

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF ROCKY MOUNTAIN)	CASE NO. PAC-E-20-10
POWER’S APPLICATION FOR)	
APPROVAL OR REJECTION OF A)	
POWER PURCHASE AGREEMENT)	ORDER NO. 34887
BETWEEN PACIFICORP AND FALL)	
RIVER ELECTRIC COOPERATIVE, INC.)	
_____)	

On June 9, 2020, Rocky Mountain Power (“Company”), a division of PacifiCorp, applied for consideration of a Power Purchase Agreement (“Agreement”) with Fall River Electric Cooperative, Inc. (“Fall River”) for energy output generated by the Felt Hydro Facility¹ (“Facility”), a small hydro facility in Teton County, Idaho. The Facility is a qualifying facility (“QF”) under the Public Utility Regulatory Policies Act of 1978 (“PURPA”) and has a nameplate capacity of 7.45 megawatts.

On July 2, 2020, the Commission issued a Notice of Application and Notice of Modified Procedure establishing an August 17, 2020 comment deadline and August 24, 2020 reply comment deadline. *See* Order No. 34717.

On August 17, 2020, Staff filed initial comments and asked the Commission to amend the comment deadline to allow additional time to analyze the data and finalize its position on capacity payments through supplemental comments.

At the August 18, 2020 Decision Meeting, Staff asked the Commission to vacate the comment deadlines established in Order No. 34717 and establish new comment deadlines to allow for public comments on October 1, 2020 and reply comments on October 15, 2020.

On August 24, 2020, the Company filed reply comments indicating its willingness to work with Staff and Fall River to develop solutions resolving the outstanding issues from Staff’s comments.

On August 25, 2020, the Commission issued a Notice of Amended Comment Deadlines establishing an October 1, 2020 public comment deadline and October 15, 2020 reply deadline. *See* Order No. 34760.

¹ The Felt Hydro Facility was previously known as CDM Hydro.

On September 22, 2020, pursuant to the Commission’s Rules of Procedure 272—IDAPA 31.01.01.272—Staff emailed the Commission Secretary and parties notice that settlement discussions had begun, and the parties intended to work towards settlement.

At the Commission’s September 29, 2020 Decision Meeting, Staff asked the Commission to vacate the comment deadlines established in Order No. 34760 and recommended establishing a new comment deadline of October 22, 2020 to allow time for the public and parties to file comments on the stipulation. The Company and Fall River indicated they did not oppose amending the comment deadlines as proposed by Staff.

On October 6, 2020, the Commission issued Order No. 34806 establishing an October 22, 2020 comment deadline.

On October 13, 2020, Staff filed a stipulation (“Stipulation”) signed by Staff, the Company, and Fall River (collectively the “Parties” or individually as “Party”).

On October 22, 2020, Staff and Fall River filed comments supporting the Stipulation. No other comments were received.

Having reviewed the record, the Commission now issues this final Order approving the Stipulation.

THE APPLICATION

The Facility has been delivering energy to the Company under a PURPA contract dated December 4, 1984. The existing PURPA contract expires at midnight on March 31, 2021.

The Facility has a nameplate capacity of 7.45 megawatts. The Agreement contains non-seasonal hydro avoided cost rates based on the surrogate avoided resource (“SAR”) cost methodology for a 20-year term. The Agreement also contains capacity payments for the entire term with no sufficiency period.

The Company requested the Commission declare all payments for purchase of energy under the Agreement be allowed as legitimate expenses for ratemaking purposes, all of which the Commission will allow the Company to recover in Idaho if other jurisdictions deny recovery for their proportionate shares.

THE STIPULATION

The Parties stipulated to resolve all issues mentioned in Staff’s August 17, 2020 comments. The Stipulation provides terms to amend the Agreement submitted with the Company’s Application (“Amended Agreement”). The Stipulation addressed these issues: (1) limitations to

capacity payments for generation of electricity from the Facility to amounts it has historically generated at Powerhouse #2, while withholding capacity payments for any incremental generation until January 1, 2028;² (2) determination of the appropriate contract rate used to compare against 85% of the Non-Firm Market Price for payment of non-conforming energy; (3) application of the proper discount to the firm market price used by the Company to convert it to a Non-Firm Market Price for determination of rates for non-conforming energy; and (4) correct Exhibit K of the Agreement, changing the term “Mid-C-85” to “PV-85” to reflect the use of the Palo Verde Hub for determining the firm market price.

The Parties further agreed:

1. 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 exceeding 5,100 kWhs.
2. The Company will pay Fall River for the avoided cost of capacity and the avoided cost of energy for *all* generation from the Facility beginning January 1, 2028 through the end of the 20-year term of the Amended Agreement.³
3. Energy and capacity rates in the Amended Agreement will be calculated based on the published rates approved by the Commission in Order No. 34350, effective June 1, 2019 to May 31, 2020.
4. For purposes of determining which rate to pay for non-conforming energy (if any) delivered in each month subject to the 90/110 firmness requirements, the Parties agree to determine whether to use 85% of the Non-Firm Market Price or the Conforming Energy Purchase Price by calculating a Weighted-Average Conforming Energy Purchase Price for the Conforming Energy Purchase Price. The Parties further agree that the “Weighted-Average Conforming Energy Purchase Price” will be calculated by taking the revenue that would have been earned by the Facility in each month as if all energy was Conforming Energy divided by the total energy generated by the Facility for that month. (*See* Attachment A, for examples of the calculation of the “Weighted-Average Conforming Energy Purchase Price”).
5. For the special case when the 85% of the Non-Firm Market Price is lower than the Weighted-Average Conforming Energy Purchase Price and Fall River’s generation for a given month exceeds the 110% threshold for purposes of the 90/110 firmness

² See Order No. 33917 which describes the Company’s next capacity deficiency date for SAR-based avoided cost calculations.

³ QFs in Idaho with published rate contracts currently start receiving capacity payments for the entire year during the year when the capacity deficiency date occurs.

requirements, the rate that will be applied for all generation from the Facility during the month will use a weighted-average rate between the Weighted-Average Conforming Energy Purchase Price and 85% of the Non-Firm Market Price weighted by the amount of generation below and above the 110% upper threshold, respectively. (See Attachment A, Scenario 5, for example of payment calculations).

6. The monthly Palo Verde firm market price will be discounted by 82.4% to arrive at the Non-Firm Market Price for purposes of 90/110 firmness requirements.

The Parties agreed that upon the Commission's final order, the Company would file an Amended Agreement with the terms agreed to in the Stipulation incorporated for Staff's verification.⁴

The Parties could not agree that each specific component of the Stipulation was just and reasonable in isolation. But all Parties agreed the Stipulation achieves a just and reasonable result and is in the public interest.

The Parties agreed that no part of the Stipulation or the formulae or methods used to develop the same or a Commission order approving the same would be argued or considered as precedential in any future case except regarding issues expressly called-out and resolved by the Stipulation. The Stipulation does not resolve or provide any inferences regarding—and the Parties are free to take any position on—any issues not specifically called-out in the Stipulation. Nothing in the Stipulation shall be construed to modify or supersede existing settlement agreements entered by or among the Parties to the Stipulation.

The Parties also agreed that if any person challenged the approval of the Stipulation or requested rehearing or reconsideration of any order issued by the Commission approving the Stipulation, each Party would use its best efforts to support the Stipulation. If any person sought judicial review of a Commission order approving the Stipulation, no Party would oppose the Stipulation in that proceeding.

THE COMMENTS

Staff filed initial comments on August 17, 2020 and final comments supporting the Stipulation on October 22, 2020. The Company filed reply comments on August 24, 2020. Fall River filed comments supporting the Stipulation on October 22, 2020.

⁴ The Parties anticipated the filing would occur by November 13, 2020 and suggested that date for the compliance filing. Because the final order will not be issued until after November 13, 2020, this date is infeasible.

1. Staff Comments

Staff's initial comments (August 17, 2020) focused on three issues Staff argued needed to be addressed before Staff could make a recommendation regarding the Company's Application: (1) the appropriate mechanism to allow capacity payments for output from Powerhouse #2, while not providing capacity payments to Powerhouse #1 when the generation for both powerhouses—the Facility's total output—is only measured through a single meter; (2) the use of incorrect non-firm market rates for generation outside of the 90/110 performance band; and (3) how to determine payments when monthly generation falls outside of the 90/110 band, given that Fall River could be paid two rates during the month.

Staff discussed that the Company's proposal for capacity payments was inconsistent with the Facility's configuration.⁵ Because Powerhouse #1 had not contributed capacity for almost 14 years, Staff believed Powerhouse #1 should be treated as a new project without capacity payments until the Company's first deficit year in 2028.

Just before the comment deadline Staff learned that the Facility had no way to separate the generation output from Powerhouse #1 and Powerhouse #2 because there was a single point of metering for both powerhouses. Because of the inability to separately meter the output from each powerhouse, Staff argued an alternative solution needed to be developed that would ensure capacity payments for the output of Powerhouse #2, but not Powerhouse #1.

Staff also reviewed the contract provisions related to the 90/110 rule and believed the firm market price should be converted to a Non-Firm Market Price, using an 82.4% discount.

When the Facility produces energy outside of the 90/110 performance band for a given month, the total energy delivered in that month is priced at the lesser of 85% of the market price or the contract price. However, given the need for two sets of contract rates, one set for each powerhouse until the Company is capacity deficient, a method is needed to ensure that the contract rate that is compared against the market rate if Fall River falls outside of the 90/110 band is appropriate and reasonable. If the Commission allows additional time for discovery and analysis, Staff believes it will be able to find an alternative that is appropriate for purposes of the 90/110 rule and will include its recommendations in its supplemental comments.

⁵ Staff discovered, by reviewing Federal Energy Regulatory Commission Form 556, that Powerhouse #1 had not been in operation since 2006. Fall River indicated there are plans for Powerhouse #1 to be operational at or before the effective date of the new contract on April 1, 2021.

Staff also recommended that the term “Mid-C-85” in Exhibit K be changed to “PV-85” to reflect the use of the Palo Verde Hub.

In Staff’s supplemental comments filed in support of the Stipulation (October 22, 2020), Staff iterated its belief that the Stipulation represented a fair, just, and reasonable solution to the issues identified in the proceeding and that it was in the public interest. Staff supported the Stipulation as resolving all issues identified in Staff’s initial (August 17, 2020) comments.

Staff supported the Parties’ agreement to limit capacity payments for hourly generation of electricity from the Facility to 5,100 kWhs until January 1, 2028.⁶

Staff paid considerable attention to determination of the “contract rate used to compare against 85% of the Non-Firm Market Price for payment of non-conforming energy before January 1, 2028.” Staff supported using a Weighted-Average Conforming Energy Purchase Price as the contract price to compare against 85% of the Non-Firm Market Price for payment of non-conforming energy for purposes of the 90/110 rule until January 1, 2028.⁷ Staff noted that a combination of four contract prices could be applied each hour in a month made up of on and off-peak prices, and prices with and without capacity payments, depending on hourly generation amounts.⁸

Staff discussed the specific situation when actual generation in any month is above 110% of the estimated amount, and when the Weighted-Average Conforming Energy Purchase Price is higher than 85% of the Non-Firm Market Price. Staff stated:

The Stipulation requires the Amended Agreement to reflect use of the average of the Weighted-Average Conforming Energy Purchase Price and 85% of the Non-Firm Market Price weighted by the amount of generation below and above 110% of the estimated amount, respectively, to calculate payments. Effectively, the generation amount below 110% of the estimated amount is paid at the Weighted-Average Conforming Energy Purchase Price, and the generation amount above the 110% of the estimated amount is paid at the lower of 85% of the Non-Firm Market Price and the contract price.

⁶ 5,100 kWh is the maximum amount that Powerhouse #2 has been able to historically generate in any given hour even though it has a nameplate capacity of 5,500 kWh.

⁷ The Weighted-Average Conforming Energy Purchase Price is an average contract price weighted by the generation amount in each hour and is calculated by taking the total revenue that would have been earned by the QF in each month as if all energy was conforming energy divided by the total energy generated by the QF for that month.

⁸ If the Weighted-Average Conforming Energy Purchase Price is less than 85% of the Non-Firm Market Price, regardless if the amount of energy is above or below the 90/110 band, the on and off-peak, and with and without capacity payment contract pricing structure can be applied for each hour in the month as if all energy is conforming. If 85% of the Non-Firm Market Price is less than the Weighted-Average Conforming Energy Purchase Price, then 85% of the Non-Firm Market Price can be used to calculate payments for generation amounts for all hours in the month.

2. Company Comments

The Company filed reply comments to Staff's initial (August 17, 2020) comments. The Company accepted Staff's recommendation to use 82.4% as the discount rate to convert firm market prices to the Non-Firm Market Price in the Agreement and to correct Exhibit K by replacing Mid-C-85 with PV-85.

The Company also indicated its willingness to work with Staff and Fall River to develop a metering solution acceptable to all Parties and to file an Amended Agreement incorporating modifications based on Staff's comments.

3. Fall River Comments

Fall River filed comments supporting the Stipulation. Fall River discussed the historical operation of the Facility (before Powerhouse #1 went offline in 2006). Fall River also noted that the Parties' Stipulation would not require alterations to metering or billing systems or cause any Party to incur additional cost or delay to reconfigure the existing system.

Fall River reiterated its belief that the Facility (both Powerhouse #1 and Powerhouse #2) should be eligible for capacity payments for all electrical output based on Commission precedent. However, Fall River acknowledged the extended period Powerhouse #1 has been offline and indicated its willingness to compromise was predicated on the Parties' ability to agree to cost-effectively implement Staff's proposal. Fall River noted that that the Facility has generated more electrical output during the years since Powerhouse #1 has been out of service.

Fall River discussed other issues the Parties agreed to resolve. Notably, Fall River mentioned the replacement of the market price for non-conforming energy with a reduced value to the market price used to approximate the Non-Firm Market Price. Fall River suggested these modifications and the changes to capacity payments reduce the amount Fall River is paid for its output.

Although Fall River agreed to the terms and supported the Stipulation, it noted its right, if the Commission rejects the Stipulation, to present its position for approval of the originally filed Agreement with capacity payments for *all* output generated at the Facility.

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. In addition, the Commission has authority under PURPA and Federal Energy Regulatory Commission (“FERC”) regulations to set avoided costs, 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 considers settlement stipulations under Rules 271-277. IDAPA 31.01.01.271-277. When a settlement is presented to the Commission, the Commission will prescribe the procedures appropriate to the nature of the settlement to consider it. IDAPA 31.01.01.274. Further, proponents of a settlement must show that the settlement is reasonable, in the public interest, or otherwise in accordance with law or regulatory policy. IDAPA 31.01.01.275. Finally, the Commission is not bound by settlement agreements. Instead, the Commission “will independently review any settlement proposed to it to determine whether the settlement is just, fair and reasonable, in the public interest, or otherwise in accordance with law or regulatory policy.” IDAPA 31.01.01.276.

The Commission has reviewed the record, including the Stipulation, the Agreement, and the comments of Staff, the Company, and Fall River. Based on our review, we find it reasonable to approve the Stipulation, which provides terms for the Amended Agreement that Fall River and the Company will submit within seven (7) days after issuance of this Order.

This matter presents a unique situation the Commission has not directly addressed before: how to treat capacity payments in a contract renewal when a portion of a Facility has not been operational for an extended period. In Order No. 32697, we determined that it is reasonable “for the utilities to only begin payments for capacity at such time that the utility becomes capacity deficient.” We further explained that “if a QF project is being paid for capacity at the end of the contract term and the parties are seeking renewal/extension of the contract, the renewal/extension would include immediate payment of capacity.” It is axiomatic that an existing QF’s capacity would not be considered surplus power because its capacity has already been included in the utility’s load and resource balance. *See* Order No. 34512.

Here, the two generators in Powerhouse #1 were not operational through multiple capacity deficiency periods, while the two generators at Powerhouse #2 were operational the entire contract period. The single point of metering further complicates the options. We agree with the

outcome the Parties negotiated. The Stipulation represents a reasonable solution for this unique situation. Due to the extended period Powerhouse #1 has been offline, we find it would be inappropriate for Fall River to receive immediate capacity payments for the energy generated at Powerhouse #1. This conclusion is consistent with our prior findings that capacity payments for the renewal/extension of energy sales agreements are conditioned upon consistent and continuous operation of the facility at the time of the renewal/extension. (*See e.g.* Order Nos. 32697, 33357, and 34692).

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 Agreement are prudently incurred expenses for ratemaking purposes as it pertains to Idaho’s jurisdictional share.⁹ 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 the Stipulation is Approved.

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


IT IS FURTHER ORDERED that the Company or Fall River shall file the Amended Agreement within seven (7) days of the service date of this Order.

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 regarding any matter decided in 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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⁹ 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 12th
day of January 2021.



PAUL KJELLANDER, PRESIDENT

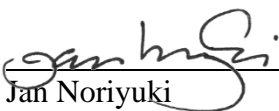


KRISTINE RAPER, COMMISSIONER



ERIC ANDERSON, COMMISSIONER

ATTEST:



Jan Noriyuki
Commission Secretary

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Case No. PAC-E-20-10 - Example illustrating calculations of payments for conforming and non-conforming energy.

Note: Data and rates are contrived for illustration purposes.

Rates	On-Peak	Off Peak
Below cap - Energy + Capacity (\$/kWh)	100	90
Above cap - Energy (\$/kWh)	50	40

Hourly Capacity Payment Eligibility Cap (kWh) = 10

Example Month: Assumes only 10 hours in the month.	Hour	Energy generated (kWh)	Energy below cap (kWh)	Energy above cap (kWh)	Rate below cap (\$/kWh)	Rate above cap (\$/kWh)
Hi Load Hours	1	9	9	0	100	50
	2	8	8	0	100	50
	3	9	9	0	100	50
Low Load Hours	4	9	9	0	90	40
	5	10	10	0	90	40
	6	12	10	2	90	40
	7	9	9	0	90	40
Hi Load Hours	8	8	8	0	100	50
	9	12	10	2	100	50
	10	10	10	0	100	50
Total		96	92	4		

Scenario :	Scenario 1	Scenario 2	Scenario 3	Scenario 4	Scenario 5	
Scenario Description: <div style="border: 1px solid black; padding: 5px; width: fit-content;"> Mike Louis: Weighted-Average Conforming Energy Purchase Price = total month revenue as if all energy is conforming / total energy generated during month Weighted-Average Conforming Energy Purchase Price = \$9000 / 96 kWh = \$93.75/kWh </div>	All Energy is Conforming Energy	Energy is below 90% threshold. Contract Rate is lower than Market Rate. Note: Revenue calculated using the Weighted-Average Conforming Energy Purchase Price is the same as using Scenario 1 rates for conforming energy .	Energy is below 90% threshold. Market Rate is lower than Contract Rate. Note: Market rate is used for all generation in the month.	Energy is above 110% threshold. Contract Rate is lower than Market Rate. Note: Revenue calculated using the Weighted-Average Conforming Energy Purchase Price is the same as using Scenario 1 rates for conforming energy .	Energy is above 110% threshold. Market Rate is lower than Contract Rate. Note: Rate is weighted by generation, using contract rate and generation below 110% threshold and market rate and generation above 110% threshold.	
90/110 Forecast: kWh 90% of Forecast: kWh 110% of Forecast: kWh 85% of Non-firm Market Rate: \$/kWh Weighted-Average Conforming Energy Purchase Price: \$/kWh	100 90 110	110 99 121	110 99 121	80 72 88	80 72 88	
		95	70	95	70	
		93.75	93.75	93.75	93.75	
	Hour	Payment (\$)	Rate (\$/kWh)	Payment (\$)	Rate (\$/kWh)	Payment (\$)
	1	900.00	93.75	843.75	70.00	630.00
	2	800.00	93.75	750.00	70.00	560.00
	3	900.00	93.75	843.75	70.00	630.00
	4	810.00	93.75	843.75	70.00	630.00
	5	900.00	93.75	937.50	70.00	700.00
	6	980.00	93.75	1,125.00	70.00	840.00
	7	810.00	93.75	843.75	70.00	630.00
	8	800.00	93.75	750.00	70.00	560.00
	9	1,100.00	93.75	1,125.00	70.00	840.00
	10	1,000.00	93.75	937.50	70.00	700.00
Total Revenue for Month:		9,000.00		9,000.00		6,720.00
						9,000.00
						8,810.00

Mike Louis:
 Rate for Scenario 5 = ((generation less than or equal to 110% of 90/110 forecast x Weighted-Average Conforming Energy Purchase Price) + (generation greater than 110% of 90/110 forecast x 85% of Non-firm Market Rate)) / Total Energy Generated

 Rate for Scenario 5 = ((88 kWh x \$93.75/kWh) + (96 kWh - 88 kWh) x (\$70/kWh)) / 96 kWh = \$91.77/kWh