



GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

State of Utah

DEPARTMENT OF COMMERCE

Office of Consumer Services

MICHELE BECK
Director

To: The Public Service Commission of Utah

From: The Office of Consumer Services
Michele Beck, Director
Cheryl Murray, Utility Analyst

Date: June 17, 2019

Subject: Office of Consumer Services Initial Comments. Application of Rocky Mountain Power for Approval of the Non-Generation and Renewable Energy Credit Supply Agreement between PacifiCorp and Kennecott Utah Copper LLC. Docket No. 19-035-20.

Introduction

On May 2, 2019, Rocky Mountain Power (Company) filed with the Public Service Commission of Utah (Commission) its application for approval of the Non-Generation and Renewable Energy Credit (REC) supply Agreement (Agreement) between PacifiCorp and Kennecott Utah Copper LLC (Kennecott) dated April 18, 2019 (Application).

On May 16, 2019, the Commission issued a Scheduling Order and Notice of Hearing setting forth June 20 and July 3, 2019, as the deadlines for filing comments and reply comments, respectively. A hearing on the matter is scheduled for July 16, 2019.

The Office of Consumer Services (Office) submits the following comments on the Company's request for approval of the Non-Generation and REC supply Agreement between PacifiCorp and Kennecott.

Background

The Agreement is the result of discussions between the Company and Kennecott. At various times the Division of Public Utilities (Division) and the Office also participated in some discussions. The Agreement between the Company and Kennecott enables Kennecott to retire¹ its Unit 4 generator and support its renewable energy goals by paying the Company to retire RECs on Kennecott's behalf.

¹ In a May 1, 2019 press release (<https://riotintokennecott.com/mediareleases/rio-tinto-kennecott-retires-utah-power-plant/>) Kennecott stated it was closing its Magna Utah power plant. However, the Agreement specifies that Kennecott shall not generate power from Unit 4 during the term of the Agreement.

Agreement Terms

On an annual basis, PacifiCorp will retire 1.5 million Utah-allocated RECs on behalf of Kennecott, or a Kennecott affiliate. In exchange, Kennecott agrees it will not generate power from its Unit 4 generation facility. The term of the Agreement is five years and nine months (April 1, 2019 to December 31, 2025).²

The Company will obtain Green-e certification on behalf of Kennecott [Section 4(f) of the Agreement]. In addition to payment for the RECs, Kennecott will reimburse the Company for all direct costs of Green-e certification, and pay a fee to cover the Company's administrative costs to obtain and maintain the necessary certification.

In the Settlement Stipulation in a previous case, Docket No. 11-035-200, paragraph 39 allows the Company to retain 10 percent of Utah allocated REC sales. However, under the terms of the current Agreement the Company will forego any portion of the revenue from the sale of RECs to Kennecott under the Agreement; thus one hundred percent of the REC revenue will be allocated into the REC Balancing Account (REC BA) to the benefit of Utah customers.

The Agreement includes several provisions to ensure that other customers are not harmed by the sale of RECs to Kennecott such as the order in which Utah RECs are to be allocated.

- 1) First, Utah RECs will be used to meet Utah's renewable portfolio standard or any later Utah renewable procurement requirements;
- 2) Second, to meet any of the Company's REC commitments that predate the agreement; and
- 3) Finally, to meet the commitments to Kennecott.

If insufficient RECs are available to meet the 1.5 million RECs for Kennecott, Section 4(h) provides several options to procure additional RECs to fill the shortfall. These provisions are intended to provide protections to other customers from the risk of potential REC shortfalls. Additionally, the Company has the right to terminate the Agreement if, in the future, materially fewer Utah allocated RECs become available than the amount anticipated at the time the Agreement was completed.

The Company indicates that it anticipates an adequate quantity of RECs to enable it to retire 1.5 million on Kennecott's behalf annually, while meeting Utah's portfolio standard target. Further, after meeting all commitments the Company believes it will have additional RECs to sell on behalf of customers.

Office Comments

Based on information provided by the Company in several venues it appears that there will be adequate Utah allocated RECs to meet Utah's portfolio requirements and satisfy the terms of the Agreement. However, the Office believes that the customer protections included in the Agreement, such as Kennecott paying all certification charges and fees and

² The Office notes that the effective start date of the Agreement, April 1, 2019, is prior to the Company's filing of the Application with the Commission.

the Company's prioritization of REC allocation are important customer protections. Notably if the future unfolds differently than expected, Utah customers bear no responsibility to meet the 1.5 million RECs for Kennecott, and the Company can terminate the agreement at no cost to customers.

Considering the current market for RECs, the amount of both current and projected Utah RECs, as well as the expected growth in renewable energy, the Office believes that the value Utah customers will receive from Kennecott is reasonable. Further, Utah customers will benefit because all revenue from the REC sales to Kennecott will go into the REC BA with no sharing of revenue with the Company.

The Office recommends that the Commission approve the Agreement. The Office further recommends that the Company should report to the Commission, Office, and Division if it ever experiences any shortfall of the agreed upon 1.5 million annual Kennecott RECs and explain how the shortfall was resolved; including the results of an RFP if issued.

Recommendation

The Office recommends that the Commission approve the Agreement between PacifiCorp and Kennecott. The Office further recommends that the Company report on any future shortfall of the 1.5 million annual REC sells to Kennecott.

CC: Chris Parker, Division of Public Utilities
Jana Saba, Rocky Mountain Power
Jacob McDermott, Rocky Mountain Power