Action Request Response

To: Public Service Commission of Utah

From: Utah Division of Public Utilities

Chris Parker, Director
Artie Powell, Manager
Doug Wheelwright, Utility Technical Consultant Supervisor
Ryan Daigle, Utility Analyst

Date: November 23, 2022

Re: **Docket No. 22-035-50**, In the matter of the Application of Rocky Mountain Power for Approval of an Amendment to the Power Purchase Agreement Between PacifiCorp and Kennecott Utah Copper LLC - Refinery.

Recommendation (Approve)

The Division of Public Utilities ("Division") recommends the Public Service Commission of Utah ("Commission") approve the Third Amendment to the Non-Firm Power Purchase Agreement ("Amendment", or "PPA") pertaining to the Refinery between PacifiCorp ("Utility" or "Company") and Kennecott Utah Copper LLC ("Kennecott"). In addition, the Division recommends the Utility continue to provide reports, at least quarterly, of hourly power purchased so the Division can continue to monitor this contract.

The Division appreciates the Company providing the GRID outputs and Excel spreadsheets which support the price calculations and avoided line loss calculations. The spreadsheets provided are essential to the Division's ability to complete an effective and efficient analysis. The Utility provided the GRID outputs and supporting spreadsheets for the current filing.

Issue

On October 24, 2022, PacifiCorp dba Rocky Mountain Power filed an Application for Approval of an Amendment to the Non-Firm Power Purchase Agreement with Kennecott. The effective date of the Amendment is January 1, 2023. Since there are multiple contracts with Kennecott, this contract is informally referred to as the Kennecott “Refinery” QF.

We commend the Company on altering its request program and submitting this PPA application more timely this year than last, but request an earlier submission from the Company going forward to provide adequate time to process. On November 1, 2022, the Commission issued a Scheduling Order requiring comments from the Division by November 28, 2022, and reply comments by December 5, 2022. This memorandum serves as the Division’s comments and recommendations in this matter.

Background

Kennecott owns, operates, and maintains a waste heat-fired steam cogeneration facility for the generation of electric power located at the Magna, Utah refinery.[1] The nameplate capacity rating of the plant is 7.54 megawatts (MW) with an expected average monthly output of approximately 5.40 MW.[2] However, the Division understands that, as configured the actual capacity of the plant is about 6.20 MW.[3] The Division recommends in future years the Utility make this distinction, preferably in the contract itself, or in the application to avoid potential confusion. Included with the Application is a copy of the Amendment between PacifiCorp and Kennecott, dated October 19, 2022.

The Kennecott facility is operated as a qualifying facility (“QF”) as defined by 18 C.F.R Part 292[4] and Kennecott has previously provided its FERC self-certification to PacifiCorp. All interconnection requirements have been met and the Kennecott facility is fully integrated with the PacifiCorp system.

[1] Docket No. 19-035-37, page 2.
[2] Docket No. 19-035-37, Exhibit A, PPA (Power Purchase Agreement), page 1.
[3] Docket No. 19-035-37, Exhibit A, PPA (Power Purchase Agreement), page 17
[4] Docket No. 19-035-37, Exhibit A, PPA (Power Purchase Agreement), page 5, Section 3.2.6

Discussion

Under the terms of the QF contract Kennecott has the option, but not the obligation, to deliver the net output to PacifiCorp at the point of delivery. Kennecott is not permitted to sell any portion of the net output to parties other than PacifiCorp; however, it is allowed to offset its own retail load before selling any excess power. Kennecott estimates the average net monthly output of the facility will be approximately 3,900 megawatt-hours ("MWh") because of scheduled maintenance.[5] The contract continues to include the specification "that for accounting purposes, any energy sold under this Agreement shall follow the sale of energy under the Parties Non-Firm Qualifying Facility Power Purchase Agreement dated October 9, 2019, as amended on October 19, 2022, relating to Seller's Smelter ("Smelter QF PPA")."[6] The Division understands this to mean any sales to the Utility will be construed to first come from the Smelter and then from the Refinery.

<u>QF Pricing</u>

The Division has reviewed the GRID outputs and concludes the pricing for this amended contract reflects the correct facts of this particular facility, i.e. that the practical capacity is 6.2 MW. The Company appears to have correctly complied with Commission orders on the method used to determine pricing for a contract under Schedule 38.

Included with the pricing is an adjustment for avoided line losses. The Division reviewed and checked the avoided line loss calculation, which has been in use since 2010, and it appears to comply with the method developed by the Utility and agreed to by the Division.

Additionally, the pricing of this Amendment is tied to the Electric Service Agreement ("ESA") between the Utility and Kennecott, which was approved by the Commission in Docket No.

16-035-33. The pricing is set forth in confidential Exhibit E. This states:

> The purchase prices set forth in the Agreement include a "lesser of" provision to account for Kennecott's ability to purchase market blocks of power under the Energy Services Agreement approved by the Commission in Docket No. 16-035-33, where the Company will pay the lesser of the price for market

[5] Docket No. 19-035-37, Exhibit A, PPA (Power Purchase Agreement), page 1. Conform footnote font.
[6] Docket No. 19-035-37, Exhibit A, PPA (Power Purchase Agreement), page 6, Section 4.2.

> blocks or prices that were calculated using the methodology approved by the Commission orders in Docket No. 03-035-14 and Docket No. 12-035-100.[7]

This provision protects ratepayers from price gaming between Kennecott's PPA and the ESA.

<u>Other Comments</u>

The proposed Amendment will remain in place for a term of 12 months beginning January 1, 2023 and ending December 31, 2023. The general terms and conditions of the Amendment appear to be generic in nature and are similar to the previous contracts. The other conditions within the original Agreement remain unchanged and appear to be reasonable and consistent with previous contracts. Although the PPA has been active for some time, the last instance of power transfer from the Kennecott Refinery to Rocky Mountain Power was in 2015.

The rates, terms, and conditions in this Amendment appear to be in accordance with the rates, terms, and conditions approved by the Commission in Docket No. 03-035-14 and Docket No. 12-035-100 for purchases from qualifying facilities. PacifiCorp represents the cost of this Amendment does not exceed the cost that would have been incurred from acquiring other market resources.[8] The Division accepts this representation based upon its review of the

Utility's price calculations for this Amendment and prior analyses of the Utility's avoided cost reports.

Conclusion

The terms of the Amended Kennecott Refinery Power Purchase Agreement appear to comply with the Commission's guidelines and order in Docket Nos. 03-035-14 and 12-035-100. The contractual arrangements and facts in this matter, in particular the method for calculating the avoided energy costs, have been previously found to be just and reasonable and in the public interest and concludes that this Amendment is also just, reasonable, and in the public interest.

[7] Docket 22-035-50, Application, paragraph 5, page 3.
[8] Docket No. 19-035-37, Exhibit A, PPA (Power Purchase Agreement), page 3, Section 2.1.

The Division recommends the Commission approve the Third Amendment to the Non-Firm Power Purchase Agreement between PacifiCorp and Kennecott pertaining to the Refinery.

cc: Michele Beck, Office of Consumer Services
Jana Saba, PacifiCorp
Zachary Rogala, PacifiCorp
Craig Eller, PacifiCorp