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State of Utah
Department of Commerce
Division of Public Utilities

FRANCINE GIANI CHRIS PARKER
Executive Director *Director, Division of Public Utilities*

REDACTED

Action Request Response

To: Utah Public Service Commission
From: Utah Division of Public Utilities
Chris Parker, Director
Artie Powell, Manager
David Williams, Utility Analyst
Date: September 30, 2019
Re: **Docket No. 19-035-35, RMP – Renewable Resources in 2019-2020**

Recommendation (No Action)

On August 29, 2019, Rocky Mountain Power (RMP) filed notice (Notice) with the Public Service Commission of Utah (Commission) that it “reasonably anticipates it will acquire or construct” four renewable resources in the remainder of 2019 and in 2020. Given that the specific statutory provision under which RMP is filing notice (Utah Code Section 54-17-502(6)(b)) is primarily a notice requirement, the Utah Division of Public Utilities (Division) recommends that the Commission take no action. However, the Division recommends that going forward, repowering projects be treated as requiring notice under Section 54-17-502(6)(b).

Issue

On August 29, 2019, pursuant to Utah Code Section 54-17-502(6)(b), RMP filed notice with the Commission that it “reasonably anticipates it will acquire or construct” four renewable resources in 2019 or 2020.

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The cited code provides:

An affected electrical utility that constructs a renewable energy source outside the solicitation process of this section or Section 54-17-201 shall file a notice with the commission at least 60 days before the date of commencement of construction, indicating the size and location of the renewable energy source.

The Commission issued an Action Request to the Division requesting a recommendation regarding RMP's notice by September 30, 2019.

Discussion

In its Notice, RMP provided notice for four renewable projects. In general, no Commission action is required in response to these types of notices. If RMP wishes the projects to eventually be in its rate base, it “has the burden of proving in a rate case or other appropriate commission proceeding the prudence, reasonableness, and cost-effectiveness of construction under this Subsection (6)...”¹ Therefore, Commission evaluation of the projects will occur in a separate proceeding.

The Division was unfamiliar with the details of the noticed projects, and so it filed a data request with RMP. Two noticed projects were small (0.3 megawatts (MW) each) and were designated as Blue Sky projects. Two projects were much larger (Pryor Mountain at 240 MW, and Foote Creek I at 40.8 MW). Among other questions, the Division asked whether the four projects would be acquired or constructed,² and what the construction timelines were for the construction projects. RMP responded to the data request. Some portions of the responses were confidential.

Section 54-17-502(6)(b) requires that the utility “shall file a notice with the commission at least 60 days before the date of commencement of construction.” With respect to timeliness of the

¹ Utah Code Ann. § 54-17-502(6)(d)

² RMP's Notice stated that “it reasonably anticipates it will **acquire or construct** the following renewable resources...” (emphasis added). The Division sought clarification in its data request as to whether each named resource was expected to be acquired or constructed.

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August 29, 2019 notice provided by RMP, based on RMP's data request responses, the Pryor Mountain project and the two Blue Sky projects were noticed in a timely fashion.

With respect to the Foote Creek I project, the Division is not certain whether repowering construction triggers the need for 54-17-502(6)(b) notice. [REDACTED]

[REDACTED]

If RMP constructs additional projects in 2020, in addition to the four referenced projects, a new notice pursuant to Utah Code Section 54-17-502(6)(b) should be filed. The statement in the current notice that "the Company may pursue other renewable resource projects in 2020 if the opportunity arises" should not be construed as a blanket notice obviating the need for notice of further specific projects in 2020.

Conclusion

The Division recommends that the Commission take no action. The Division recommends that in future repowering cases outside the solicitation process of Utah Code Sections 54-17-502 or 54-17-201 where construction is involved, RMP treat the projects as requiring Utah Code Sections 54-17-502(6)(b) notice [REDACTED]

cc: Jana Saba, Rocky Mountain Power
Michele Beck, Office of Consumer Services