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UTAH DEPARTMENT OF COMMERCE

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To: Utah Public Service Commission

From: Office of Consumer Services
Michele Beck, Director
Béla Vastag, Utility Analyst

Date: August 3, 2022

Re: **Rocky Mountain Power's Application for Approval of Third Amendment to Renewable Energy Service Contract (Schedule 34) between Rocky Mountain Power and Stadion LLC (Facebook) - Docket No. 22-035-30**
OCS Comments

REDACTED VERSION

Background

On June 6, 2022, Rocky Mountain Power (RMP) filed an application with the Public Service Commission of Utah (PSC) requesting approval of a third amendment to the Renewable Energy Service Contract (RESC) with Stadion LLC. The PSC issued a Scheduling Order on June 22, 2022 setting a schedule for comments on RMP's Application, with initial comments due August 3, 2022 and reply comments due August 19, 2022. Per the schedule set by the PSC, the Office of Consumer Services (OCS) submits the following comments on the third amendment to Stadion's RESC with RMP.

OCS Comments

The RESC between RMP and Stadion that is at issue in this docket is governed by RMP's Electric Service Schedule No. 34 – "Renewable Energy Purchases for Qualified Customers – 5,000 kW and Over". Schedule 34 provides contract guidelines for RMP to acquire renewable energy on behalf of "Qualified Customers", pursuant to Utah statute Section 54-17-806. The renewable energy resources eligible for a Schedule 34 RESC must be new resources and not be resources already included in RMP's rates. RMP is required to take physical delivery of the output of these newly acquired renewable resources and provide electric service to the Qualified Customer. Schedule 34 states that the RESC is subject to approval by the PSC dependent on the PSC finding that the rates charged to the Qualified

Customer are just and reasonable and in the public interest when considering the customer's use of system facilities and other factors.

RMP entered into the original RESC with Stadion (operating in Utah as Facebook at that time) on June 20, 2016 and the PSC approved the RESC on August 29, 2016 in Docket No. 16-035-27. Facebook initiated its RESC with RMP in order to meet its goal of covering 100% of its electricity consumption for its Utah-based data center facilities with output from renewable resources. On October 23, 2018, Facebook assigned all rights of the RESC to Stadion LLC. Stadion did not start taking electric service under Schedule 34 until May 1, 2020.¹ Since the execution of Stadion's RESC, RMP has entered into six renewable resource power purchase agreements (PPAs) on behalf of Stadion.² At the time of RMP filing its request in this docket, [REDACTED]

[REDACTED].³

The RESC amendment for which RMP seeks PSC approval in this docket is the third amendment to this contract. The first two amendments, executed in February 2017 and February 2018, simply extended the deadline in Section 2.2 ("Conditions Precedent") of the RESC by which Facebook was required to notify RMP of its intent to commit to the development of its data center facilities in Utah.

The third amendment, which is before us in this docket, makes the following changes to Stadion's RESC:

1. Clarifies that the effective date of the contract is June 20, 2016.
2. Changes the true up process to be performed on a calendar year basis.
3. Clarifies and strengthens the early termination payment calculation.
4. For future resources (beyond the six PPAs already executed), increases the Use of System Facilities Charge and the Administrative Fee.
5. Starting with PPA number six (Appaloosa I-B) and all future resources, applies an Additional Capacity Contribution Charge which accounts for how these RESC resources align with capacity contribution and system reliability studies from RMP's most recent IRP.
6. Starting with PPA number six (Appaloosa I-B) and all future resources, reduces the actual amount of supply from each resource by RMP's Transmission Line Loss factor.

The OCS and the Division of Public Utilities (DPU) participated in Docket No.16-035-27 where the original RESC rates, terms and conditions were initially reviewed and approved. In that case, the OCS's analysis determined that the design of the RESC provided

¹ RMP response to OCS data request 1.2, June 30, 2022. In this response, RMP also stated: "Prior to Stadion receiving service under Utah Schedule 34, Stadion received electric service through Utah Schedule 6 (General Service Distribution), Utah Schedule 23 (General Service Distribution Voltage Small Customer), and Utah Schedule 9 (General Service High Voltage for transmission service)."

² RMP Application, June 6, 2022, page 4, paragraph 9.

³ See page 30 of Confidential RMP Exhibit CME-1.

protections which should prevent Facebook from shifting costs to other ratepayers when taking service under this Schedule 34 special contract. Both the OCS and DPU supported approval of the original RESC.

Since the OCS generally supported the terms of the original RESC, we make the following observations about the changes in this third contract amendment:

- The first two changes listed above are merely housekeeping changes and should not affect the issue of cost shifting to other ratepayers.
- The OCS has only performed a high level review of changes three through six listed above, but they appear to improve RMP's ability to limit any cost shifting from Stadion to other ratepayers. As RMP witness Craig M. Eller stated in his direct testimony:

*"[There are]...changed circumstances since the parties executed the RESC in 2016...The Company's system now includes a much higher penetration of intermittent generation resources than it did in 2016 and the Company's integrated resource plan (IRP) action plans have consistently called for the addition of more intermittent resources. The regional capacity situation is also markedly different than it was in 2016, with regional changes to the generation mix that mirror those impacting the Company's system."*⁴

The OCS agrees with Mr. Eller's statement above and appreciates that RMP and Stadion have agreed to make changes to the RESC to account for the changed circumstances in RMP's mix of system resources, including increased concerns over the maintenance of resource adequacy in the Western electricity system.

The OCS also appreciates RMP's response to data request OCS 1.2 which provided an analysis of how the Stadion RESC was performing to date (since May 2020). The OCS looks forward to RMP's first formal report on the Stadion RESC which RMP promised to provide:

*"...as soon as practicable following the second full year of collection of data after Facebook takes initial service under the contract. Reports will then be filed every other year, with one report occurring after the fourth year of service and one report occurring after the sixth year of service, for a total of three reports. Each report shall include data for the prior contract year."*⁵

This reporting requirement was approved by the PSC in its August 29, 2016 Order on the Facebook RESC. Based on Rocky Mountain Power's testimony, the first report is due sometime in 2023. The OCS would appreciate RMP agreeing to a specific date each year by which it will provide these reports.

⁴ Eller Direct Testimony, June 6, 2022, lines 184 – 191.

⁵ Rebuttal Testimony of Paul H. Clements, Docket No. 16-035-27, August 11, 2016, line 88 – 93.

OCS Recommendation

The OCS recommends that the PSC approve the third amendment to the Stadion Schedule 34 Renewable Energy Service Contract and require RMP to commit to a specific date for filing its biennial report on the contract.

CC: Chris Parker, Division of Public Utilities
Jana Saba, Rocky Mountain Power
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