

Application of Rocky Mountain Power for Approval of an Amendment to the Power Purchase Agreement between PacifiCorp and Kennecott Utah Copper LLC – Smelter	<u>DOCKET NO. 20-035-43</u>
Application of Rocky Mountain Power for Approval of an Amendment to the Power Purchase Agreement between PacifiCorp and Kennecott Utah Copper LLC – Refinery	<u>DOCKET NO. 20-035-44</u> <u>ORDER APPROVING AMENDMENTS TO QUALIFYING FACILITY POWER PURCHASE AGREEMENTS</u>

ISSUED: December 18, 2020

PROCEDURAL HISTORY

On October 20, 2020, Rocky Mountain Power (RMP) filed two applications (“Applications”) with the Public Service Commission (PSC), requesting the PSC approve the following amendments to power purchase agreements (PPAs) the PSC approved last year:

- (1) the First Amendment to the Non-Firm Power Purchase Agreement between PacifiCorp and Kennecott Utah Copper LLC (“Kennecott”) related to Kennecott’s Smelter (“Smelter Amendment” and “Smelter PPA,” respectively) that the PSC approved on December 20, 2019;¹ and
- (2) the First Amendment to the Non-Firm Power Purchase Agreement between PacifiCorp and Kennecott related to Kennecott’s Refinery (“Refinery Amendment” and “Refinery PPA,” respectively) that the PSC approved the same date.²

This Order refers to both amendments together as the “Amendments” and to both amended PPAs as the “Amended PPAs.”

¹ See *Application of Rocky Mountain Power for Approval of the Power Purchase Agreement between PacifiCorp and Kennecott Utah Copper LLC – Smelter*, Docket No. 19-035-36 (Order Approving Qualifying Facility Power Purchase Agreements, issued Dec. 20, 2019).

² See *Application of Rocky Mountain Power for Approval of the Power Purchase Agreement between PacifiCorp and Kennecott Utah Copper LLC – Refinery*, Docket No. 19-035-37 (Order Approving Qualifying Facility Power Purchase Agreements, issued Dec. 20, 2019).

The Division of Public Utilities (DPU) filed comments on November 24, 2020, recommending the PSC approve the Amendments. On December 7, 2020, the PSC's designated presiding officer held a hearing on the Applications. RMP and DPU testified in support of the PSC's approval of the Amendments. No party contested their testimony or otherwise opposed the Applications.

DISCUSSION, FINDINGS, AND CONCLUSIONS

The Amendments extend the term of each PPA, which otherwise expire on December 31, 2020, for 12 months, through December 31, 2021 ("Extension Period"). The Amendments also provide updated avoided cost pricing and an updated line loss factor that apply during the Extension Period for each PPA. All other terms and conditions remain in full force and effect.³

RMP represents in its Applications that it meets the definition of a purchasing utility and, as such, is obligated to purchase power from qualified facilities under the Public Utility Regulatory Policies Act of 1978 (PURPA), Utah Code Ann. § 54-12-2, applicable regulations, and PSC orders. RMP further represents that it calculated the purchase prices set forth in the Amendments consistent with the PSC-approved methodology and that the costs of the Amended PPAs will be allocated in accordance with the 2020 Protocol.⁴

RMP testified that the Amended PPAs are compliant with applicable PSC orders and with Electric Service Schedule No. 38 – Qualifying Facility Procedures ("Schedule 38"). RMP further testified at hearing that it agreed, pursuant to DPU's recommendations, to (i) provide GRID

³ Applications at 2-3.

⁴ See *Application of Rocky Mountain Power for Approval of the 2020 Inter-Jurisdictional Cost Allocation Agreement*, Docket No. 19-035-42 (Order Approving 2020 Protocol, issued April 15, 2020).

outputs and spreadsheets supporting PPA pricing and avoided line loss calculations in future PPA-related filings and (ii) to continue to provide hourly power purchased reports on a quarterly basis.

DPU represents that RMP has complied with PSC orders regarding the methodology used to determine contract pricing under Schedule 38 and that the Amended PPAs' rates, terms, and conditions are in accordance with those the PSC has approved in prior dockets. Regarding the Refinery PPA, the DPU determined that the facility's 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.

At hearing, DPU testified that the Amended PPAs are similar to agreements from prior years and comply with PSC guidelines established in prior orders. DPU testified that the Amended PPAs are just, reasonable, and in the public interest, and recommends that the PSC approve the Amendments. In addition, DPU also recommends RMP: (1) continue to provide GRID outputs and spreadsheets supporting PPA pricing and avoided line loss calculations, with all spreadsheet formulae intact, in future PPA-related filings; and (2) continue to provide, at least quarterly, hourly power purchased reports for contract performance monitoring purposes.

In accord with PURPA, Utah law, prior PSC orders, and RMP's tariff, the PSC reviews PPAs and associated amendments to ensure RMP has properly administered its tariff and, in particular, that it has appropriately determined avoided cost pricing based on the PSC-approved methodology.

The PSC notes no party opposed the Applications or otherwise provided evidence challenging the Amended PPAs' rates, terms, or conditions.

Based upon our review of the Applications, the Amendments, the Amended PPAs, the comments filed in the dockets, and the testimony provided at hearing, we find and conclude the prices, terms, and conditions of the Amended PPAs are consistent with applicable law, PSC orders, and Schedule 38. We also approve RMP's agreement to provide the GRID outputs and supporting documentation in future filings as well as the hourly power purchased data on a quarterly basis.

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

ORDER

Pursuant to the foregoing, we order:

1. The Applications, underlying Amendments, and resulting Amended PPAs are approved.
2. In requesting approval of future PPAs or amendments to them, 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.
3. Consistent with its practice, RMP shall file, at least quarterly, data reflecting the hourly power purchased under the Amended PPAs to allow DPU to monitor contract performance.

DATED at Salt Lake City, Utah, December 18, 2020.

/s/ Michael J. Hammer
Presiding Officer

Approved and Confirmed December 18, 2020, as the Order of the Public Service
Commission of Utah.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Gary L. Widerburg
PSC Secretary
DW#316773

Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this order by filing a request for review or rehearing with the PSC within 30 days after the issuance of the 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 fails to grant a request for review or rehearing within 30 days after the filing of a request for review or rehearing, 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 Utah Code Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on December 18, 2020, a true and correct copy of the foregoing was served upon the following as indicated below:

By Email:

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