

Gregory M. Adams (ISB No. 7454)
Peter J. Richardson (ISB No. 3195)
Richardson Adams, PLLC
515 N. 27th Street
Boise, Idaho 83702
Telephone: (208) 938-2236
Fax: (208) 938-7904
greg@richardsonadams.com
peter@richardsonadams.com

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IDAHO PUBLIC
UTILITIES COMMISSION

Attorneys for Fall River Rural Electric Cooperative, Inc.

BEFORE THE
IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF)
PACIFICORP FOR APPROVAL OR)
REJECTION OF THE PURCHASE POWER)
AGREEMENT WITH CHESTER DIVERSION)
HYDRO PROJECT)

CASE NO. PAC-E-21-06

DECLARATON OF BRYAN CASE IN
SUPPORT OF REPLY COMMENTS
OF FALL RIVER RURAL ELECTRIC
COOPERATIVE, INC.

I, Bryan Case, declare under the penalty of perjury as follows:

1. This declaration is based on my personal knowledge and, if called to testify to the following facts, I could and would competently do so.
2. I am the General Manager of Fall River Rural Electric Cooperative, Inc. ("Fall River").
3. Fall River owns and operates the Chester Diversion Project hydropower facility.
4. The Chester Diversion Project is a small hydropower facility utilizing the head of a pre-existing Chester Diversion Dam (a.k.a. the Cross Cut Diversion dam) on the Henry's Fork of the Snake River in Fremont County, Idaho, and it has a maximum generating capacity of 2.0 megawatts ("MW"). The facility is already constructed and operating through an interconnection to Fall River's own distribution system.

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RIVER RURAL ELECTRIC COOPERATIVE, INC.

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5. Fall River decided to sell the energy and capacity of the facility to PacifiCorp, dba Rocky Mountain Power, (“PacifiCorp”) as a qualifying facility, and we first contacted PacifiCorp to request a power purchase agreement (“PPA”) for such sales with a written request listing project-specific information contained on PacifiCorp’s Schedule 38 on September 12, 2019.

6. Fall River had hoped to begin selling power to PacifiCorp from the Chester Diversion Project as soon as possible, but it took much longer than we expected it would to finalize a PPA with PacifiCorp. In total, it took over one year and five months to get the PPA finalized and fully executed for the Chester Diversion Project – from September 12, 2019, until February 26, 2021. During this time period, Fall River experienced delays in PacifiCorp’s responses to requests for a draft PPA and in responses to Fall River’s edits to the draft PPAs supplied by PacifiCorp.

7. The exhibits to this declaration include the significant correspondence between Fall River and PacifiCorp related to Fall River’s PPA request and ensuing discussions and exchange of drafts beginning on September 12, 2019. I either caused to be sent, or was copied as a recipient on, the correspondence set forth in the exhibits attached to this declaration.

8. Attached as **Exhibit 1** hereto is a true and correct copy of the letter dated September 12, 2019, sent from me on behalf of Fall River containing project-specific information for the Chester Diversion Project for the information listed on PacifiCorp’s Schedule 38.

9. Attached as **Exhibit 2** hereto is a true and correct copy of an email dated October 2, 2019, from Kyle Moore on behalf of PacifiCorp related to the PPA request.

10. Attached as **Exhibit 3** hereto is a true and correct copy of an email dated October 4, 2019, from Dave Peterson on behalf of Fall River with the attached Interconnection Request to PacifiCorp and \$1,000 application payment for the Chester Diversion Project.

11. Attached as **Exhibit 4** hereto is a true and correct copy of an email dated October 9, 2019, sent from me on behalf of Fall River requesting PacifiCorp send a pro forma PPA consistent with Schedule 38, Section B.1.

12. Attached as **Exhibit 5** hereto is a true and correct copy of an email dated November 12, 2019, from Dave Peterson on behalf of Fall River supplying PacifiCorp's transmission and interconnection personnel with Fall River's signed System Impact Study Agreement, a \$10,000 deposit for the study, and other supporting materials.

13. Attached as **Exhibit 6** hereto is a true and correct copy of the letter dated November 25, 2019, from Kristopher Bremer on behalf of PacifiCorp to Fall River regarding the interconnection request, titled: "Q1182: Fall River Rural Electric Cooperative, Inc. – Chester Hydro / Notice of Delay of System Impact Study Report Provision." The letter stated: "PacifiCorp will be unable to provide the Interconnection Customer's System Impact Study ('Study') within the timelines outlined in PacifiCorp's Small Generation Interconnection Procedures."

14. Attached as **Exhibit 7** hereto is a true and correct copy of the letter dated December 10, 2019, from Greg Adams on behalf of Fall River to Jacob McDermott, PacifiCorp's counsel, reiterating Fall River's request that PacifiCorp supply: (i) a pro forma PPA as previously requested on October 7, 2019; (ii) a draft PPA, as previously requested on September 12, 2019; and (iii) an interconnection System Impact Study consistent with the System Impact Study Agreement dated November 12, 2019.

15. Attached as **Exhibit 8** hereto is a true and correct copy of the email dated January 6, 2020, from Kyle Moore on behalf of PacifiCorp, along with the attached pro forma Idaho Small Hydro PPA.

16. Attached as **Exhibit 9** hereto is a true and correct copy of the email dated January 15, 2020, from Greg Adams on behalf of Fall River reiterating the prior requests to Jacob McDermott, counsel for PacifiCorp.

17. Attached as **Exhibit 10** hereto is a true and correct copy of the email dated January 15, 2020, from Jacob McDermott on behalf of PacifiCorp related to the PPA and interconnection issues.

18. Attached as **Exhibit 11** hereto is a true and correct copy of the letter dated February 19, 2020, sent by Greg Adams on behalf of Fall River to PacifiCorp's representatives providing a proposed draft PPA for the Chester Diversion Project based on the provisions of the pro forma PPA PacifiCorp had sent.

19. Attached as **Exhibit 12** hereto is a true and correct copy of the email dated March 5, 2020, from Kyle Moore on behalf of PacifiCorp replying to the February 19 correspondence.

20. Attached as **Exhibit 13** hereto is a true and correct copy of the email dated March 9, 2020, from Greg Adams on behalf of Fall River responding to requests for additional information, along with corresponding attachments.

21. Attached as **Exhibit 14** hereto is a true and correct copy of the email dated March 13, 2020, from Kyle Moore on behalf of PacifiCorp, responding to the information provided in the March 9 email and stating PacifiCorp would not commence negotiation of the PPA without any interconnection studies.

22. Attached as **Exhibit 15** hereto is a true and correct copy of the letter dated May 11, 2020, from Greg Adams on behalf of Fall River regarding the Chester Hydro PPA, supplying revisions to the initial request for a PPA to facilitate an off-system PPA.

23. Attached as **Exhibit 16** hereto is a true and correct copy of the email dated June 10, 2020, from Greg Adams on behalf of Fall River following up on the previous correspondence.

24. Attached as **Exhibit 17** hereto is a true and correct copy of the email dated June 18, 2020, from Kyle Moore on behalf of PacifiCorp with the attached draft PPA for the Chester Project.

25. Attached as **Exhibit 18** hereto is a true and correct copy of the email dated July 20, 2020, from Greg Adams on behalf of Fall River, including attachments with proposed revisions to the Chester Hydro PPA.

26. Attached as **Exhibit 19** hereto is a true and correct copy of the email dated August 21, 2020, from Greg Adams on behalf of Fall River following up on the previous correspondence.

27. Attached as **Exhibit 20** hereto is a true and correct copy of the email dated August 26, 2020, from Kyle Moore on behalf of PacifiCorp.

28. Attached as **Exhibit 21** hereto is a true and correct copy of the email dated September 3, 2020, from Greg Adams on behalf of Fall River following up on the previous correspondence.

29. Attached as **Exhibit 22** hereto is a true and correct copy of the email dated September 17, 2020, from Kyle Moore on behalf of PacifiCorp with proposed PPA edits attached.

30. Attached as **Exhibit 23** hereto is a true and correct copy of the email dated October 2, 2020, from Greg Adams on behalf of Fall River following up regarding transmission losses discussed on a telephone call on October 1, 2020.

31. Attached as **Exhibit 24** hereto is a true and correct copy of the email dated October 16, 2020, from Greg Adams on behalf of Fall River, reiterating clarifications requested by Fall River on the parties' telephone call on October 1, 2020.

32. Attached as **Exhibit 25** hereto is a true and correct copy of the email dated November 30, 2020, from Greg Adams on behalf of Fall River requesting PacifiCorp's response to Fall River's prior requests to PacifiCorp.

33. Attached as **Exhibit 26** hereto is a true and correct copy of the email dated December 1, 2020, from Kyle Moore on behalf of PacifiCorp apologizing for delay and requesting information about Chester Diversion Project's metering.

34. Attached as **Exhibit 27** hereto is a true and correct copy of the email dated December 2, 2020, from Dave Peterson on behalf of Fall River supplying additional information regarding the Chester Diversion Project's metering requested by PacifiCorp.

35. Attached as **Exhibit 28** hereto is a true and correct copy of the email dated December 4, 2020, from Kyle Moore on behalf of PacifiCorp regarding metering.

36. Attached as **Exhibit 29** hereto is a true and correct copy of the email dated December 7, 2020, from Dave Peterson on behalf of Fall River regarding metering.

37. Attached as **Exhibit 30** hereto is a true and correct copy of the email dated December 8, 2020, from Greg Adams on behalf of Fall River reiterating prior requests regarding the PPA.

38. Attached as **Exhibit 31** hereto is a true and correct copy of the email dated December 8, 2020, from Kyle Moore on behalf of PacifiCorp regarding timing of PacifiCorp responses on metering and PPA edits.

39. Attached as **Exhibit 32** hereto is a true and correct copy of the email dated December 11, 2020, from Kyle Moore on behalf of PacifiCorp, including attached edits to the draft PPA.

40. Attached as **Exhibit 33** hereto is a true and correct copy of the email dated December 30, 2020, from Kyle Moore on behalf of PacifiCorp providing final confirmation on sufficiency of Chester Diversion Project's existing metering for PacifiCorp's purposes.

41. Attached as **Exhibit 34** hereto is a true and correct copy of the email dated January 5, 2021, from Greg Adams on behalf of Fall River with final edits to the PPA attached.

42. Attached as **Exhibit 35** hereto is a true and correct copy of the email dated January 15, 2021, from Greg Adams on behalf of Fall River reiterating Fall River's intent to execute the final PPA.

43. Attached as **Exhibit 36** hereto is a true and correct copy of the email dated Thursday January 21, 2021, from Kyle Moore on behalf of PacifiCorp, stating he would follow up early the next week on the final PPA.

44. Attached as **Exhibit 37** hereto is a true and correct copy of the dated February 9, 2021, from Greg Adams on behalf of Fall River again requesting response on PacifiCorp's preferred process for execution of the final PPA.

45. Attached as **Exhibit 38** hereto is a true and correct copy of the email dated February 10, 2021, from Cynthia Mifsud, counsel for PacifiCorp, regarding the final PPA.

46. Attached as **Exhibit 39** hereto is a true and correct copy of the email dated February 11, 2021, from Kyle Moore on behalf of PacifiCorp, providing an copy of the final PPA for Fall River to execute.

47. Attached as **Exhibit 40** hereto is a true and correct copy of the email dated February 11, 2021, sent from me on behalf of Fall River with the signed final PPA attached.

48. Attached as **Exhibit 41** hereto is a true and correct copy of the email dated March 2, 2021, from Greg Adams on behalf of Fall River requesting information on when the executed PPA would be filed with the Idaho Public Utilities Commission.

49. Attached as **Exhibit 42** hereto is a true and correct copy of the email dated March 3, 2021, from Kyle Moore on behalf of PacifiCorp with the executed PPA attached and responding regarding timing to file the PPA for approval by the Idaho Public Utilities Commission.

50. As these correspondences demonstrate, there were significant delays by PacifiCorp during the PPA discussions. Additionally, the correspondence demonstrate that Fall River was persistent in following up with requests for responses from PacifiCorp throughout the process. I will summarize the significant delays caused by PacifiCorp during the process.

51. First, delays in PacifiCorp's interconnection process caused a delay in Fall River's PPA process. Fall River initially intended to interconnect the Chester Diversion Project to a nearby PacifiCorp-owned power line to avoid the complications and cost of transmitting the power to PacifiCorp, and made an interconnection request on October 4, 2019, contained in **Exhibit 3**. However, PacifiCorp was unable to supply an interconnection System Impact Study to Fall River, which was communicated by PacifiCorp's correspondence dated November 25, 2020, contained in **Exhibit 6**. In turn, PacifiCorp's PPA negotiators refused to even commence negotiations on a

draft PPA due to unknown interconnection timelines, which is demonstrated in an email from Kyle Moore on behalf of PacifiCorp dated March 13, 2020, contained in **Exhibit 14**. Instead of engaging in a dispute over PacifiCorp's position, Fall River elected to revise its PPA request to be a request for an off-system PPA for deliveries transmitted to PacifiCorp over Bonneville Power Administration's ("BPA") system, which was supplied by letter from Greg Adams dated May 11, 2020, contained in **Exhibit 15**. This delay resulting from PacifiCorp's interconnection process delayed the PPA negotiations by several months.

52. Second, PacifiCorp was delayed in supplying an initial pro forma PPA for evaluation. PacifiCorp provided a pro forma PPA for evaluation on January 6, 2020, contained in **Exhibit 8**, which was almost three months after my request for a pro forma PPA dated October 9, 2020, contained in **Exhibit 4**, even though PacifiCorp's Schedule 38, page 4, Section B, states the pro forma PPA will be supplied within seven days. This delayed Fall River's ability to begin evaluating and preparing Fall River's comments and edits to the form of PPA PacifiCorp proposed by over two months.

53. Third, PacifiCorp was delayed in supplying the draft PPA in response to Fall River's revised PPA request. PacifiCorp took 38 days, until June 18, 2020, to respond to Fall River's revised PPA request for an off-system PPA, which had been sent on May 11, 2020, which are reflected in **Exhibits 15-17**. This was in excess of the outer time limit we expected for response to PPA edits based on the 30-days deadline for such responses provided in PacifiCorp's Schedule 38, page 8.

54. Fourth, during the ensuing discussions, PacifiCorp took 58 days, until September 17, 2020, to respond to Fall River's next proposed edits to the PPA and supply of additional

PacifiCorp-requested information that Fall River had sent on July 20, 2020. This is reflected in **Exhibits 18-21**. Again, this 58-day period was well in excess of the 30-day maximum response time we expected. PacifiCorp's lead negotiator, Kyle Moore, acknowledged the delay in an August 26, 2020 email, contained in **Exhibit 20**, stating "we apologize for our delay and will make it up in our next response period."

55. Fifth, PacifiCorp was slow to respond to make a proposal on the remaining limited items at issues during last fall. On a telephone call on October 1, 2020, Fall River and PacifiCorp representatives discussed a limited number of open items in the PPA. Fall River requested PacifiCorp's proposed resolution for the following points: (i) BPA transmission losses to be used, (ii) identification of any metering upgrades that Fall River would be required to make at the Chester Diversion Project under PacifiCorp's proposed PPA, and (iii) an appropriate cure period for any failure by Fall River to begin deliveries by the PPA's First Delivery Date. As is reflected in communications in **Exhibits 23-30**, PacifiCorp took 71 days, until December 11, 2020, to provide a proposal for the cure period for the First Deliver Date in the PPA, and it took 90 days, until December 30, 2020, to confirm that no metering upgrades would be required under its proposed PPA. During this time period, PacifiCorp's representative Kyle Moore again apologized about PacifiCorp's delay in an email dated December 1, 2020, contained in **Exhibit 26**.

56. Additionally, PacifiCorp's proposal for the cure period for the First Delivery Date was not acceptable to Fall River, as it would have placed unreasonable risks of default on Fall River for delays in the PPA approval process before the Idaho Public Utilities Commission. Fall River had to make a counter proposal, which it did by email from our counsel dated January 5, 2021, containing a final PPA with final edits to the First Delivery Date and proposed delay default


provisions, which is contained in **Exhibit 34**. In that January 5, 2021 email, Fall River also communicated that with that final edit, the PPA was “acceptable to Fall River and we are prepared to get it executed and filed with the PUC.” That version of the PPA was the final PPA eventually executed by the parties.

57. However, PacifiCorp did not communicate its preferred process for execution of the final PPA until an email sent by PacifiCorp’s representative, Kyle Moore, on February 11, 2021, which sent the PPA and indicated Fall River should execute it, contained in **Exhibit 38**.

58. On behalf of Fall River, I executed the PPA on that same date, February 11, 2021. That PPA sent by PacifiCorp and executed by me on February 11, 2021, contained the avoided cost rates that had been in effect at the time that Fall River sent and expressed commitment to the final PPA on January 5, 2021. PacifiCorp’s representative, Bruce Griswold, countersigned the same PPA on February 26, 2021, containing those same rates.

I declare under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

DATED this 24 day of May 2021.

By: 
Bryan Case

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of May, 2021, I delivered true and correct copies of the foregoing Declaration and Exhibits to the following parties via electronic mail:

Jan Noriyuki
Commission Secretary
Idaho Public Utilities Commission
P.O. Box 83720
Boise, ID 83720-0074
jan.noriyuki@puc.idaho.gov

Dayn Hardie
Deputy Attorney General
Idaho Public Utilities Commission
P.O. Box 83720
Boise, ID 83720-0074
dayn.hardie@puc.idaho.gov

Ted Weston
Idaho Regulatory Affairs Manager
Rocky Mountain Power
1407 West North Temple, Suite 330
Salt Lake City, UT 84116
ted.weston@pacificorp.com
IdahoDockets@pacificorp.com

Emily Wegener
Counsel
Rocky Mountain Power
1407 West North Temple, Suite 320
Salt Lake City, UT 84116
emily.wegener@pacificorp.com

Dated: May 25, 2021



Gregory M. Adams (ISB No. 7454)