

DECISION MEMORANDUM

TO: COMMISSIONER KJELLANDER
COMMISSIONER RAPER
COMMISSIONER ANDERSON
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL

FROM: MATT HUNTER
DEPUTY ATTORNEY GENERAL

DATE: AUGUST 20, 2020

SUBJECT: IN THE MATTER OF ROCKY MOUNTAIN POWER'S APPLICATION
FOR APPROVAL OF A POWER PURCHASE AGREEMENT BETWEEN
PACIFICORP AND BIRCH HYDRO COMPANY; CASE NO. PAC-E-20-07

On June 3, 2020, Rocky Mountain Power ("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 ("Facility"). The Facility is a qualifying facility under the Public Utility Regulatory Policies Act of 1978 ("PURPA"), and has a nameplate capacity of 2.65 megawatts.

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 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" is inconsistent with 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 the intent of 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.¹ See Application, Attachment 1 at 4, Exhibit K. Staff recommend the Company amend the PPA to include the discount.

Staff recommended the Commission approve an amended PPA that includes Staff’s recommended updates.

The Company’s reply comments

The Company filed timely reply comments and accepted all of Staff’s recommendations.² 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.

STAFF RECOMMENDATION

Staff recommends the Commission issue an interlocutory order granting the Company 14 days to file an amended PPA. Based on conversations with the Company, Staff believes 14 days will give the Company sufficient time to file an amended PPA.

Additionally, Staff recognizes the Commission might wish to give the public an opportunity to comment on the amended PPA. If the Commission chooses to set a public comment period, Staff recommends a seven-day comment period (beginning when the 14-day filing period ends), and a seven-day Company reply comment period.

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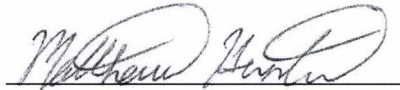
¹ In response to Production Request 12, the Company explained that the “term ‘Index price’ in Exhibit K was used in error,” and that it “should be a reference to the ‘Firm Market Price Index.’”

² Staff believes the Company’s reply comments misunderstood Staff’s recommendation regarding the calculation of the “Non-Conforming Energy Purchase Price.” Staff and the Company have had several conversations since the Company filed its reply comments, and Staff believes the Company now fully understands and accepts the recommendations in Staff’s comments.

COMMISSION DECISION

Does the Commission wish to:

1. Grant the Company 14 days from the issuance of the Commission's order to file an amended PPA?
2. Set a seven-day public comment period immediately after the 14-day filing period, followed by a seven-day Company reply period?



Matt Hunter
Deputy Attorney General

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