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UTAH DEPARTMENT OF COMMERCE

Division of Public Utilities

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Comments

To: Public Service Commission of Utah

From: Utah Division of Public Utilities

Chris Parker, Director
Artie Powell, Manager
Abdinasir Abdulle, Utility Technical Consultant
Russ Cazier, Utility Analyst

Date: August 3, 2022

Re: **Docket No. 22-035-30**, Rocky Mountain Power's Application for Approval of the Third Stadion LLC Contract Amendment.

Recommendation (Approval)

The Division of Public Utilities (Division) recommends that the Public Service Commission of Utah (Commission) approve the Third Amendment to the Renewable Energy Service Contract (Third RESC Amendment) between Rocky Mountain Power (RMP or Company) and Stadion LLC (hereafter Parties). The Division also recommends the Commission acknowledge the notice of the Amendment to the Appaloosa I-B Renewable Resource Appendix (Resource Appendix Amendment).

Issue

On June 6, 2022, RMP filed an application for approval of the Third RESC Amendment between the Parties and the related notice of the Resource Appendix Amendment. Subsequent to a Scheduling Conference held on June 16, 2022, the Commission issued a Scheduling Order on June 22, 2022, setting August 3, 2022, as the due date for comments from the Division and any other interested parties. This memorandum serves as the Division's comments and recommendations in this matter.

Division of Public Utilities

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Discussion

On June 6, 2022, RMP filed an application for approval of the Third RESC Amendment between the Company and Stadion LLC. This agreement was executed by the Parties on March 28, 2022. The Third RESC Amendment is expected to reflect the changes in circumstances since 2016 when RESC was first executed. The proposed amendments to the RESC are categorized as either applicable to both the existing facilities (Facility Phase 1) and the potential future facility phase(s) or applicable only to the potential future facility phase(s). In what follows, we will provide an overview of some of the noteworthy amendments to RESC.

Proposed amendments applicable to both Facility Phase 1 and Future Facility Phase(s)

RMP and Stadion agreed to repair some legacy issues that are applicable to both Facility Phase 1 and Future Facility Phase(s). Some of the proposed amendments are summarized here.

- The Effective Date, which was previously left unspecified is now specified as [REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]

¹ Confidential Third Amendment, page 1.

² Confidential Direct Testimony of Craig M. Eller for RMP, page 6, footnote 3. Defined in the Third RESC Amendment as [REDACTED] 1(d)(i).

³ Confidential Direct Testimony of Craig M. Eller for RMP, page 6 footnote 2. Defined in the existing RESC as a 12 consecutive month period commencing on the date Stadion's permanent meter is set and firm power and energy is first provided to the Utah Facility.

⁴ Confidential Third RESC Amendment 1(c).

Redacted

[REDACTED]

Proposed amendments applicable to Future Facility Phase(s) only

The Company and Stadion have agreed to structure the RESC differently taking into account the changes in circumstances since the RESC was executed in 2016. The specific amendments that the Parties agreed that are applicable only to the Future Facility Phase(s) are summarized below.

- In the Third RESC Amendment, the Use of System Facilities Charge (USFC) has been modified to a two-tier approach. The first-tier is the original USFC rate, which is currently [REDACTED] per kW-month. The original USFC rate will change according to the average percent change in rates for all Utah retail tariff customers during the general rate cases and major plant additions. This original USFC is applicable only to the first [REDACTED] of Stadion’s on-peak demand. For any on-peak demand in excess of [REDACTED] at any Future Facility Phase(s), the second-tier USFC rate will be applicable. The second-tier USFC rate is [REDACTED] per kW-month, which will be adjusted by the average percent change in Utah Schedule 9 retail tariff rates, excluding energy charges, during general rate cases and major plan additions. If the Future Resource is not single-axis tracking solar or wind and if it is expected to have a material impact on its system, the parties agree to re-evaluate the USFC.⁸
- The Administrative Fee has been modified to include [REDACTED] per MWh delivered from future resources.⁹

⁵ Confidential Third RESC Amendment. Amended Exhibit A. D(3).

⁶ Confidential Third RESC Amendment. Amended Exhibit A. C.

⁷ Confidential Third RESC Amendment. Amended Exhibit A. D.

⁸ Confidential Direct Testimony of Craig M. Eller for RMP, pages 10 and 12.

⁹ Confidential Direct Testimony of Craig M. Eller for RMP, page 12.

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- The Renewable Resource appendix for each Future Resource, including Appaloosa Solar I-B Shall specify the Capacity Contribution. The intent of this requirement is to better align the Capacity Contribution of Future Resources and Stadion's load. The total capacity contribution shall not exceed [REDACTED] kW unless otherwise agreed to by the Parties.¹⁰
- In each billing period, the Company will calculate the Facility's Additional Demand as per the formula specified in the Third RESC Amendment.¹¹ For any billing period where there is an Additional Demand, Stadion agrees to pay an Additional Capacity Charge calculated by multiplying the [REDACTED]¹² by the amount of Additional Demand. Company witness, Mr. Eller stated that [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- The Third RESC Amendment incorporates Transmission Line Losses to the calculation of Estimated Renewable Supply. This will reduce the expected energy from Future Resources and therefore, will increase the Renewable Supply Charge.¹⁴ The inclusion of Transmission Line Loss in this calculation is intended to mitigate the problem of the Company making up for the loss.

Division Comments

The Division reviewed the Company's Third RESC Amendment filing, including the accompanying work papers, and Data Request Responses from the Company. The Division did not find any evidence of inter class subsidies resulting from the amendment. In other words, the Third RESC Amendment will not result in other ratepayers subsidizing Stadion. Furthermore, in an Order in Docket No. 16-035-27, the Commission indicated that "Based on the record before us, we find that the Contract provides reasonable protection against

¹⁰ Confidential Direct Testimony of Craig M. Eller for RMP, page 13.

¹¹ Confidential Third RESC Amendment.2(k)(ii).

¹² For information about how this was calculated refer to the Confidential Direct Testimony of Craig M. Eller, pages 15-16, lines 327-329.

¹³ Confidential Direct Testimony of Craig M. Eller, page 15, lines 315-318.

¹⁴ Confidential Direct Testimony of Craig M. Eller for RMP, page 18.

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shifting costs to other customers while meeting the renewable energy needs of Facebook.”¹⁵ Therefore, the Division concludes that the Third RESC Amendment is just and reasonable and in the public interest.

The Division also reviewed the Renewable Appendix Amendment, which was filed with the Commission. The Division determined that the Renewable Appendix Amendment is consistent with the Third RESC Amendment.

Conclusion

Based on its review, the Division concludes that the Third RESC Amendment is just and reasonable and in the public interest. Therefore, the Division recommends the Commission approve the Company’s Third RESC Amendment. Furthermore, the Division concludes that the Renewable Appendix Amendment is consistent with the Third RESC Amendment. Therefore, the Division recommends the Commission to acknowledge it.

cc: Jana Saba, RMP
Michele Beck, OCS

¹⁵ Order Memorializing Bench Ruling Approving Renewable Energy Service Contract with Facebook, Inc. Issued: August 29, 2016. Page 3.