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UTAH DEPARTMENT OF COMMERCE

Division of Public Utilities

MARGARET W. BUSSE
Executive Director

CHRIS PARKER
Division Director

Action Request Response

To: Public Service Commission of Utah

From: Utah Division of Public Utilities

Chris Parker, Director

Artie Powell, Manager

Brenda Salter, Utility Technical Consultant Supervisor

Tamra Dayley, Utility Analyst

Date: November 23, 2022

Re: **Docket No. 22-035-51**, 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 - Smelter.

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 pertaining to the Smelter (“Amendment” or “PPA”) 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 supporting the price calculations and avoided line loss calculations. The spreadsheets with all formulas intact, are essential to the Division ability to complete an effective and efficient analysis. The Utility provided the GRID outputs and supporting spreadsheets for the current filing.

Division of Public Utilities

Heber M. Wells Building • 160 East 300 South • P.O. Box 146751 Salt Lake City, UT 84114-6741
www.dpu.utah.gov • telephone (801) 530-7622 • toll-free in Utah (877) 874-0904 • fax (801) 530-6512

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 pertaining to the Smelter. 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 Smelter QF.

The Division is working with the Utility to process this Application in a time frame such that the Commission could rule on it before the end of 2022. On November 1, 2022, the Commission issued a Scheduling Order for comments by November 28, 2022, and reply comments by December 5, 2022, with a virtual hearing being held December 7, 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 smelter. The nameplate capacity rating of the plant is 31.8 megawatts ("MW") with an expected average monthly output of approximately 18.5 MW.¹ The Kennecott facility is operated as a qualifying facility ("QF") as defined by 18 C.F.R Part 292² 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. Included with the application is a copy of the Third Amendment dated October 19, 2022 ("Amendment") to the PPA dated October 9, 2019, the First Amendment dated October 12, 2020, and Second Amendment dated October 26, 2021, all pertaining to the Smelter

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

¹ Docket No. 19-035-36, Exhibit A, PPA (Power Purchase Agreement), page 1.

² PPA, page 5, section 3.2.6.

monthly output of the facility will be approximately 14,000 megawatt-hours (“MWh”) because of scheduled maintenance.³

QF Pricing

The Amendment refers to the “expected average monthly output of about 18.5 MW.”⁴ The facility is a bottoming plant that is tied directly to the operations of the smelter and does not operate independently of the smelter. The Utility 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 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 in Docket No. 03-035-14 and Docket No. 12-035-100.

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.

The application in this docket 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 ESA approved by the Commission in Docket No. 16-035-33, where the Company will pay the lesser of the price for such market blocks or prices that were calculated using the methodology approved by the Commission orders in Docket No. 03-035-14 and Docket No. 12-035-100.⁵

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

³ PPA page 1, RECITALS.

⁴ PPA page 1, RECITALS.

⁵ Docket 22-035-51, Application, paragraph 5, page 3.

Other Comments

The proposed Amendment will remain in place for a term of 12 months beginning January 1, 2023, ending December 31, 2023. The general terms and conditions of the Amendment appear to be generic in nature and are similar to previous contracts. The non-price related conditions within the Amendment appear to be reasonable and consistent with previous contracts.

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.⁶ 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 Smelter 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. The Division recommends the Commission approve the Third Amendment to the Non-Firm Power Purchase Agreement between PacifiCorp and Kennecott.

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

⁶ PPA Section 2.1, page 3.