

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

Application of Rocky Mountain Power for Approval of Third Amendment to Renewable Energy Service Contract between Rocky Mountain Power and Stadion LLC	<u>DOCKET NO. 22-035-30</u> <u>ORDER</u>
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ISSUED: September 22, 2022

BACKGROUND

On June 6, 2022, Rocky Mountain Power (RMP) filed its Application (“Application”) for Approval of the Third Amendment to the Renewable Energy Service Contract (“RESC Amendment”) between RMP and Stadion LLC (collectively, “Parties”).¹ The RESC allows Stadion to procure² sufficient renewable resource supply to meet 100 percent of the annual electric energy needs of its Utah-based data center facilities (“Utah Facilities”). The Parties agreed to amend the RESC to address potential changed circumstances with the passage of time to serve any potential expansion to the Utah Facilities.

On June 22, 2022, the Public Service Commission (PSC) issued a Scheduling Order and Notice of Virtual Hearing, establishing deadlines for filing comments and setting the matter for hearing. On August 3, 2022, the Division of Public Utilities (DPU) and the Office of Consumer Services (OCS) filed comments (the “DPU Comments” and the “OCS Comments,” respectively). On August 19, 2022, RMP filed reply comments (“Reply Comments”); on September 13, 2022, RMP filed an Update to its Reply Comments (“Update”). No other party submitted comments.

¹ The Public Service Commission (PSC) approved the original Renewable Energy Service Contract (“RESC”), pursuant to the provisions of Electric Service Schedule No. 34 (“Schedule 34”), between RMP and Stadion LLC (“Stadion”) on August 29, 2016, in Docket No. 16-035-27.

² As provided under the Resource Appendix, Stadion may request that RMP negotiate and execute power purchase agreements for renewable energy supply and renewable energy credits from a new customer renewable resource(s) to fulfill its annual electric needs.

On August 30, 2022, the PSC conducted a hearing to consider the Application in which RMP, DPU, and OCS participated.

THE APPLICATION

The Application states the RESC allows Stadion to meet its goal of having 100 percent of the electric energy serving its Utah Facilities generated by renewable energy and sets forth the process by which RMP will procure renewable resources on behalf of Stadion. The Application explains that because Stadion's goal could not be accomplished all at once, the RESC allows for the flexibility of a ramp-up period, during which time RMP will enter agreements to procure renewable resources for Stadion, while RMP serves Stadion under its Electric Service Schedule No. 9 ("Schedule 9").

RMP explains the services it provides pursuant to the RESC require RMP to account for the variability in customer renewable resource production and the load it serves through the customer renewable resources. To account for both variability issues in the monthly billings, the existing RESC requires that RMP use estimates related to the expected amount of production from the customer renewable resources and the expected Utah facility load. Before each contract year, the renewable resource production and the Utah facility load are estimated for billing purposes.

Additionally, RMP explains the existing RESC requires RMP to perform calculations that true-up the estimates to actual production and load results during the contract year. The Parties now agree that it will be more efficient to perform the prescribed calculations on a calendar year basis (January through December), rather than a truncated 12-month period. As such, the RESC Amendment proposes to replace all references to contract year with calendar year.

The RESC Amendment includes the following changes to the RESC: (a) a limitation to the capacity contribution that will be allocated to resources procured in the future on Stadion's behalf; (b) a calculation for transmission line losses in the measurement of the estimated renewable supply for future resources; (c) calculation of the renewable supply charge to be on a calendar year basis, rather than a contract year basis, with an annual true-up adjustment; (d) the early termination payment calculation was revised; and (e) the administrative fee and use of system facilities charge was redefined and a new system facilities capital charge and a new additional capacity charge were added.

WRITTEN COMMENTS

According to the DPU Comments, the RESC Amendment will reflect changes in circumstances since 2016, which 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). DPU states the RESC Amendment is just and reasonable, in the public interest, and recommends the PSC approve it. The OCS Comments recommend the PSC approve the RESC Amendment and require RMP to commit to a specific date for filing its biennial report on the RESC.

In Reply Comments, RMP committed to file the first report on the RESC in the first quarter of 2023 and to disclose to DPU and OCS a precise date of that filing pursuant to the terms of the RESC, which obligates RMP to file its first report on the RESC sometime in the first quarter of 2023. RMP committed to communicating that date to DPU and OCS when the date is determined. In its Update, RMP updated its commitment that the first report will be filed by the end of the second quarter of 2023, which RMP stated was based on subsequent communications

between RMP, DPU, and OCS. RMP's Update also represents the first report will contain data for calendar year 2022, which will not be available until after the semi-annual results of operations report is filed around April 30, 2023.

TESTIMONY AT HEARING

RMP summarized the Application, reiterated its commitment that the first report on the RESC would be available sometime in the first quarter of 2023, and stated it would notify DPU and OCS once RMP determines a firm date.³

DPU testified the RESC Amendment is necessary either to effect housekeeping changes or because shifting circumstances since the execution of the RESC require it.⁴ DPU stated the third amendment allows RMP to meet Stadion's renewable energy needs while protecting other ratepayers from subsidizing this service.⁵ DPU states, therefore, that the RESC Amendment is just, reasonable, and in the public interest. DPU also testified the renewable appendix amendment filed with the Application appears to be consistent with the terms of the RESC Amendment. Accordingly, DPU recommends the PSC approve the Application.⁶

OCS testified its primary concern when it supported the RESC in Docket No. 16-035-27⁷ was to ensure that non-party ratepayers would be shielded from bearing any costs resulting from Stadion taking service under Schedule 34.⁸ OCS explains that intermittent renewable resources

³ August 30, 2022 Hearing Transcript ("Hr'g Tr."), at 4:30–7:40.

⁴ Hr'g Tr., at 29:35–30:28.

⁵ Hr'g Tr., at 30:28–33:16.

⁶ Hr'g Tr., at 33:17–33:40.

⁷ *In the Matter of the Application of Rocky Mountain Power for Approval of a Renewable Energy Services Contract between Rocky Mountain Power and Facebook, Inc. Pursuant to Tariff Electric Service Schedule 34*, Docket No. 16-035-27, Order Memorializing Bench Ruling Approving Renewable Energy Service Contract with Facebook, Inc. issued Aug. 29, 2016.

⁸ Hr'g Tr., at 10:35–11:36.

are a larger percentage of RMP's system since the execution of the RESC in 2016; thus, the additional safeguards provided in the RESC Amendment are justified and appropriate.⁹ OCS also requests the PSC memorialize in its order approving the RESC Amendment the commitment offered by RMP in Reply Comments to file its first biennial report on the RESC by the end of the first quarter in 2023.¹⁰

ORDER

Based on our review of the Application, exhibits, the filed comments, the testimony provided at hearing, and hearing no opposition to the Application, we find and conclude that the prices, terms, and conditions of the RESC Amendment are consistent with governing statutes, applicable PSC orders, and Schedule 34. We further find the RESC Amendment to be just, reasonable, and in the public interest. We find the schedule proposed in RMP's Update to be reasonable and therefore acknowledge RMP's commitment that the first report will be filed by the end of the second quarter of 2023.

We approve the RESC Amendment.

DATED at Salt Lake City, Utah, September 22, 2022.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Gary L. Widerburg

PSC Secretary

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⁹ Hr'g Tr., at 11:38–12:30.

¹⁰ Hr'g Tr., at 12:35–14:14.

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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 30 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 September 22, 2022, a true and correct copy of the foregoing was delivered upon the following as indicated below:

By Email:

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