



1407 W. North Temple, Suite 330  
Salt Lake City, UT 84116

March 6, 2023

***VIA ELECTRONIC FILING  
AND OVERNIGHT DELIVERY***

Public Service Commission of Utah  
Heber M. Wells Building, 4<sup>th</sup> Floor  
160 East 300 South  
Salt Lake City, UT 84114

Attention: Gary Widerburg  
Commission Administrator

**Re: Docket No. 23-035-11  
In the Matter of the Application of Rocky Mountain Power for Waiver of the  
Solicitation Process and Waiver of the Requirement for Preapproval of Significant  
Energy Resource Decision**

In accordance with Utah Code Ann. § 54-17-201(3) and 54-17-501 and Utah Admin. Code R746-430-4, PacifiCorp doing business as Rocky Mountain Power (“Rocky Mountain Power” or “Company”) submits its Application to the Public Service Commission of Utah (“Commission”) requesting that the Commission issue an order granting the Company’s request to waive the requirements of the solicitation and significant energy resource decision processes for a resource being procured for an Electric Service Schedule No. 34 customer.

In support of the request for waiver, the Company’s Application is accompanied by the direct testimony of Mr. Craig M. Eller. The Company notes that no confidential or trade secret information is provided or used in the application or Mr. Eller’s testimony. The Company also does not anticipate any confidential or trade secret information will be discussed in the technical conference required by Utah Code Ann. § 54-17-501(4).

Pursuant to Utah Code Ann. § 54-17-501(2)(b) the company will also provide a paper copy of this submission to the Commission through overnight mail.

Rocky Mountain Power respectfully requests that all formal correspondence and requests for additional information regarding this filing be addressed to the following:

By E-mail (preferred): [datarequest@pacificorp.com](mailto:datarequest@pacificorp.com)  
[jana.saba@pacificorp.com](mailto:jana.saba@pacificorp.com)

By regular mail: Data Request Response Center  
PacifiCorp  
825 NE Multnomah, Suite 2000  
Portland, OR 97232

Public Service Commission of Utah

March 6, 2023

Page 2

Informal inquiries may be directed to Jana Saba at (801) 220-2823.

Sincerely,

A handwritten signature in blue ink that reads "Joelle Steward". The signature is written in a cursive, flowing style.

Joelle Steward

Senior Vice President, Regulation and Customer & Community Solutions

cc: Service List

Joe Dallas (ISB# 10330)  
PacifiCorp, Senior Attorney  
825 NE Multnomah Street, Suite 2000  
Portland, OR 97232  
Telephone: 360-560-1937  
Email: [joseph.dallas@pacificorp.com](mailto:joseph.dallas@pacificorp.com)

*Attorney for Rocky Mountain Power*

**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

<b>IN THE MATTER OF THE APPLICATION OF ROCKY MOUNTAIN POWER FOR WAIVER OF THE SOLICITATION PROCESS AND WAIVER OF THE REQUIREMENT FOR PREAPPROVAL OF SIGNIFICANT ENERGY RESOURCE DECISION</b>	Docket No. 23-035-11  <b>APPLICATION FOR WAIVERS</b>
--	--

**I. INTRODUCTION**

Rocky Mountain Power, a division of PacifiCorp (“Rocky Mountain Power” or “Company”), pursuant to Utah Code Ann. § 54-17-201(3) and 54-17-501 and Utah Admin. Code R746-430-4, hereby requests that the Public Service Commission of Utah (“Commission”) issue an order granting the Company’s request to waive the solicitation process requirement in Utah Code Ann. § 54-17-201, et seq., with respect to the acquisition of the Faraday Solar and Battery Storage project (“the Resource”), which is identified in the Direct Testimony of Craig M. Eller filed with this Application. In addition, the Company respectfully requests under Utah Code Ann. § 54-17-501 that the Commission issue an order granting the Company’s request to waive the requirement for Commission approval of a significant energy resource (“SER”) decision required by Utah Code Ann. § 54-17-302.

The Company may obtain a waiver of the required solicitation process as well as a waiver of the requirement to obtain preapproval of an SER decision if the Commission determines that waiving the requirements is in the public interest.<sup>1</sup> The basis for the requested waivers is that the Company is acquiring the Resource to serve and be paid for exclusively by a customer taking service under Electric Service Schedule No. 34 – Renewable Energy Purchases for Qualified Customers 5000kW and Over (“Schedule 34”).

## **II. THE APPLICANT**

PacifiCorp provides retail electric service under the name Rocky Mountain Power in the states of Wyoming, Utah, and Idaho, and under the name Pacific Power in the states of Oregon, Washington, and California. Rocky Mountain Power is a public utility in the state of Utah subject to the jurisdiction of the Commission with regard to its electric service to retail customers in Utah. The Company serves approximately 1,019,000 customers and has approximately 1,800 employees in Utah.

Formal correspondence and requests for additional information regarding this matter should be addressed to:

By e-mail (preferred): [datarequest@pacificorp.com](mailto:datarequest@pacificorp.com)

By regular mail:

Data Request Response Center  
PacifiCorp  
825 NE Multnomah, Suite 2000  
Portland, Oregon 97232

---

<sup>1</sup> Utah Code Ann. § 54-17-501.

With copies to:

Jana Saba  
Utah Regulatory Affairs Manager  
Rocky Mountain Power  
1407 West North Temple, Suite 330  
Salt Lake City, Utah 84116  
E-mail: [jana.saba@pacificorp.com](mailto:jana.saba@pacificorp.com)

Joe Dallas (ISB# 10330)  
PacifiCorp, Senior Attorney  
825 NE Multnomah Street, Suite 2000  
Portland, OR 97232  
Telephone: 360-560-1937  
Email: [joseph.dallas@pacificorp.com](mailto:joseph.dallas@pacificorp.com)

Informal inquiries related to this Application should be directed to Jana Saba, Utah Regulatory Affairs Manager, at (801) 220-2823.

### **III. SUPPORTING TESTIMONY**

Consistent with Utah Code 54-17-501 and Utah Admin. Code R746-430-4, this Application is supported by the pre-filed written direct testimony of Mr. Craig M. Eller, Vice President Business Policy and Development. Mr. Eller's testimony describes circumstances of this Resource that drove the Company's decision to seek the requested waivers of the solicitation process and SER decision requirements and explains why Commission approval of the requested waivers is in the public interest.

### **IV. OVERVIEW OF THE RESOURCE**

The Company requests the Commission grant waivers of the required solicitation process and preapproval of a SER decision requirements pertaining to the Faraday Solar and Battery storage project, which has been procured by the Company through the execution of a power purchase agreement ("PPA") and battery storage agreement ("BSA"). The PPA has been executed between PacifiCorp and Faraday Solar B, LLC for 525 megawatts ("MW") of output from a solar

generating facility located in Utah County, Utah. The expected commercial operation date (“COD”) of the PPA is September 30, 2025, with the Schedule 34 customer taking output on the same date. The BSA has been executed with Faraday Energy Storage, LLC for 150 MW with 4-hour duration located at the same site of the solar generating facility in Utah County, Utah. The expected COD for the BSA is June 1, 2026, with the Schedule 34 customer taking output on the same date. The term of both the PPA and BSA became effective on January 20, 2023 and expires April 30, 2046. The Resource and associated PPA and BSA are governed by an existing Schedule 34 contract as described in this Application and in the testimony of Mr. Eller.

## V. SCHEDULE 34

In 2016, the Utah legislature passed the Sustainable Transportation and Energy Plan Act (“STEP Act”), codified in Utah Code 54-17-806, which granted the Commission the authority to approve a renewable energy tariff that has been determined to be reasonable and in the public interest.<sup>2</sup> Pursuant to the authority granted in the STEP Act, the Commission approved Schedule 34, which allows qualified customers with total aggregated electric load of five megawatts or greater to enter into a contract to have renewable energy purchased by Company on their behalf.<sup>3</sup> The Company has executed Schedule 34 renewable energy service contracts with seven customers.<sup>4</sup>

The STEP Act was enacted into law on March 29, 2016, which was after the solicitation and approval of a SER decision requirements were enacted.<sup>5</sup> Accordingly, the regulatory

---

<sup>2</sup> Utah Code 54-17-806(1).

<sup>3</sup> *In the Matter of Rocky Mountain Power’s Proposed Electric Service Schedule No. 34, Renewable Energy Tariff*, Docket No. 16-035-T09, Order Memorializing Bench Ruling Approving Settlement Stipulation (Aug. 18, 2016); Tariff Approval Letter for Advice Letter No. 18-05 (Oct. 9, 2018) for revisions to Schedule 34 to incorporate changes recommended by the Division of Public Utilities in its August 1, 2018 filing.

<sup>4</sup> See Docket No. 16-035-27 and Docket No. 20-035-37.

<sup>5</sup> Compare Sustainable Transportation and Energy Plan Act, 2016 Utah Laws Ch. 393 (S.B. 115) with Energy Resource Procurement Act, 2005 Utah Laws Ch. 11 (S.B. 26).

requirements would not have envisioned a unique construct where a voluntary renewable tariff, such as Schedule 34, would permit a large customer to select and be contractually obligated to pay for a renewable resource obtained by the Company on its behalf that is large enough to trigger the competitive solicitation and SER requirements.

## VI. LEGAL STANDARD

The Energy Resource Procurement Act (the “Act”)<sup>6</sup> requires the Company to obtain Commission approval before acquiring certain generation resources. This approval is a two-step process.<sup>7</sup> First, the Company must meet the solicitation process requirement set forth in Utah Code Ann. § 54-17-201, which requires the Company to develop and propose a solicitation process to acquire or construct a SER. Second, the Company must meet the requirement set forth in Utah Code Ann. § 54-17-302, which requires the Company to obtain Commission approval of a SER decision before the Company constructs or contracts for the resource. A SER is defined in Utah Code Ann. § 54-17-102(4) and includes the acquisition of a resource that is 100 MW or more of new generating capacity with a dependable life of 10 or more years or the purchase of electricity or electric generation capacity of over 10 MW with a contract term of 10 or more years. If the SER is also a “renewable energy source” as defined in Utah Code Ann. § 54-17-601, approval is only required if the nameplate capacity exceeds 300 MW.<sup>8</sup>

A utility may obtain a waiver of the either the solicitation approval requirement or the approval of a SER requirement. Specifically, Utah Code Ann. § 54-17-501 states:

An affected electrical utility may obtain a waiver of the requirement that it conduct a solicitation process under Part 2, Solicitation Process of the requirement that it obtain approval of a significant energy resource decision under Part 3, Resource

---

<sup>6</sup> The Act is codified at Utah Code Ann. §§ 54-17-101 through 909.

<sup>7</sup> *Application of Rocky Mountain Power for Approval of Solicitation Process for 2020 All Source Request for Proposals*, Docket No. 20-035-05, Order Approving 2020 All Source RFP at 5 (July 17, 2020).

<sup>8</sup> Utah Code Ann. § 54-17-502(1).

Plans and Significant Energy Resource Approval, if the commission determines that waiving the requirement is in the public interest because there exists:

- (a) a clear emergency;
- (b) a time-limited commercial or technical opportunity that provides value to the customers of the affected electrical utility; or
- (c) any other factor that makes waiving the requirement in the public interest.

## VII. ARGUMENT

As explained in the testimony of Mr. Eller, the Resource was voluntarily selected and will be paid for by Stadion, LLC, (“Schedule 34 Customer”) a wholly owned subsidiary of Meta Platforms, Inc., which the Commission approved on August 18, 2016, in Docket No. 16-035-27<sup>9</sup>. The Commission has previously approved the Renewable Energy Service Contract (the “Contract”) that governs the rates and terms under Schedule 34, which allows the Schedule 34 customer to select renewable resources to serve its load.<sup>10</sup> In approving the Contract, the Commission provided:

Based on the record before us, we find that the Contract provides reasonable protections against shifting costs to other customers while meeting the renewable energy needs of Facebook. PacifiCorp represents, and no party disputes, that all Utah customers will benefit from approval of the Contract.<sup>11</sup>

In Docket No. 22-035-30, the Commission approved an amendment to the Contract, in which it reaffirmed its approval of the Contract as being “just, reasonable and in the public interest.”<sup>12</sup> The Company has previously notified the Commission of six resources procured under

---

<sup>9</sup> Meta Platforms, Inc. was formerly Facebook, Inc.

<sup>10</sup> *In the matter of the Application of Rocky Mountain Power for Approval of a Renewable Energy Service Contract between Rocky Mountain Power and Facebook, Inc. Pursuant to Tariff Electric Service Schedule*, Order Memorializing Bench Ruling Approving Renewable Energy Service Contract with Facebook, Inc., Docket No. 16-035-27 at 1-2 (August 29, 2016) (noting that the Commission entered a bench ruling approving the contract on August 18, 2016).

<sup>11</sup> *Id.* at 3.

<sup>12</sup> *In the matter of the Application of Rocky Mountain Power for Approval of Third Amendment to Renewable Energy Service Contract between Rocky Mountain Power and Stadion LLC*. Order, Docket No. 22-035-30 at 5 (September 22, 2022).



the Contract after its approval, on September 9, 2019, August 13, 2020, and July 30, 2021. However, the size of these resources did not trigger the solicitation and preapproval of a SER decision requirements. Concurrently with this filing, the Company submitted a fourth courtesy notice for the Faraday Resource on March 6, 2023 in Docket No. 16-035-27.

Under the terms of the Contract, 100 percent of the actual costs of the renewable resource are passed through to the Schedule 34 customer. The Schedule 34 customer is responsible for any costs associated with the Resource in the event of early termination or default as governed by the terms of the contracts. Adequate credit provisions are in place to ensure that the Company and other customers are protected in the event of early termination or default. The Schedule 34 customer will also be responsible for paying all applicable application and administrative fees pursuant to Schedule 34. Granting the requested waivers is in the public interest because the Schedule 34 customer has voluntarily selected and agreed to pay for this Resource consistent with the Step Act, Schedule 34, and the Contract previously approved by the Commission.

### **VIII. REQUEST FOR RELIEF**

WHEREFORE, the Company requests relief as follows:

1. That the Commission, by the next business day following the date this application is filed, issue a notice of virtual technical conference in accordance with Utah Code Ann. § 54-17-501(4). The Company conferred with the Division of Public Utilities and Office of Consumer Services on the preferred timing for the technical conference and suggests that the technical conference be held virtually on March 9, 2023, beginning at 1:00 pm mountain standard time.
2. That the Commission proceed to require the filing of comments on the waiver request during the period from three business days to seven calendar days following the technical conference held pursuant to the foregoing paragraph in accordance with Utah Code Ann. § 54-17-

501(6). If the technical conference is held on March 9, 2023, Rocky Mountain Power suggests that comments be due on March 16, 2023.

3. That the Commission issue an order pursuant to Utah Code Ann. § 54-17-501 stating that waivers of the resource solicitation and SER preapproval requirement are in the public interest, allowing the Company to proceed with the Resource without obtaining advance approval from the Commission.

DATED this 6th day of March 2023.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Joe", is written over a horizontal line.

Joe Dallas (ISB# 10330)  
PacifiCorp, Senior Attorney  
825 NE Multnomah Street, Suite 2000  
Portland, OR 97232  
Telephone: 360-560-1937  
Email: [joseph.dallas@pacificorp.com](mailto:joseph.dallas@pacificorp.com)

*Attorney for Rocky Mountain Power*

**CERTIFICATE OF SERVICE**

Docket No. 23-035-11

I hereby certify that on March 6, 2023, a true and correct copy of the foregoing was served by electronic mail to the following:

**Utah Office of Consumer Services**

Michele Beck [mbeck@utah.gov](mailto:mbeck@utah.gov)  
[ocs@utah.gov](mailto:ocs@utah.gov)

**Division of Public Utilities**

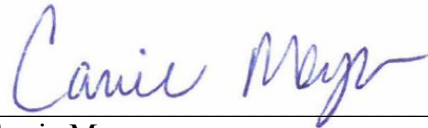
[dpudatarequest@utah.gov](mailto:dpudatarequest@utah.gov)

**Assistant Attorney General**

Patricia Schmid [pschmid@agutah.gov](mailto:pschmid@agutah.gov)  
Robert Moore [rmoore@agutah.gov](mailto:rmoore@agutah.gov)

**Rocky Mountain Power**

Data Request Response Center [datarequest@pacificorp.com](mailto:datarequest@pacificorp.com)  
Jana Saba [jana.saba@pacificorp.com](mailto:jana.saba@pacificorp.com)  
[utahdockets@pacificorp.com](mailto:utahdockets@pacificorp.com)  
Joseph Dallas [Joseph.dallas@pacificorp.com](mailto:Joseph.dallas@pacificorp.com)



---

Carrie Meyer  
Adviser, Regulatory Operations