

Application of Rocky Mountain Power for Approval of an Amendment of a Power Purchase Agreement between PacifiCorp and Tesoro Refining & Marketing Company LLC	DOCKET NO. <u>23-035-47</u> <u>ORDER APPROVING AMENDMENT TO QUALIFYING FACILITY POWER PURCHASE AGREEMENT</u>
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ISSUED: December 13, 2023

PROCEDURAL HISTORY

On September 28, 2023, Rocky Mountain Power (RMP) filed an application (“Application”) with the Public Service Commission (PSC) for approval of the Fourth Amendment (“Fourth Amendment”) to the Non-Firm Power Purchase Agreement (PPA) between PacifiCorp and Tesoro Refining & Marketing Company LLC (“Tesoro”). The PSC approved the PPA on December 18, 2019,¹ a First Amendment to the PPA on December 17, 2020,² a Second Amendment to the PPA on February 24, 2022,³ and a Third Amendment on January 13, 2023.⁴ The Division of Public Utilities (DPU) filed comments on November 9, 2023. The PSC held a virtual hearing on November 30, 2023.

THE APPLICATION

The Application describes the terms and conditions of the Fourth Amendment, which modifies certain terms of RMP’s existing PPA with Tesoro. The PPA governs

¹ See *Application of RMP for Approval of the PPA between PacifiCorp and Tesoro*, Docket No. 19-035-38, Order Approving Qualifying Facility PPA issued Dec. 18, 2019.

² See *Application of RMP for Approval of an Amendment of a PPA between PacifiCorp and Tesoro*, Docket No. 20-035-42, Order Approving Amendment to Qualifying Facility PPA issued Dec. 17, 2020.

³ See *Application of RMP for Approval of an Amendment of a PPA between PacifiCorp and Tesoro*, Docket No. 21-035-68, Order Approving Amendment to Qualifying Facility PPA issued Feb. 24, 2022.

⁴ See *Application of RMP for Approval of an Amendment of a PPA between PacifiCorp and Tesoro*, Docket No. 22-035-52, Order Approving Amendment to Qualifying Facility PPA issued Jan. 13, 2023.

Tesoro's sale of up to 25 MW to RMP. The Application represents a Tesoro-owned gas-fired cogeneration facility located in Salt Lake City, Utah, will generate the energy and that it meets all interconnection requirements and is fully integrated with RMP's system. RMP asserts it is obligated to purchase power from Tesoro under the PPA because Tesoro is a qualifying power producer⁵ under the Public Utility Regulatory Policies Act of 1978 (PURPA) and Utah Code Ann. § 54-12-1.

The Fourth Amendment extends the term of the PPA until December 31, 2024, and it establishes pricing, including an updated line loss factor, for the extended term. RMP represents the Fourth Amendment includes power purchase prices that RMP calculated using the PSC-approved pricing methodology. RMP states the cost of the amended PPA will be allocated in accordance with the 2020 Protocol⁶ and that all other terms and conditions of the PPA will remain in effect.

PARTIES' COMMENTS

The DPU filed comments on November 9, 2023, recommending the PSC approve the Fourth Amendment. In support of its recommendation, DPU comments that RMP's GRID outputs show prices set forth in the Fourth Amendment accurately reflect Tesoro's facility and appear to accord with PSC-approved pricing methodology. DPU also comments that the avoided line loss percentage RMP uses in the Fourth

⁵ Utah Code Ann. § 54-2-1(25).

⁶ Application at 4. The 2020 Protocol is an interjurisdictional cost allocation agreement. *See Application of Rocky Mountain Power for Approval of the 2020 Inter-Jurisdictional Cost Allocation Agreement*, Docket No. 19-035-42, Order Approving 2020 Protocol, issued Apr. 15, 2020.

Amendment is based on a calculation method agreed upon by DPU, RMP, and Tesoro in previous years. DPU further states the non-price terms of the Fourth Amendment are consistent with agreements from prior years and appear to be reasonable.

Additionally, DPU requests (1) the PSC order RMP to provide to DPU and the Office of Consumer Services the GRID outputs and Excel spreadsheets supporting RMP's price calculations along with the spreadsheets (provided with formulas left intact) showing avoided line loss calculations in future PPA filings, and (2) that RMP continue to provide reports of hourly power purchased, on a quarterly basis at minimum, to allow DPU to continue to monitor the contract.

At a virtual hearing held November 30, 2023, RMP and DPU testified in support of the Fourth Amendment; no party opposed the Application. RMP agreed to DPU's reporting recommendations. DPU testified the amended PPA is just, reasonable, and in the public interest, and recommended the PSC approve the Amendment.

DISCUSSION, FINDINGS, AND CONCLUSIONS

In accordance with PURPA, Utah law, prior PSC orders, and RMP's tariff, the PSC reviews PPAs and associated amendments to ensure RMP has properly administered its tariff and, in particular, that it has appropriately determined avoided cost pricing based on the PSC-approved methodology. The PSC finds the Fourth Amendment uses PSC-approved pricing and avoided line loss calculation methodologies and concludes that it otherwise complies with PURPA and Utah law. The

PSC notes no party opposed the Application or otherwise provided evidence challenging the amended PPA's rates, terms, or conditions.

Based on these findings and on DPU's comments and recommendations, the PSC finds and concludes approval of the Application is just, reasonable, and in the public interest.

ORDER

The Application, Fourth Amendment, and resulting amended PPA are approved.

DATED at Salt Lake City, Utah, December 13, 2023.

/s/ Michael J. Hammer
Presiding Officer

Approved and Confirmed December 13, 2023, as the Order of the Public Service Commission of Utah.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ John S. Harvey, Ph.D., Commissioner

Attest:

/s/ Gary L. Widerburg
PSC Secretary
DW#331249

Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this order by filing a request for review or rehearing with the PSC within 30 days after the issuance of the 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 fails to grant a request for review or rehearing within 30 days after the filing of a request for review or rehearing, 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 Utah Code Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on December 13, 2023, a true and correct copy of the foregoing was delivered upon the following as indicated below:

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