera are “i) Company’s unusual delay in completing necessary

¹ These proposed projects are identified by Clenera to the Company as Faraday Solar II, Faraday Solar IV, Faraday Solar VI, Faraday Solar VIII, Faraday Solar X, Faraday Solar XII, Faraday Solar XIV, Goshen Valley I, Goshen Valley II, Goshen Valley III, Goshen Valley IV, Goshen Valley V, Goshen Valley VI and Goshen Valley VII.

² Importantly, to the Company’s knowledge, Clenera has not yet qualified its projects as qualifying facilities (“QFs”) by filing forms 556 for each facility with the Federal Energy Regulatory Commission (“FERC”); thus, it appears that Clenera is attempting to benefit from the Schedule 38 process in this docket even though it is not yet a qualifying facility. *See* 148 FERC ¶ 61,146, Docket No. EL 14-56-000, Order Dismissing Petition for Enforcement of the Public Utility Regulatory Policies Act (August 29, 2014), where FERC ruled that an entity could not file a petition for enforcement with FERC without first obtaining QF status.

³ For convenience, the Company has adopted the terms used by Clenera in its Formal Complaint, at p. 1.

interconnection studies, and ii) Company's refusal to provide a proposed power purchase agreement ("PPA") due to its delays in interconnection studies."⁴

3. As explained in more detail below, the Company does not believe that Clenera is entitled to relief from either the "Indicative Pricing Deadline" or "Pricing Queue Deadline."

4. While the Company agrees that Schedule 38 recognizes that a qualifying facility ("QF") developer may be entitled to relief from the deadlines stated in Schedule 38, such relief is contemplated for situations in which the Company is the sole cause of the delays. In these circumstances, the cause of the delays are not due to action or inaction of the Company, but rather due primarily to the extraordinary level of interconnection requests in Utah.

5. As the Company previously stated in Docket No. 17-035-13, PacifiCorp Transmission has experienced an unprecedented surge in interconnection applications, primarily from developers in Utah and Wyoming. From May 2016 to November 2, 2016 alone, before the receipt of initial (non-QF) interconnection applications from Clenera,⁵ PacifiCorp Transmission received 31 requests for over 4,000 MW of proposed generation projects that all flow through the same portions of PacifiCorp's transmission system and therefore must be included together during the analysis of the requests. PacifiCorp Transmission studies each individual project in the order in which it is received. System improvements are identified for each project and assumed to be completed as the next project in line is studied. This analysis takes significant time to perform due to the large number and magnitude of the requests. In addition, if any of the proposed projects is withdrawn, PacifiCorp Transmission must determine the impact of the withdrawal on all projects lower down the queue, which may require restudies of multiple projects. This has occurred several

⁴ Formal Complaint, p. 2.

⁵ In January 2017, Clenera informed PacifiCorp Transmission that it would revise its initial interconnection application to allow the projects to be studied as QFs. The first updated interconnection application was received January 17, 2017.

times and has resulted in significant delays in providing studies for some customers, including Clenera.

6. Clenera's projects are behind a significant number of interconnection requests that must be studied by PacifiCorp Transmission before Clenera's request to ensure accurate results. PacifiCorp Transmission received the initial feasibility study agreement for the Faraday and Goshen Valley projects, associated deposit, and required technical specifications necessary to begin the initial feasibility study on March 9, 2017. As soon as delays in completion of the feasibility study were identified, PacifiCorp Transmission notified Clenera. PacifiCorp Transmission sent this notice March 21, 2017, less than two weeks after PacifiCorp Transmission had the information from Clenera necessary to initiate the study. There is nothing in these facts that would appear to warrant providing the relief afforded to QF developers under Schedule 38.

7. PacifiCorp Transmission has always been candid with Clenera about delays in completing the interconnection studies for these projects, and the Company disagrees that this delay (caused by circumstances outside the Company's control) affords Clenera relief under the "extenuating circumstances" standards provided in Schedule 38. Paragraph 4 of the Preface to Schedule 38 provides continues:

The Company must use its reasonable commercial efforts to meet all Company deadlines specified herein, and shall attempt to make up any *Company delays* in meeting subsequent deadlines. QF developer deadlines will be extended to reflect Company delays beyond Company deadlines specified herein. *Under extenuating circumstances, the Company or a QF developer may request an extension of any deadlines from the Commission.* [Emphasis added]

8. In this situation, it is important to note that Clenera sought indicative pricing for its Faraday and Goshen Valley projects *before* submitting the QF interconnection requests with PacifiCorp Transmission. After receiving the indicative avoided cost pricing prepared by the

Company, which is calculated based on, among other things, the proposed in-service date for the projects represented by the developer, Clenera promptly requested to begin negotiation of PPAs. This initial request to negotiate PPAs for the Faraday and Goshen Valley projects came before Clenera had received a single interconnection study from PacifiCorp Transmission indicating whether Clenera's proposed in-service date was achievable. In fact, this request came just days after Clenera had provided the technical data to PacifiCorp Transmission that would allow it to even commence the initial interconnection studies (i.e., the feasibility study), and before Clenera had even taken the simple step of self-certifying its projects as QFs by filing FERC Form 556s for the projects.

9. The Schedule 38 Preface is clear that the interconnection process is both lengthy and separate from the Schedule 38 timelines. Paragraph 3 of the Preface states:

The generation interconnection process is a critical and lengthy process that typically must be *well underway before* a power purchase agreement should be requested. QF Developers are strongly encouraged to gain a clear understanding of the transmission interconnection process and associated costs and timelines before requesting indicative pricing or a power purchase agreement under this schedule. [Emphasis added.]

10. The Company did not begin PPA negotiations because it was following the clear requirements of Schedule 38. In connection with a request to begin negotiating a PPA, the QF developer must submit a variety of information as detailed in subsections I.B.5(a)-(h). If this information is not timely provided by the QF developer, Section I.B.5 provides that "the project will be removed from the QF pricing queue and the indicative pricing will no longer be valid." Among these requirements set forth in Schedule 38, Section I.B.5(f) requires the QF developer to present "evidence that ... the necessary interconnection arrangements can timely be completed ... sufficient for the project to reach energization by the proposed on-line date." This is particularly important information in transmission-constrained areas. Below is the status of the interconnection

arrangements for each of the Clenera projects, in comparison to the commercial operation dates proposed by Clenera that informed the indicative avoided cost pricing provided by the Company:

Clenera Project	Status of Interconnection Arrangements	Proposed In-Service Date Provided by Clenera in QF Pricing Request
Faraday II – XIV	No Study Completed	1/1/2019
Goshen Valley I – VII	No Study Completed	12/1/2019

11. The requirements and deadlines set forth in Schedule 38 are a means for the Company and the Public Service Commission of Utah (“Commission”) to ensure that that Company’s other retail customers do not bear the risks of an inappropriately calculated, fixed, long-term “avoided cost” PPA prices. Clenera, not the Company, elected to seek indicative avoided cost pricing for its Faraday and Goshen Valley QF projects before receiving an initial feasibility study (the first step in a multi-step process leading to a large generator interconnection agreement). By submitting its request for indicative avoided cost pricing before an initial study was completed, the Company is left developing an indicative avoided cost price that is calculated in part based solely on the representations of the QF developer regarding proposed commercial operation dates for its QF projects. While Schedule 38 allows Clenera to request indicative avoided cost pricing at that early phase in the development of its projects, Schedule 38 also includes deadlines, requirements, and disclaimers that are intended to ensure that the next phase (PPA negotiations) is limited to those projects that can demonstrate an ability to come on-line at the time the developer represented in its indicative pricing request.

12. Schedule 38 was administered exactly how it was intended. Clenera has not timely demonstrated that its Faraday and Goshen Valley projects can begin commercial operations within the timelines the developer provided to the Company that informed the indicative avoided cost

pricing. The Company has done nothing in the processing of Clenera's request that would warrant granting Clenera relief under Schedule 38. For those reasons, Clenera's Faraday and Goshen Valley projects have been removed from the avoided cost pricing queue.

13. The Company has not been the cause of the delays complained of by Clenera. Schedule 38 is clear that qualifying facilities developers must gain a clear understanding of the costs and timelines associated with the interconnection process before engaging in the negotiation of a PPA. Clenera failed to do this.

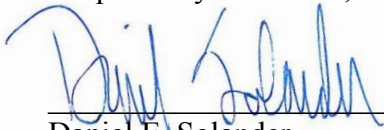
14. Because Clenera has not met the requirements set forth in Schedule 38, Section I.B.5(f), requiring Clenera to present evidence that "the necessary interconnection arrangements can timely be completed in accordance with Part II sufficient for the project to reach energization by the proposed on-line date," the Company (1) cannot begin negotiation of PPAs for its fourteen 80 MW projects, and (2) must remove Clenera's Faraday and Goshen Valley projects from the pricing queue, consistent with Schedule 38.

III. CONCLUSION

Based on the foregoing, the Company respectfully requests that the Commission dismiss the Complaint.

Dated this 23rd day of October 2017.

Respectfully submitted,



Daniel E. Solander

Attorney for Rocky Mountain Power

CERTIFICATE OF SERVICE

Docket No. 17-035-52

I hereby certify that on October 23, 2017, a true and correct copy of the foregoing was served by electronic mail to the following:

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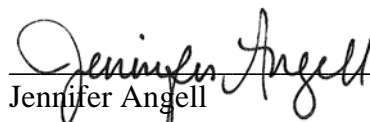
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