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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

Rocky Mountain Power's 2019 Avoided Cost Input Changes Quarterly Compliance Filing	Docket No. 19-035-18
Rocky Mountain Power's Proposed Tariff Revisions to Electric Service Schedule No. 37 Avoided Cost Purchases from Qualifying Facilities	Docket No. 20-035-T04 Office of Consumer Services' Reply Comments

Pursuant to Utah Code § 54-10a-301, UTAH ADMIN. CODE r. 746-1-101 through 801 and the Public Service Commission of Utah's ("PSC") April 16, 2020 Order Granting Motion and Second Amended Scheduling Order Amended Notice of Technical Conference and Notice of Hearing and the PSC's May 6, 2020 Order Suspending Schedule No. 37 Tariff Filing in Part and Order Granting Motion—the Office of Consumer Services ("OCS") submits these Reply Comments. Specifically, the OCS replies to Utah Clean Energy's ("UCE") May 28, 2020 Comments challenging Rocky Mountain Power's ("RMP") non-routine update for determining avoided cost for wind projects arguing that the proposed update is inconsistent with the PSC's Order in Docket 17-035-37. UCE's May 28, 2020 Comments at 4.5; *Rocky Mountain Power's Proposed Tariff Revisions to Electric Service Schedule No. 37, Avoided Cost Purchases from*

Qualified Facilities, Rocky Mountain Power's 2017 Avoided Cost Input Changes Quarterly Compliance Filing, Order, Dockets Nos. 17-035-T07, 17-035-37 (January 23, 2018, Utah P.S.C.) ("17-035-37 Order").

The OCS asserts that any inconsistencies between RMP's proposed non-routine update and the 17-035-37 Order are justified by differences in facts and circumstances presented in the instant docket from those before the PSC in docket 17-035-37. Utah Code § 63G-4-403(4)(h)(iii). Indeed, this case presents compelling reasons to depart from past precedent and adopt RMP's non-routine update, including the fact that UCE's positions is predicated on the Action Plan in RMP's 2019 IRP, a portion of the IRP which the PSC expressly refused to acknowledge, and the fact that the results of UCE's approach violate the ratepayer indifference standard. While RMP's non-routine update is inconsistent with prior practice, the avoided cost pricing resulting from RMP's non-routine update yields results more closely in line with the overriding principle of ratepayer indifference than the excessively high pricing resulting from UCE's alternative approach based on the 17-035-37 Order. Therefore, UCE's methodology must be rejected and RMP's position accepted as a superior approach.

BACKGROUND

On January 10, 2020, RMP filed its 2019 3rd Quarter Utah Qualifying Facility ("QF") Schedule 38 Compliance Filing proposing several routine updates and one non-routine update to the previously approved Proxy and Partial Displacement Differential Revenue Requirement ("Proxy/PDDRR") method for determining avoided costs under Schedule 38. In its non-routine update, RMP proposes to deviate from prior practice of calculating the capacity component of avoided cost for wind projects on the displacement of the next cost-effective wind resource identified in the 2019 IRP preferred portfolio, the 2024 Wyoming wind and Gateway South transmission ("GWS") projects. April 9, 2020 Testimony of Daniel J. MacNeil ("MacNeil") pg. 7 ln. 130-134; *See 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,* Order on Phase II Issues, Docket No. 12-035-100, at pg. 20 (August 16, 2013, Utah P.S.C.) (proxy next cost-effective "like" resource) ("12-035-100 Order"). Rather, RMP proposes to base its avoided cost for Utah QF wind projects on the deferral on its 2023 Utah wind customer preference wind resource, included in the 2019 IRP as a non-cost-effective resource chosen to provide resources for customer's renewable energy targets. MacNeil pg. 24 ln. 476-483.

RMP seeks to deviate from the procedures established in dockets 17-035-37 and 12-035-100, on the grounds that the significant capital cost associated with the GWS transmission upgrades—incorporated within avoided costs based on the deferral of the 2024 wind and GWS projects—result in excessively high avoided costs pricing violative of the ratepayer indifference standard. *Id.*, pg. 21 ln. 419-421; pg. 36 ln. 687-689. As the PSC is abundantly aware, under the ratepayer indifference standard avoided costs should be set at a level where the ratepayer would be indifferent to whether the utility purchases its electricity from a QF, generates the electricity itself or purchases the electricity from a third source. *See* 16 U.S.C. § 824a-3(d).[1] RMP also argues that using the customer preference resource as the proxy for deferrals, which is inconsistent with the current implementation of the Proxy/PDDRR method, reasonably

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[1] The doctrine is derived from PURPA's directive that, although the state commission have the discretion to determine the methods to set avoided costs and to set the specific avoided costs prices for their jurisdictions, the ultimate rate must not "exceed the incremental cost to the electric utility of alternative electric energy." 16 U.S.C. § 824a-3(b). "Incremental cost" is defined as costs to the utility for electric energy which, "but for the purchase from [the QF], such utility would generate or purchase from another source." 16 U.S.C. § 824a-3(d).

approximates the "results produce by the IRP models [and] is consistent with resource options and costs available for selection in the 2019 IRP." MacNeil, pg. 36, ln. 685-687.

The notion of a "customer preference resource" was first addressed in the 12-035-100 Order. There, the PSC confronted the argument that wind resources included in RMP's IRP for the purposes of meeting other state's Renewable Portfolio Standards, which would not otherwise be included in the IRP as a least cost least risk option, should not be included as a deferrable resource in the Proxy/PDDRR method. 12-035-100 Order at 14, 17, 19. The PSC agreed concluding that these "customer preference resources" are not cost effective therefore should not be used as deferrable proxy resources in determining avoided cost. *Id.* at 20-21. In the instant dockets, RMP argues that non-cost-effective resources included in the IRP to meet certain Utah customers' preference to obtain their electricity from renewable resources should also be considered "customer preference resources." MacNeil, pg. 9 ln. 177-189. While under prior orders customer preference resources are considered non-cost effective and therefore not deferrable, in an exception to past practice, RMP now proposes a non-routine update where the 2023 customer preference for Utah wind be used as the proxy deferrable resource for wind projects. *Id.*, at pg. 24 ln. 476-483.

UCE's comments opposed this proposed non-routine update and focus primarily on RMP's update's inconsistency with the 17-035-37 Order. UCE May 28, 2020 Comments at 4.5. In the 17-035-37 docket, RMP argued that the 2020 Wyoming wind and the Aeolus-to-Bridger/Anticline transmission projects not be considered deferrable because Utah QFs do not interconnect with RMP's Wyoming transmission system and the Aeolus transmission upgrade cannot be incrementally adjusted to a smaller size. 17-035-37 Order pg. 18. The PSC rejected these arguments ruling that the Wyoming wind and Aeolus transmission upgrade were deferrable until the project was approved or abandoned. *Id.* at 19. UCE claims that RMP's arguments in favor of the contention that the 2020 Wyoming wind and Aeolus transmission were not deferrable in the 17-035-37 docket are similar to the arguments RMP advances in the instant docket and the "same logic should apply to the deferral of the Gateway South transmission line that is associated with the 2024 Wyoming wind resources." *Id.* at 5.

The avoided costs resulting from UCE's proposed deferral of the 2024 Wyoming Wind and GWS transmission line is significantly greater than the avoided cost resulting from the deferral of the 2023 customer preference resource proposed by RMP. Specifically, UCE's approach yields avoided costs of $73.20 MWh for wind starting in 2023, while RMP's approach yields avoided costs of $36.62 MWh for wind starting in 2023. Schedule 37 Pricing from Table 2 of Mr. MacNeil's April 9, 2020 testimony in Docket 19-035-18 / Docket 20-035-T04. The excessive prices resulting from UCE's approach is also demonstrated by comparing these prices with the prices from the previous Schedule 37 annual pricing update of $29.17 MWh for wind starting in 2020. Docket No. 19-035-T07. *See* April 30, 2019 "QF Pricing Detail – Wind."

DISCUSSION

The excessively high avoided cost prices resulting from UCE's approach are predicated upon the Action Plan in RMP's 2019 IRP, a portion of the IRP that the PSC expressly refused to acknowledge, criticizing the modeling of the GWS transmission, a primary cost driver of the deferred wind and transmission projects. Moreover, as established below, UCE's methodology is inconsistent with the ratepayer indifference standard. For these reasons UCE's recommendations must be rejected and RMP's position adopted as the preferable approach, despite past precedent.

While RMP's proposed deferral of the 2023 customer preference resource is arguably inconsistent with the Orders in dockets 12-035-100 and 17-035-37, this fact is not fatal to RMP's position. The Utah Administrative Procedure Act allows agencies to take new positions that are inconsistent with pasts orders as long as the agency provides reasoning establishing that differences in facts and circumstances in the new proceeding justifies the inconsistencies. Utah Code § 63G-4-403(4)(h)(iii). Here, the instant record presents facts and circumstances that differ sufficiently from the prior decisions to provide a strong rationale justifying a different approach. Specifically, unlike the prior orders, the PSC expressly refused to acknowledge the Action Plan in the 2019 IRP and called out the GWS transmission project as inadequately modeled. In addition, the UCE approach calls for bypassing the deferral of a like resource because it is not "cost-effective" only to use a "cost-effective" resource that results in significantly higher avoided costs, which is an illogical result. Finally, in comparison with avoided cost based on the deferral of the 2023 Utah wind, or on their face, the avoided cost resulting from UCE's approach yields prices so extraordinarily high that they clearly violate the ratepayer indifference standard.

A. Consistency with Prior Orders.

The Utah Administrative Procedure Act section 63G-4-403(4)(h)(iii) allows for reversal of an agency's action if the action is "contrary to the agency's prior practice, *unless the agency justifies the inconsistency by giving facts and reasons that demonstrate a fair and rational basis for the inconsistency*." (emphasis added). Accordingly, the PSC is not slavishly bound by its precedent. *See Committee of Consumer Services v. Pub. Serv. Comm'n.*, 2003 UT 29, ¶ 13, 75 P.3d 481 (decision to deviate from past practice to include costs of gas plant in rates without prudence review); *Questar Gas Co. v. Utah Pub. Serv. Comm'n*, 2001 UT 93, ¶¶ 18-19, 34 P.3d

218 (decision to deviate from past practice of including certain costs in balancing account procedures). Thus, when confronted with the contention that a proposal is inconsistent with a past order, the issue is not only whether the proposal is actually inconsistent but, if so, whether the record presents facts and circumstances that can establish a rational basis for the inconsistency. In this case, any inconsistencies that may exist between RMP's proposed non-routine update and the 17-035-37 Order are easily justified by differing facts and circumstances in the instant dockets that provide a persuasive basis for deviating from prior orders.

B. Facts and Circumstances Justifying Inconsistency.

The present dockets provide different facts and circumstance than those presented in the 17-035-37 Order. These differences serve as the foundation for rational and compelling reasons for adopting RMP's non-routine update despite any inconsistency between the update and the 17-035-37 and 12-035-100 Orders.

1) The PSC Expressed Refusal to Acknowledge the 2019 IRP Action Plan and Criticism of the GWS Transmission Upgrade as Inadequately Modeled. The driving force behind the significant difference in avoided cost between RMP and UCE's approaches is the cost of deferring the GWS transmission upgrades. However, unlike the prior dockets, the PSC has expressly refused to acknowledge the Action Plan outlined in the 2019 IRP and called out the GWS transmission upgrades as inadequately modeled. *PacifiCorp's 2019 Integrated Resource Plan*, Order at 21-24, Docket No. 19-035-02 (May 13, 2020, Utah P.S.C.) ("IRP Order").[2]

[2] In *PacifiCorp's 2017 Integrated Resource Plan,* Report and Order, Docket 17-035-16, at 45 (March 2, 2018, Utah P.S.C.), the PSC acknowledge that the 2017 IRP substantially complies with regulatory guidelines. The PSC stated that the Energy Vision 2000 component of the IRP is less credible than the remainder of the IRP because it was provided to stakeholders at a point in time that prevented ordinary review of the proposal. However, stating a component of the plan is less creditable from the remainder of

Specifically, the PSC noted that UTAH ADMIN. CODE r. 746-430-1 does not require an Action Plan to be acknowledged, however, "despite that provision, for clarity we state explicitly that we decline to acknowledge or approve the Action Plan submitted with the 2019 IRP." IRP Order at 21. The IRP Order list three reasons for the PSC's refusal to acknowledge the Action plan, (1) inadequate evaluation of transmission alternatives, (2) lack of analytical consistency, and (3) questions regarding the fundamental objective of the IRP as reflected in the action plan. *Id.* at 21-26.

Regarding the transmission modeling, the PSC noted two problems with the modeling. First, that RMP did not model the preferred portfolio without the GWS transmission project. The PSC ruled that given the GWS's "costs and the imminence of certification and construction activities related to it, we conclude it would be inappropriate for us to acknowledge the Action Plan of which it is a core feature without meaningful evaluation of scenarios that do not include Gateway South." *Id.* at 22-23. Second, RMP did not model a suggested alternate project that is considerably less expensive than the GWS project, an alternative project in the NTTG 2018-2019 Regional Transmission Plan. The PSC observed that in the "absence of [RMP] demonstrating how including the NTTG alternative within the 2019 IRP modeling process would impact the selection of Gateway South and other potential resources in the Preferred Portfolio, we can only speculate as to the outcome." *Id.* at 23. Given this, the PSC was "unwilling to acknowledge the Action Plan that ignores a known, promising, and possibly far less costly alternative to Gateway South." *Id.* at 24. The PSC did not take any position on how its refusal to acknowledge the Action Plan impacted other cases but instead stated that the "reasonableness and prudence of

the IRP is a far cry from expressly refusing to acknowledge a component of an IRP and criticizing the plan's modeling.

some of the specific proposed Action Plan items included in the 2019 IRP are being considered in other dockets and will therefore be evaluated independently based on evidence presented in those dockets." *Id.* at 27.

Given the PSC's treatment of the Action Plan in the IRP Order, the ordinary presumption that items included in an IRP's preferred portfolio constitute the least costs least risks options is not justified in this case.[3] Without the presumption that the 2024 Wyoming wind and GWS transmission constitute a least cost least risk alternative it follows that the projects should not be considered "cost effective" resources appropriate for deferral in setting avoided costs pricing. Accordingly, the PSC's express refusal to acknowledge RMP's Action Plan and the GWS transmission upgrades provides strong grounds for the PSC to adopt RMP's non-routine update despite inconsistencies with the 17-035-37 and 12-035-100 Orders.

<u>2) Excessively High Avoided Costs Under UCE's Approach When Compared to RMP's Customer Preference Resource Approach Indicates an Anomaly in the Modeling and Pricing Violative of the Ratepayer Indifference Standard</u>. As noted above, UCE's suggested approach yields avoided cost prices significantly higher than the prices RMP's approach based on the

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[3] In fact, in RMP's June 18, 2020 Supplemental Reply Comments in *In the Matter of the Application of Rocky Mountain Power for Approval of Solicitation Process for 2020 All Source Request for Proposals*, Docket No. 20-035-05, RMP stated in "response to UEA's reply comments and the [PSC's] 2019 IRP Order, the Company confirms that it plans to perform additional modeling studies to inform the selection of the finial shortlist in the 2020 AS RFP." RMP's Supplemental Reply Comments at 3. These additional studies include, "at a minimum, a sensitivity that removes GWS and all bids that require GSW to achieve an interconnection with PacifiCorp's Transmission" and "a sensitivity that replaces GWS with an alternative transmission build-out scenario that is reasonably aligned with options identified in the Northern Tier Transmission Group in its 2018-2019 Reginal Transmission Plan." *Id.* Accordingly, it is far from certain whether the GWS transmission upgrade will be built as proposed in RMP's Action Plan.

customer preference resource, $73.20 MWh for wind starting in 2023 under UCE's approach verses $36.62 MWh for wind starting in 2023 under RMP's approach. The difference in pricing is more stark comparing UCE's approach with the wind pricing based on deferrals of wind resources in the 2019 Schedule 37 update in Docket No. 19-035-T07, i.e., $29.17 MWh for wind starting in 2020. This wide divergence of price suggests an anomaly in the modeling and indicates that the pricing resulting from UCE's approach violates the ratepayer indifference standard. As described below, these conclusions are supported by following the process for wind QFs in determining the proper resource to use as a proxy for deferral in calculating avoided costs under UCE's approach.

Under present practice, a wind QF would defer the next "like" resource in the applicable IRP's preferred portfolio. In this case, the next "like" deferable resource identified in the IRP is the 2023 Utah wind that would be chosen as a deferrable proxy under existing Proxy/PDDRR method but for the fact that it was designated a "non-cost-effective" customer preference resource. Under the reasoning of the 12-035-100 Order, the deferral of the 2023 Utah wind as a "non-cost-effective" resource would produce avoided costs that would be too high to meet the ratepayer indifference standard. However, the next "cost-effective" resource is the 2024 Wyoming wind and GWS transmission which produces significantly higher avoided costs, almost double, than the Utah wind "non-cost-effective" alternative. This is an illogical result.

To place the issue in the rubric of the ratepayer indifference doctrine, it is nonsensical to reach the conclusion that ratepayers would not be indifferent to the utility paying $36.62 MWh for wind because the price was based on a deferral of a customer preference resource that only existed in the IRP to meet renewable targets and is therefore too high and at the same time conclude that ratepayers would be indifferent to the utility paying $73.20 MWh for the same wind because the pricing included the deferral of the GWS transmission. Because UCE's methodology yields results that are at odds with the ratepayer indifference doctrine, an anomaly must exist in the modeling underlying UCE's approach. If an avoided cost of $36.62 MWh is too high to meet the ratepayer indifference standard, a fortiori, a price of $73.20 MWh is too high to comply with the ratepayer indifference standard.

Thus, the fact that in reaching the deferral of the GWS transmission, a deferral of a "like" resource is bypassed because it is a customer preference resource although its deferral would have resulted in significantly lower avoided costs pricing distinguishes this case from the 17-035-37 docket, reveals an anomaly in the modeling underlying UCE's methodology and indicates that the pricing resulting from UCE's approach violates the ratepayer indifference standard. These reasons coupled with the PSC's express refusal to acknowledge RMP's Action Plan present a compelling rationale to deviate from past precedent and adopt RMP's non-routine update.

C. Appropriateness of RMP's Non-Routine Update.

Of the two approaches presently before the PSC, RMP's non-routine update is clearly more appropriate than the approach urged by UCE. As noted above, UCE's argument is based on the deferral of the GWS transmission line in RMP's Action Plan, a plan that the PSC expressly refused to acknowledge criticizing the modeling for the proposed transmission. In addition, UCE's approach is inconsistent with the ratepayer indifference standard and results in avoided costs pricing so high as to be facially incorrect. True, RMP's non-routine update is inconsistent with the orders in dockets 12-035-100 and 17-035-37. However, this inconsistency is not fatal to RMP's argument for the reasons outlined above. While the non-routine update is based on the deferral of a customer preference resource and therefore the avoided costs pricing is presumed to be too high, the avoided costs resulting from the non-routine update are considerably lower than the avoided costs resulting from UCE's approach and therefore should be more reflective of the ratepayer indifference standard. Accordingly, RMP's approach is preferable to the approach urged by UCE.

If the PSC is uneasy with both approaches presented in these proceedings, the OCS offers a suggested third approach. Rather than reaching avoided costs using the customer preference resource, the PSC could bypass the 2023 Utah wind customer preference resource as a non-cost-effective resource in accordance with the 12-035-100 Order and also bypass the Wyoming wind and GWS transmission as a non-cost-effective resource for the reasons outlined above, i.e., that the IRP Action Plan is not acknowledged, that the use of the Wyoming wind and GWS transmission for deferable resources is inconsistent with ratepayer indifference standard, etc.

Under this approach, the next like cost-effective resource would be the 2030 Idaho wind and related transmission. PacifiCorp 2019 IRP Volume I, page 258, Preferred Portfolio Matrix. Using the 2030 Idaho wind and related transmission as the deferrable resource would be consistent with the 12-035-100 docket because the Idaho wind and transmission is not designated as a customer preference resource. In addition, the Idaho wind and transmission is not part of the Action Plan so it is a resource in the portion of RMP IRP's preferred portfolio that the PSC acknowledged.

Accordingly, if the PSC is uncomfortable with both the approaches urged by RMP and UCE, it can consider adopting an approach using the 2030 Idaho wind and transmission as the deferrable resources for Utah wind QF avoided cost pricing. This approach solves the problems associated with UCE's recommendation and is also more consistent with prior orders than the approach offered by RMP.

CONCLUSION

UCE's argument that RMP's non-routine update is inconsistent with prior orders is not fatal to RMP's suggested approach. Different facts and circumstance exist in the instant docket that lay the foundation for a strong and rational basis for utilizing RMP's approach despite the inconsistencies with prior orders. Moreover, RMP's approach is more consistent with the ratepayer indifference standard. However, if the PSC is unpersuaded by both UCE and RMP's approaches, the PSC may wish to consider a third approach of utilizing the 2030 Idaho wind and related transmission as the deferrable resource.

Respectfully submitted, June 25, 2020.

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CERTIFICATE OF SERVICE

Docket Nos. 19-035-18 & 20-035-T04

I CERTIFY that on June 25, 2020, a true and correct copy of the Office of Consumer Services' Reply Comments was served by electronic mail to the following:

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