

DECISION MEMORANDUM

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

FROM: MATT HUNTER
DEPUTY ATTORNEY GENERAL

DATE: JANUARY 14, 2021

SUBJECT: IN THE MATTER OF ROCKY MOUNTAIN POWER'S APPLICATION FOR APPROVAL OF A CAPACITY DEFICIENCY PERIOD TO BE USED FOR AVOIDED COST CALCULATIONS; CASE NO. PAC-E-20-13

On October 6, 2020, Rocky Mountain Power ("Company"), a division of PacifiCorp, applied for Commission approval a capacity deficiency period beginning July 2029, to be used in avoided cost calculations under the Public Utility Regulatory Policies Act of 1978 ("PURPA").

On October 29, 2020, the Commission issued a Notice of Application and Modified Procedure, setting a December 22, 2020 comment deadline and a January 12, 2020 reply comment deadline. The Notice also established a 21-day intervention deadline. Order No. 34826. Idaho Hydroelectric Power Producers Trust dba IdaHydro and the Renewable Energy Coalition ("Intervenors") each petitioned to intervene. The Commission granted these petitions to intervene on December 3, 2020. Order No. 34856.

On December 21, 2020, the Intervenors jointly filed written comments and protest, requesting a technical hearing¹ under procedural Rule 203. *See* IDAPA 31.01.01.203. Commission Staff filed timely comments. The Company did not file reply comments.

BACKGROUND

Under PURPA, the Commission has established a surrogate avoided resource ("SAR") methodology and an integrated resource plan ("IRP") methodology to calculate avoided cost rates

¹ While the Intervenors' request for a hearing did not state whether the intervenors want a technical or a customer hearing, Commission Staff understands the intervenors' request (based on context) to be for a technical hearing. *See* IDAPA 31.01.01.241.04.

for qualifying facilities (“QFs”). Under both methodologies, a QF receives capacity payments only after the applicable capacity deficit date is reached. Order No. 32697.

The capacity deficit date is determined through the biennial IRP planning process and is submitted to the Commission in a proceeding separate from the IRP docket. The capacity deficit date determined in the IRP process is presumed to be correct as a starting point but will be subject to the outcome of the capacity deficiency case. Order No. 32697.

The Company filed its IRP in October 2019. *See* Case No. PAC-E-19-16. The 2019 IRP showed a capacity deficiency period beginning July 2028. Staff critiqued the Company’s load and resource balance used for PURPA purposes, specifically the early retirement of several thermal resources (including Craig Unit Nos. 1 and 2, Colstrip Unit Nos. 3 and 4, Naughton Unit Nos. 1 and 2, and Jim Bridger Unit Nos. 1 and 2). Staff noted:

The load and existing resource balance identifies resource deficiencies in the Company’s system acting as a starting point for developing and evaluating future resource portfolios. A decision to close a plant early must be evaluated against other alternatives that maintain system reliability and should be made as part of the portfolio development and evaluation phase of the IRP.

Case No. PAC-E-19-16, Staff Comments at 5. In short, Staff disagreed with a load and resource balance that reflects an early retirement for these thermal resources because early retirement of these resources has not yet been evaluated and approved by the Commission. Early retirement remains optional and is not currently a requirement in Idaho.

THE APPLICATION

In its Application, the Company explained that it calculated its capacity deficit date in the present docket by removing from its load and resource balance the early retirement of the thermal resources noted by Staff in Case No. PAC-E-19-16, and updating the power purchase agreements in its load and resource balance. The Company stated that these updates to the 2019 IRP result in a capacity deficit date in July 2029.

THE COMMENTS

1. Staff Comments

Staff supported the Company’s proposed load and resource balance, which removes the early retirement of select thermal resources. Staff Comments at 5. “These thermal resources are currently ‘available’ and/or ‘existing’ resources and any early retirements may be delayed to

maintain reliability. Staff's ongoing evaluations to retire coal units early are based on economic decisions and since economic retirements may be delayed it does not create deficits until committed and approved." *Id.* Staff described the default standard for utility-owned generation resources in the load and resource balance for determining capacity deficiency to be as follows: "Existing resources reflect their authorized useful life, unless early retirements are authorized. Future resources and their useful life are included when authorized." *Id.*, Attachment A.

2. Intervenors' Joint Comments, Protest, and Request for Hearing

The Intervenors disagreed with the Company not including the early retirement of its thermal resources in its load and resource balance when calculating its capacity deficit date. Intervenors' Comments at 2. The Intervenors argued that not including the early retirement of the thermal resources would be inconsistent with the Commission's directives in Order No. 32697 and illogical. *Id.* at 3-8. The Intervenors requested a hearing under procedural Rule 203 so that "the Commission [can] review the matter on a fully developed record after complete discovery." *Id.* at 9.

The Intervenors cited extensively to Case No. GNR-E-11-03, Order No. 32697, in which the Commission laid the framework for the PURPA avoided cost methodologies. *Id.* at 3-8. The Intervenors pointed out that the Commission recognized the capacity deficit date determined in a utility's biennial IRP would "be the starting point" for determining the capacity deficit date utilized in the SAR methodology, and "will be presumed to be correct subject to the outcome of the proceeding." *Id.* at 5; *see* Order No. 32697 at 23. The Intervenors noted that the Commission only established a second proceeding for determining the capacity deficit date utilized in avoid cost calculations because PURPA sellers were concerned that the variables in the IRP planning process could be manipulated by a utility to push out the capacity deficit date. Intervenors' Comments at 5. The Intervenors argued that the Company, in response to Staff's comments in Case No. PAC-E-19-16, is using this proceeding to push out its capacity deficit date—a result counter to the Commission-intended purpose of the proceeding. *Id.*

The Intervenors argued it is inconsistent with Order No. 32697 and illogical to keep all of the Company's IRP planning assumptions except the Company's planned early retirement of its thermal resources when calculating the Company's capacity deficiency date to be used in avoided cost calculations. *Id.* at 6.

[The Intervenors] recognize that any specific planning assumption may or may not occur; however, there is no reason to assume that [the Company]’s actual plans for coal retirements is less accurate than its assumptions regarding other loads and resources. [The Company]’s avoided cost plans should be based on its plans assumed in the IRP, unless it can be demonstrated that those plans are unreasonable....

Id. The Intervenors asserted that if the Company’s Application is approved, PURPA sellers in the Company’s resource stack will be denied capacity payments during a year in which the Company is in fact capacity deficient. *Id.* at 8.

The Intervenors requested a hearing. *Id.* at 9. “It is respectfully submitted that if the Commission is disposed to entertain the request to displace PURPA avoided cost pricing with Staff’s proposal of a ‘least cost alternative’ derived from a ‘combined resource decision,’ that the Commission review the matter on a fully developed record after complete discovery.” *Id.*

STAFF RECOMMENDATION

Staff believes a technical hearing is unnecessary in this proceeding, and that the record is sufficiently developed for the Commission to make a decision. The contested issue can be stated as follows: whether the Company’s planned early retirement of thermal resources should be reflected in the Company’s load and resource balance when calculating the Company’s capacity deficit date for PURPA avoided cost calculations. This is primarily a question of law, and the Commission may examine the question in light of its prior orders. *See* IDAPA 31.01.01.263 (“The Commission may officially note...in its orders...its own orders, notices, rules, certificates and permits....”). With the Company’s Application, Staff’s comments, and the Intervenors’ comments, the record is sufficiently developed. Additional discovery and a technical hearing serve no practical purpose.

Should the Commission decide the record should be developed further, Staff recommends the Commission use Modified Procedure and establish new comment deadlines.

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COMMISSION DECISION

Does the Commission wish to:

1. Grant the Intervenors' request for a technical hearing?
 - a. If no, does the Commission wish to set new comment deadlines?
 - i. If yes, does the Commission wish to direct the parties and Staff regarding how the record should be developed?



Matt Hunter
Deputy Attorney General

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