

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF ROCKY MOUNTAIN ) CASE NO. PAC-E-20-07**  
**POWER’S APPLICATION FOR APPROVAL )**  
**OF POWER PURCHASE AGREEMENT )**  
**BETWEEN PACIFICORP AND BIRCH ) ORDER NO. 34889**  
**HYDRO COMPANY )**

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On June 3, 2020, Rocky Mountain Power (“Rocky Mountain Power” or “Company”), a division of PacifiCorp, applied for consideration of a power purchase agreement (“PPA”) with Birch Hydro Company for energy generated by a small hydro facility in Clark County, Idaho.

On June 26, 2020, the Commission issued a Notice of Application and Modified Procedure, setting an August 10, 2020 comment deadline and an August 17, 2020 reply comment deadline. Commission Staff filed timely written comments, recommending several amendments to the PPA. Rocky Mountain Power filed timely reply comments and accepted all of Staff’s recommendations. Rocky Mountain Power stated that the “Company and the Seller will work expeditiously to file an updated contract and exhibits incorporating Commission Staff’s comments as soon as possible.” Company Reply Comments at 3.

After learning from Staff that the Company planned to file an amended PPA soon, the Commission issued an interlocutory order on September 1, 2020. The order directed Rocky Mountain Power to file the amended PPA by September 15, 2020. The Commission also granted persons until September 22, 2020 to file written comments on the amended PPA, and set a September 29, 2020 reply comment deadline for the Company. Order No. 34768.

The Company did not file the amended PPA until November 3, 2020. Amending the PPA took longer than the Company initially expected. On November 19, 2020, the Commission issued a Notice of Amended Application and Notice of Comment deadline, setting a December 3, 2020 comment deadline and a December 10, 2020 reply comment deadline. Staff filed comments on the amended PPA. No additional comments were received.

Having reviewed the record, we approve the Company’s amended Application as discussed below.

## THE APPLICATION

The Facility has a 2.65-megawatt nameplate capacity and has been delivering energy to Rocky Mountain Power under a PURPA contract dated August 21, 1984. By letter dated March 30, 2006, Rocky Mountain Power and Birch Hydro Company agreed the existing PURPA contract will expire at midnight on March 31, 2022. The Company stated that the PPA contains non-seasonal, non-levelized avoided cost rates for a 20-year term. The Company requested the Commission declare all payments for purchase of energy under the PPA be allowed as “just and reasonable, in the public interest, and that the Company’s incurrence of such costs are legitimate expenses, all of which the Commission will allow Rocky Mountain Power to recover in rates in Idaho in the event other jurisdictions deny recovery of their proportionate share of said expenses.” Application at 5.

## THE COMMENTS

### 1. Staff Comments

Commission Staff filed timely written comments, recommending several amendments to the PPA. Most significantly, Staff noted that the PPA’s formula for calculating the “Non-Conforming Energy Purchase Price” contradicts prior Commission orders. *See* Application, Attachment 1, Exhibit K. Staff explained that in Order No. 29632 the Commission established that energy delivered outside of the 90/110 performance band (i.e., non-conforming energy) would be priced at 85% of the *non-firm* market price or the contract price, whichever is less. In Order No. 33053, the Commission approved an 82.4% discount to convert firm market price to non-firm market price. The conversion can be described as follows:

$$\text{Non-firm market price} = \text{firm market price} * 0.824$$

Staff explained that firm energy is more valuable than non-firm energy and therefore must be discounted to comply with Order No. 29632. Staff asserted that “the 82.4% discount has been used in Idaho Power’s and Avista’s PURPA contracts when non-firm market prices are not available.” Staff Comments at 4.

Staff noted the Company’s PPA uses firm market price to calculate the Non-Conforming Energy Purchase Price but does not apply the 82.4% discount. *See* Application, Attachment 1 at 4, Exhibit K. Staff recommend the Company amend the PPA to include the discount.

Additionally, Staff noted several small errors in the PPA. Staff argued that the expected monthly net output ranges in Exhibit A of the PPA used the wrong units. Likewise, Staff observed the Company informed Staff in a production response of several errors in Exhibit K of the PPA. Staff recommended the Commission approve an amended PPA that includes Staff's recommended updates and corrects the errors in Exhibits A and K. Staff's review otherwise found the proposed PPA complied with Commission requirements.

2. *The Company's Reply Comments*

The Company filed reply comments on August 17, 2020 and accepted all of Staff's recommendations. The Company stated that the "Company and the Seller will work expeditiously to file an updated contract and exhibits incorporating Commission Staff's comments as soon as possible." Company Reply Comments at 3. The Company filed an amended PPA on November 3, 2020.

3. *Staff's Comments on the Amended Application*

Staff reviewed the amended PPA and believes it follows Staff's recommendations. Staff recommended the amended PPA be approved.

### **COMMISSION FINDINGS AND DECISION**

The Commission has jurisdiction over this matter under *Idaho Code* §§ 61-502 and 61-503. The Commission is empowered to investigate rates, charges, rules, regulations, practices, and contracts of public utilities and to determine whether they are just, reasonable, preferential, discriminatory, or in violation of any provision of law, and to fix the same by order. *Idaho Code* §§ 61-502 and 61-503. The Commission also has authority under PURPA and FERC regulations to set avoided cost rates, to order electric utilities to enter fixed-term obligations for the purchase of energy from QFs, and to implement FERC rules. The Commission may enter any final order consistent with its authority under Title 61 and PURPA.

The Commission has reviewed the record, including the Application and amended PPA. Based on our review, we find it reasonable to approve the amended PPA because it contains Commission-approved terms that the Facility is eligible for based on its characteristics such as fuel source, project size, and renewal contract status. We find the amended PPA's formula for calculating the "Non-Conforming Energy Purchase Price" is consistent with our prior orders. Additionally, the Facility has helped meet Rocky Mountain Power's need for additional capacity.

The Commission thus finds it just and reasonable to include capacity payments for the duration of the amended PPA.

Consistent with our existing practices and the Inter-Jurisdictional Allocation Protocol (“Protocol”), we find that the Company’s payments for purchases of energy and capacity under the amended PPA are prudently incurred expenses for ratemaking purposes as it pertains to Idaho’s jurisdictional share.<sup>1</sup> As outlined in the Protocol, expenses denied by other jurisdictions would require specific filing requirements and determination of reasonableness before such expenses could be recovered from the Company’s Idaho customers.

### **ORDER**

IT IS HEREBY ORDERED that Rocky Mountain Power’s PPA with Birch Hydro Company—as filed with the Commission on November 3, 2020—is approved.

IT IS FURTHER ORDERED that, consistent with our existing practices and the Protocol, all payments made by Rocky Mountain Power for purchases of energy and capacity under the PPA are allowed as prudently incurred expenses for ratemaking purposes as it pertains to Idaho’s jurisdictional share.


THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

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<sup>1</sup> The 2020 Inter-Jurisdictional Allocation Protocol was authorized by Order No. 34640.

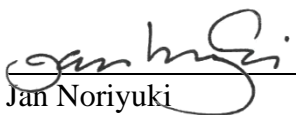
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 14<sup>th</sup>  
day of January 2021.

  
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PAUL KJELLANDER, PRESIDENT

  
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KRISTINE RAPER, COMMISSIONER

  
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ERIC ANDERSON, COMMISSIONER

ATTEST:

  
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Jan Noriyuki  
Commission Secretary

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