

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

Application of Rocky Mountain Power for Approval of the Power Purchase Agreement between PacifiCorp and Kennecott Utah Copper LLC – Smelter	<u>DOCKET NO. 19-035-36</u>
Application of Rocky Mountain Power for Approval of the Power Purchase Agreement between PacifiCorp and Kennecott Utah Copper LLC – Refinery	<u>DOCKET NO. 19-035-37</u> <u>ORDER APPROVING QUALIFYING FACILITY POWER PURCHASE AGREEMENTS</u>

ISSUED: December 20, 2019

SYNOPSIS

The PSC approves two qualifying facility power purchase agreements between Rocky Mountain Power and Kennecott Utah Copper LLC.

BACKGROUND AND PROCEDURAL HISTORY

On October 10, 2019, Rocky Mountain Power (RMP) filed applications (“Applications”) with the Public Service Commission (PSC) for approval of two qualifying facility power purchase agreements (PPAs) between PacifiCorp and Kennecott Utah Copper LLC (“Kennecott”) concerning Kennecott’s Smelter (“Smelter PPA”) in Docket No. 19-035-36, and Kennecott’s Refinery (“Refinery PPA”) in Docket No. 19-035-37. The PPAs each provide for the sale of net-electric energy for a period of 12 months, beginning January 1, 2020. Kennecott represents the facilities to be qualifying facilities (QFs) under the Public Utility Regulatory Policies Act of 1978 (PURPA), Utah Code Ann. § 54-12-1, *et seq.*, and applicable regulations. RMP seeks PSC approval of the PPAs consistent with the pricing methodology for QFs under

RMP's Electric Service Schedule No. 38 – Qualifying Facility Procedures (“Schedule 38”) as authorized by the PSC in Docket Nos. 03-035-14 and 12-035-100.¹

The Division of Public Utilities (DPU) filed comments on November 18, 2019, recommending the PSC approve the PPAs. The DPU also requests the PSC order RMP to continue to provide GRID outputs and spreadsheets supporting the PPA price calculations and spreadsheets showing avoided line loss calculations (“DPU Data Request”) in future applications for approval of PPAs. Additionally, the DPU recommends that RMP continue to provide, at least quarterly, hourly power purchased reports so that the DPU can continue to monitor the PPAs. Regarding the Refinery, the DPU determined that its actual generation capacity, as currently configured, is slightly lower than the plant's nameplate capacity rating stated in the Refinery PPA. The DPU recommends that RMP identify this distinction in future PPA filings.

On December 5, 2019, the PSC's designated presiding officer held a hearing to consider the Applications. At the hearing, RMP and the DPU provided testimony supporting PSC approval of the PPAs. The evidence supporting the Applications is uncontested and is briefly summarized below.

¹ See *In the Matter of the Application of PacifiCorp for Approval of an IRP-Based Avoided Cost Methodology for QF Projects Larger than One Megawatt*, Docket No. 03-035-14; and *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*, Docket No. 12-035-100.

DISCUSSION, FINDINGS AND CONCLUSIONS

A. The PPAs

Kennecott owns, operates, and maintains as QFs two waste-heat-fired steam cogeneration facilities, one at its smelter facility (“Smelter QF”) and one at its refinery facility (“Refinery QF”), both located near Magna, Utah. The Smelter QF has a nameplate capacity rating of 31.8 MW and expected average monthly output of approximately 18.5 MW. The Refinery QF has a nameplate capacity rating of 7.54 MW and expected average monthly output of about 5.4 MW.

Under both the Refinery PPA and the Smelter PPA, Kennecott has the option, but not the obligation, to sell to RMP all or a portion of each QF’s net output. While Kennecott is not permitted to sell any portion of the output to parties other than RMP, Kennecott may offset its own retail load before selling any excess power under each PPA. All interconnection requirements have been met and each facility is fully integrated with RMP’s system.

B. Parties’ Positions

1. RMP

RMP represents in the Applications that it is a “purchasing utility” and, as such, is obligated to purchase power from QFs under PURPA, Utah Code Ann. § 54-12-1, *et seq.*, applicable regulations, and PSC orders. RMP also represents it calculated the purchase prices set forth in the PPAs using the PSC’s approved method for calculating Schedule 38 prices.

At hearing, RMP testified that the PPAs are compliant with relevant PSC orders on avoided costs and with Schedule 38 and that the purchase prices set forth in each PPA are the lower of the Block 2 rate under the Electric Service Agreement between Kennecott and RMP

approved by the PSC in Docket No. 16-035-33² or as calculated using the methodology approved by the PSC in Docket No. 03-035-14. Additionally, RMP testified the PPAs are in the public interest and recommended the PSC approve them.

2. The DPU

Based on its review of the PPAs, the DPU testified that each agreement is similar to contracts from prior years and complies with PSC guidelines established in prior orders. The DPU further testified that the PPAs are just, reasonable, and in the public interest, and recommended the PSC approve them.

No party presented testimony or evidence in opposition to the Applications.

C. Findings and Conclusions

Based on the current regulatory framework in place as established by PURPA, Utah law, prior PSC orders, and RMP's tariff, the PSC reviews the PPAs to assure RMP has properly administered its tariff and, in particular, that RMP has properly determined pricing for the PPAs based on the PSC-approved methodology.

Based on our review of the Applications, the PPAs, the comments filed in the dockets, and the testimony provided at hearing, and the lack of opposition to the Applications, we find the prices, terms, and conditions of the PPAs are consistent with the applicable state laws, relevant PSC orders, and Schedule 38. We also find the DPU Data Request is reasonable.

² See *In the Matter of the Application of Rocky Mountain Power for Approval of an Energy Service Contract between Rocky Mountain Power and Kennecott Utah Copper, LLC*, Docket No. 16-035-33.

We find and conclude that approval of the Applications is just and reasonable, and in the public interest.

ORDER

Pursuant to the foregoing discussion, findings and conclusions, we order:

1. RMP's Application in Docket No. 19-035-36 is approved as is the underlying Smelter PPA.
2. RMP's Application in Docket No. 19-035-37 is approved as is the underlying Refinery PPA.
3. In requesting approval of future PPAs, RMP shall provide in its applications GRID outputs and spreadsheets supporting the derivation of PPA prices and avoided line loss calculations, with all spreadsheet formulae intact. Likewise, RMP shall provide to the DPU, at least quarterly, data reflecting the hourly power purchased under the Refinery and Smelter PPAs to allow the DPU to monitor contract performance.

DATED at Salt Lake City, Utah, December 20, 2019.

/s/ Michael J. Hammer
Presiding Officer

Approved and Confirmed December 20, 2019, as the Order of the Public Service
Commission of Utah.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Attest:

/s/ Gary L. Widerburg
PSC Secretary
DW#311530

Notice of Opportunity for Agency Review or Rehearing

Pursuant to §§ 63G-4-301 and 54-7-15 of the Utah Code, an aggrieved party may request agency review or rehearing of this written Order by filing a written request with the PSC within 30 days after the issuance of this Order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the PSC does not grant a request for review or rehearing within 20 days after the filing of the request, it is deemed denied. Judicial review of the PSC's final agency action may be obtained by filing a petition for review with the Utah Supreme Court within 30 days after final agency action. Any petition for review must comply with the requirements of §§ 63G-4-401 and 63G-4-403 of the Utah Code and Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on December 20, 2019, a true and correct copy of the foregoing was served upon the following as indicated below:

By Email:

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