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Application of Rocky Mountain Power for Approval of an Amendment of a Power Purchase Agreement between PacifiCorp and Tesoro Refining & Marketing Company LLC

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DOCKET NO. 21-035-68  
ORDER APPROVING AMENDMENT TO  
QUALIFYING FACILITY POWER  
PURCHASE AGREEMENT

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ISSUED: February 24, 2022

### **PROCEDURAL HISTORY**

On December 17, 2021, Rocky Mountain Power (RMP) filed an application (“Application”) with the Public Service Commission (PSC) seeking approval of the Second Amendment (“Second Amendment”) to the Non-Firm Power Purchase Agreement (PPA) between PacifiCorp and Tesoro Refining & Marketing Company LLC (“Tesoro”). The PSC originally approved the PPA on December 18, 2019<sup>1</sup> and approved a First Amendment to the PPA on December 17, 2020.<sup>2</sup> The Division of Public Utilities (DPU) filed comments on January 18, 2022. RMP filed reply comments on January 25, 2022. The PSC held a virtual hearing on February 1, 2022.

### **THE APPLICATION**

The Application describes the terms and conditions of the Second Amendment, which modifies terms of RMP’s existing PPA with Tesoro. The PPA provides for the sale to RMP of up to 25.0 MW of energy generated by a Tesoro-owned gas-fired cogeneration facility located in Salt Lake City, Utah that meets all interconnection requirements and is fully integrated with RMP’s

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<sup>1</sup> See *Application of Rocky Mountain Power for Approval of Power Purchase Agreement between PacifiCorp and Tesoro Refining and Marketing Company LLC*, Docket No. 19-035-38, Order Approving Qualifying Facility Power Purchase Agreement issued Dec. 18, 2019.

<sup>2</sup> See *Application of Rocky Mountain Power for Approval of an Amendment of a Power Purchase Agreement between PacifiCorp and Tesoro Refining & Marketing Company LLC*, Docket No. 20-035-42, Order Approving Amendment to Qualifying Facility Power Purchase Agreement, issued Dec. 17, 2020.

system. RMP asserts that it is obligated to purchase power from Tesoro under the PPA because Tesoro is a qualifying power producer<sup>3</sup> under the Public Utility Regulatory Policies Act of 1978 (PURPA) and Utah Code Ann. § 54-12-1.

The Second Amendment extends the term of the PPA until December 21, 2022, and establishes pricing, including an updated line loss factor, for the extended term. In addition, RMP states that the Second Amendment includes power purchase prices that RMP calculated using the PSC-approved price methodology for PPAs related to certain qualifying facilities. RMP states that the cost of the Amended PPA will be allocated in accordance with the 2020 Protocol.<sup>4</sup> RMP states that all other terms and conditions of the PPA will remain in effect. Finally, RMP acknowledges the Application is not timely in light of the PPA's expiration date of December 31, 2021. However, RMP states it is not requesting expedited PSC approval and recognizes there may be a lapse in time between the PPA's existing termination date and the PSC's approval of the Second Amendment.

### **PARTIES' COMMENTS**

The Division of Public Utilities (DPU) filed comments on January 18, 2022, recommending the PSC approve the Second Amendment. In support of its recommendation, DPU comments that RMP's GRID outputs show that prices set forth in the Second Amendment reflect the correct facts of Tesoro's Facility, and appear to accord with PSC-approved pricing methodology. DPU further comments that the avoided line loss percentage RMP uses in the

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<sup>3</sup> Utah Code Ann. § 54-2-1(24).

<sup>4</sup> Application at 4. The 2020 Protocol is an interjurisdictional cost allocation agreement. *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.

Second Amendment is based on a calculation method approved by DPU, RMP, and Tesoro in previous years. DPU further states that the non-price terms of the Second Amendment are also consistent with agreements from prior years and appear to be reasonable.

Finally, DPU recommends that RMP continue to provide (i) GRID outputs and spreadsheets supporting PPA pricing and avoided line loss calculations in PPA-related filings and (ii) hourly power purchased reports on a quarterly basis.

RMP filed reply comments on January 25, 2022, stating the Application contained an error in the Exhibit E Pricing table, included as Attachment 1 to Exhibit A to the Application.

According to RMP, the Exhibit E Pricing table used the labels “HLH” and “LLH” but should have been labeled “on-peak” and “off-peak.”

RMP and DPU testified in support of the Second Amendment at a virtual hearing held on February 1, 2022. RMP testified the Second Amendment to the PPA is compliant with relevant PSC orders and further testified at hearing that it agreed to provide supporting GRID outputs, avoided line loss calculations, and hourly power purchased reports as requested by DPU. DPU testified the amended PPA is just, reasonable, and in the public interest, and recommended that the PSC approve the Amendment.

No party opposed the Application.

### **DISCUSSION, FINDINGS, AND CONCLUSIONS**

In accordance 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 finds that RMP's Application demonstrates that the Second Amendment uses PSC-approved price and avoided line lost calculation methodologies and that the Second Amendment otherwise complies with PURPA and Utah law. In addition, no party opposed the Application or otherwise provided evidence challenging the Amended PPA's rates, terms, or conditions.

Based on those findings and on DPU's comments and recommendations, the PSC concludes that approval of the Application and the Second Amendment is just, reasonable, and in the public interest.

**ORDER**

The Application, underlying Amendment, and resulting Amended PPA are approved.

DATED at Salt Lake City, Utah, February 24, 2022.

/s/ Michael J. Hammer  
Presiding Officer

Approved and Confirmed February 24, 2022, 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#322467

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 February 24, 2022, a true and correct copy of the foregoing was served upon the following as indicated below:

By Email:

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