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Attorneys for Fall River Rural Electric Cooperative, Inc.

BEFORE THE

IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION FOR APPROVAL OF THE POWER PURCHASE AGREEMENT BETWEEN PACIFICORP AND FALL RIVER RURAL ELECTRIC COOPERATIVE, INC.	CASE NO. PAC-E-20-10 COMMENTS OF FALL RIVER RURAL ELECTRIC COOPERATIVE, INC. IN SUPPORT OF SETTLEMENT STIPULATION

Pursuant to Order No. 34806 issued by the Idaho Public Utilities Commission ("Commission") on October 6, 2020, Fall River Rural Electric Cooperative, Inc. ("Fall River") hereby lodges its Comments in Support of the Settlement Stipulation that was lodged for Commission approval on October 13, 2020.

BACKGROUND

This proceeding regards the approval of a replacement power purchase agreement for the Felt Hydropower Project ("Felt "Project") currently owned and operated by Fall River. The Felt Project currently sells its full electrical output to PacifiCorp as a qualifying facility ("QF") under a 35-year power purchase agreement ("PPA") dated December 4, 1984. The Felt Project consists of two powerhouses located at a diversion dam on the Teton River – Powerhouse #1 which has a capacity of 1,950 kW, and Powerhouse #2, which has a capacity of 5,500 kW. The 1984 PPA expires on April 1, 2021, and therefore Fall River contacted PacifiCorp to obtain a replacement PPA over a year ago. PacifiCorp and Fall River engaged in extensive negotiations, with give and take on both sides, to reach the agreed-to terms and conditions in the PPA ultimately submitted for approval in this proceeding. Consistent with the Commission's policy for renewing PPAs for existing QFs, the PPA submitted for approval contained rates that included for avoided capacity costs for its entire term, even though PacifiCorp's avoided cost rates in effect at the time of execution of the PPA contained a substantial capacity surplus period until 2028 for new QF projects.

In Commission Staff's comments filed on August 17, 2020, Staff recommended several changes to the PPA submitted for approval. Most significantly, Staff asserted that because one of the two powerhouse, Powerhouse #1, has been out of service since 2006, the PPA should be revised to provide that Fall River will not receive capacity payments until the end of the capacity surplus period, in 2028, for capacity from Powerhouse #1. Additionally, Staff proposed a reduction to the non-firm energy rate used for energy delivered outside of the 90-110 performance band, and Staff proposed that a mechanism would need to be adopted to enable the 90-110 performance band to function properly in conjunction with the two different rate streams under the PPA. Upon receipt of Staff's comments, the Parties conferred and reached agreement on how the resolve the issues raised in Staff's comments on a mutually acceptable basis and entered in the Settlement Stipulation.

The Settlement Stipulation has been negotiated and agreed to by all of the Parties to this docket which includes the Commission Staff, Fall River, and PacifiCorp (collectively referred to herein as the "Parties"). The Settlement Stipulation was lodged with the Commission on

October 13, 2020, in a pleading in which the Parties represent that it is "fair, just, and reasonable" and in which the Parties recommend Commission's approval of all of the terms and conditions contained in the Settlement Stipulation. Fall River lodges these Comments in Support in order to provide the Commission additional context and understanding as to the reasonableness of the compromises and agreements embedded in the Settlement Stipulation.

COMMENTS IN SUPPORT OF THE SETTLEMENT STIPULATION

The Commission should approve the Settlement Stipulation in its entirety because it will result in a fair and reasonable outcome of the issues in this proceeding.

1. Capacity Payments

The most significant potentially disputed issue that was amicably resolved in settlement discussions and that is embedded in the Settlement Stipulation deals with the treatment of future capacity payments for this relatively small hydroelectric QF. The Settlement Stipulation provides at paragraph 9 that the PacifiCorp will:

> [L]imit capacity payments for generation of electricity from the Facility to amounts that it has historically generated at Powerhouse #2, while withholding capacity payments for any incremental generation until January 1, 2028. [PacifiCorp's next capacity deficit year.]

More specifically, as explained in paragraph 11, the Parties agree to amend the PPA to provide that the capacity payments will only be made for the first 5,100 kW delivered from the Facility in any hour until the end of the capacity surplus period, which is explained as follows:

> The Parties agree that from April 1, 2021, the date sales are to commence under the Amended Agreement, through December 31, 2027 the Company will pay Fall River for the avoided cost of capacity and the avoided cost of energy for energy generated by the Facility in each hour up to the capacity payment limit of 5,100 kilowatt-hours ("kWh") and the Company will pay Fall River the avoided cost of energy only for energy delivered hourly in excess of 5,100 kWhs.

This mechanism was acceptable to all Parties under the circumstances here. The Parties were able to determine that the maximum net output reasonably likely to be produced by Powerhouse # 2 is roughly 5,100 kW over the course of an hour. Furthermore, due to the configuration of the Facility and available water, the Facility has historically been operated, and is planned to be operated in the future, such that Powerhouse #1 is normally only operated during times where Powerhouse #2 is already operating at its maximum level. PacifiCorp's billing systems can implement this payment mechanism without any party incurring the cost and delay that might be entailed with other solutions that might otherwise result from Staff's proposed treatment of capacity from Powerhouse #1, such as installation of new meters or communication devices that would separately meter the output of the two powerhouses.

This provision of the Settlement Stipulation resolves, what was for Fall River at least, the single most significant issue that was addressed during settlement negotiations among the Parties. As noted above, PacifiCorp and Fall River initially proposed full capacity payments for Powerhouse #2 as well as Powerhouse #1 in their initial filing before the Commission. However, Staff argued in its filed comments that Powerhouse #1 should not be entitled to any capacity payments during PacifiCorp's capacity surplus period (until 2028) because Powerhouse #1 has been out of service since approximately 2006, and it is currently being repaired. Fall River believes its initial position as to receipt of capacity payments for the electrical output from Powerhouse #1 for the entire term of the renewal PPA was, and remains defensible under extant Commission precedent. Fall River intends to have Powerhouse #1 back online before the termination of its existing PPA, and the available data produced in discovery demonstrated that the Facility as a whole has generated *more* generation annually in the years since Powerhouse #1 has been out of service.

However, Fall River acknowledges the extended period Powerhouse #1 has been out of service and has agreed to compromise its position on this issue in the interests of this Commission's approval of the overall Settlement Stipulation – particularly due to the fact that the Parties were able to reach an agreement on how to cost-effectively implement Staff's proposal in a manner that Fall River considers fair and reasonable under the facts presented. However, should the Commission reject the Stipulation, Fall River has preserved, pursuant to paragraph 21 of the Settlement Stipulation, the right to present its position for approval of the originally filed PPA, which contains full capacity payments for both Powerhouse #2 and Powerhouse #1 for the entire term of the power purchase agreement.

2. Miscellaneous Issues

The Settlement Stipulation also resolves the other issues raised by Staff in its comments in accordance with Staff's recommendation. These included replacement of the market energy price used for non-conforming energy (falling outside of the 90-110 performance band) with a reduced value to the market price to approximate a "non-firm" market price, as well technical changes to the PPA to accommodate that change and to properly implement the 90-110 performance band with two different fixed-price streams in the PPA. Notably, these changes, along with those noted above regarding the capacity payments, generally work to *reduce* the amount Fall River will be paid for its electrical output. However, that fact notwithstanding, Fall River is amenable to these provisions in the furtherance of the of Settlement Stipulation and to further comity among the Parties.

CONCLUSION

WHEREFORE, Fall River respectfully requests that this Commission find that the Settlement Stipulation is in the public interest and is fair, just, and reasonable. Fall River recommends it be adopted in full.

DATED: October 22, 2020.

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By <u>/s/ *Gregory M. Adams*</u>

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of October 2020, I delivered true and correct copies of the foregoing COMMENTS OF FALL RIVER RURAL ELECTRIC COOPERATIVE, INC. IN SUPPORT OF SETTLEMENT STIPULATION to the following parties via electronic mail:

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Dated: October 22, 2020

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