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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF ROCKY MOUNTAIN POWER'S APPLICATION FOR APPROVAL OF THE TRANSFER OF THE LOWER KLAMATH HYDROELECTRIC PROJECT GENERATING FACILITIES	)	**CASE NO. PAC-E-21-01** **COMMENTS OF THE COMMISSION STAFF**

STAFF OF the Idaho Public Utilities Commission, by and through its Attorney of record, Dayn Hardie, Deputy Attorney General, submits the following comments.

BACKGROUND

On January 14, 2021, PacifiCorp, d/b/a/ Rocky Mountain Power ("Rocky Mountain Power" or "Company") applied to the Commission for approval of the Property Transfer Agreement ("Transfer Agreement") between the Company and the Klamath River Renewal Corporation ("Renewal Corporation").

The Transfer Agreement provides for transfer of four hydroelectric dams—J.C. Boyle, Copco No. 1, Copco No. 2, and Iron Gate (collectively, "Lower Klamath Project")—from the Company to the Renewal Corporation, along with approximately 8,000 acres of real property and personal property associated with the dams. Application at 1. The Company states that approval of the Transfer Agreement is necessary for dam removal to begin. *Id.* at 16.

The Klamath Hydroelectric Settlement Agreement ("KHSA") was executed by the Company and 48 parties, including the states of Oregon and California, the U.S. Department of

Interior, the U.S. Department of Commerce's National Marine Fisheries Service, several Native American tribes, and irrigation, conservation, and fishing groups in 2010. *Id.* at 4-5. The KHSA provides $450 million in public funds to cover the costs of dam removal. *Id.* at 5. The Company will collect $200 million from Oregon and California customers through dam removal surcharges, and the remaining $250 million would be funded through California bond funding. *Id.* at 5, 7. The Company is not requesting dam removal cost recovery from Idaho customers. *Id.*

The KHSA was amended in 2016. The amended KHSA relies on Federal Energy Regulatory Commission's ("FERC") authority under the Federal Power Act ("FPA") to review and approve the license transfer and surrender. *Id.* In July 2020, FERC approved a partial transfer of the Lower Klamath Project license from the Company to the Renewal Corporation but required the Company to remain as a co-licensee. *Id.* at 10. To satisfy the Company's internal requirements regarding the KHSA, and to satisfy FERC's concerns, the Company, the states of Oregon and California, the Renewal Corporation, the Karuk Tribe, and Yurok Tribe entered into a Memorandum of Agreement, which removes the Company from the FERC license and makes the states and the Renewal Corporation co-licensees. *Id.* at 10-11. A new license transfer application was submitted to FERC on January 13, 2021. *Id.* at 11.

The Company will transfer its property interests in the Lower Klamath Project to the Renewal Corporation once all anticipated FERC Orders and state disposition approvals are secured. *Id.* at 12-13. Under the FPA, a license transferee must show it holds free title to the properties subject to the license before the license transfer can be effective. *Id.* at 13. The Company seeks state approvals of its Transfer Agreement with the Renewal Corporation so property transfer can occur when the license transfer is accepted. *Id.*

STAFF ANALYSIS

Staff has reviewed the proposed transfer to Renewal Corporation and believes that Idaho customers will not be harmed from the transaction. Staff also believes the proposed transfer meets the statutory requirements of *Idaho Code* §61-328 and thus recommends approval of the Company's Application.

PUBLIC INTEREST

The Company filed its Application for approval under the Idaho Electric Utility Asset Transfer statute, *Idaho Code* § 61-328. The Company states the transfer of the Lower Klamath Project dams and related property to the Renewal Corporation is in the public interest because it is lower cost and lower risk than relicensing the dams. The Lower Klamath Project has been operating on annual licenses approved by FERC since the original license issued in 1954 expired in 2006. Additionally, the Company explains that the transfer will not impact its capability to provide service to Idaho customers or increase their rates and shields Idaho customers from costs and liabilities associated with dam removal. *Id.* at 2.

Idaho Code § 61-328 requires the Commission to conduct a public hearing when an electric utility "sells, leases, assigns, or transfers" property located in Idaho. Because the Lower Klamath Project property being transferred is not located within the State of Idaho, Staff believes that a customer notice, press release or a public hearing are not required. Staff has reviewed the proposed transaction and believes that it supports the intent of the Electric Utility Asset Transfer statute and is consistent with prior Commission orders.

ACCOUNTING TREATMENT

The Company is not seeking authorization for any accounting treatment or cost recovery associated with transfer of the Lower Klamath Project property at this time. The dam removal fund has been funded by Oregon and California ratepayers, along with State of California bonds. With funding already secured, recovery from Idaho ratepayers is not necessary. When the transfer to Renewal Corporation is approved by FERC, the Company will book any remaining plant balance to a regulatory asset that will be amortized over the remaining depreciable life.

Staff recommends that recovery of any remaining plant balances be determined in the Company's next general rate case. The prudency of any additional capital projects for the Lower Klamath Project will be evaluated for prudence in future general rate cases as the costs are incurred. Staff also recommends that the Company file bi-annual reports updating the Commission and Staff on the status of the license transfer filing with FERC and provide information on new capital projects for the Lower Klamath Project.

LOWER KLAMATH PROJECT HYDROELECTRIC ECONOMIC ANALYSIS

Staff reviewed the economic analysis performed by the Company, including method, important input assumptions, and the analysis results, to evaluate the removal of the Lower Klamath Projects and believes it is reasonable. The economic analysis supports the Company's decision. Based on the analysis, Staff also believes this is in customers' best interests. Staff believes that the analysis supports Idaho's public interest and that the cost of and rates for supplying electric service to Idaho customers will not be increased by their removal. Staff evaluated the economic analysis by reviewing the analysis method, important input assumptions, and the analysis results.

Staff's conclusion is based on its review of the Company's Present Value Revenue Requirement ("PVRR") method which is similar to the analysis used to determine prudence of several investments made by the Company over the past several years. *See* Case Nos. PAC-E-17-06, PAC-E-17-07, PAC-E-20-03.

In this case, the analysis compared the PVRR cost and benefit streams over a 44-year period of two scenarios: (1) relicensing the Klamath Projects, and (2) the decommissioning of the projects through the KHSA. Both scenarios evaluated in the economic analysis were done from the Company's perspective, thus giving results for determining the long-term impact to the Company's ratepayers. The results of the analysis showed an approximate PVRR benefit of $3 million to the Company's customers over the 44-year period in support of the KHSA over relicensing.

The analysis was performed in 2010 using the best-known information at the time, paving the way for the KHSA. Most of the information used in the relicensing scenario came from a 2007 FERC Environmental Impact Statement. The majority of information for the KHSA scenario came from the information agreed to in the KHSA. Examples of the costs and benefits in the analysis included: (1) potential protection, mitigation, and enhancement measure costs required when relicensing; (2) reduction in energy production for both relicensing and removal; (3) replacement renewable energy for both relicensing and removal; and (4) dam removal surcharges recovered from the Company's Oregon and California customers.

Although the study is about ten years old, Staff believes the 2010 analysis was likely conservative for two reasons. First, the cost of generation from other sources replacing the projects were likely overstated due to the cost of renewable generation,[1] which has decreased significantly in price, thus making the KHSA scenario more beneficial given today's prices. Second, the cost risk

[1] The replacement resources used in the PVRR analysis were renewable, non-carbon emitting resources. See Hemstreet, Di at 26.

of relicensing a hydroelectric project tends to increase as compared to initial estimates due to inflation associated with the construction cost of environmental mitigation measures. It is highly likely these costs today would be significantly higher.

CUSTOMER NOTICE AND PRESS RELEASE

The Company did not issue a customer notice or press release to Idaho ratepayers. As of filing of Staff's comments, there have been no public comments submitted for this case.

STAFF RECOMMENDATION

Staff recommends approval of the transfer of the Lower Klamath Project to Renewal Corporation. Staff recommends that prudency of additional capital and the accounting treatment be determined as appropriate in future general rate cases. Staff also recommends that the Company provide the Commission and Staff with bi-annual reports on the status of the license transfer filing with FERC[2] and provide information on new capital projects for the Lower Klamath Project.

Respectfully submitted this 19th day of May 2021.

Dayn Hardie
Deputy Attorney General

Technical Staff: Travis Culbertson
Michael Eldred
Kevin Keyt

i:umisc/comments/pace21.6dhksktncme comments

[2] FERC License P-2082. FERC approved the proposed amendment to separate the Lower Klamath Project and transfer to a new license. Pending License No. 14803.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 19TH DAY OF MAY 2021, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF,** IN CASE NO. PAC-E-21-01, BY E-MAILING A COPY THEREOF, TO THE FOLLOWING:

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