

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF ROCKY MOUNTAIN)
POWER’S APPLICATION FOR APPROVAL) CASE NO. PAC-E-21-10
OR REJECTION OF THE POWER)
PURCHASE AGREEMENT BETWEEN) ORDER NO. 35486
PACIFICORP AND SUNNY BAR RANCH)
_____)**

On April 1, 2021, Rocky Mountain Power, a division of PacifiCorp (“Company”), requested the Commission approve or reject a Power Purchase Agreement (“PPA” or “Agreement”) with Sunny Bar Ranch, LLLP (“Sunny Bar”) for energy generated by a 450-kilowatt hydroelectric facility (“Facility”) located in Butte County, State of Idaho. The Company represented that the Facility was a qualifying facility (“QF”) under the Public Utility Regulatory Policies Act of 1978 (“PURPA”). The Company stated that the Facility had been delivering energy to the Company in accordance with a power purchase agreement dated June 27, 1985, which expired April 30, 2021. The Company represented that the Agreement contained published, non-seasonal, non-levelized avoided cost rates for a 20-year term. The Company also requested the Commission declare all payments for purchase of energy under the PPA be allowed as prudently incurred expenses for ratemaking purposes.

COMMENTS

1. Staff Comments

Commission Staff (“Staff”) reviewed the Application focusing on: (1) the nameplate capacity rating; (2) capacity payment eligibility; (3) avoided cost rates; (4) the 90/110 Rule; (5) the lapsed contract period; and (5) the long-range forecasting.

Staff believed that the nameplate capacity rating of the Facility had always been 450 kW, instead of the 350 kW stated in the original 1985 contract. Staff believed that the project had contributed to meeting the Company’s need for capacity during the term of the original 1985 contract and should receive full capacity payments in the proposed PPA for all generation from the Facility. Staff believed only one set of avoided cost rates should be used because the project had always had 450 kW of capacity since construction. Staff recommended use of the rates shown in Column 1.a. of Table 1 in Exhibit K of the PPA, which had capacity payments starting immediately, instead of using two sets of avoided cost rates with a cutoff of 350 kWh.

Staff confirmed the PPA contained the 90/110 Rule as required by Commission Order No. 29632, and Staff believed that the advanced notice provisions and market prices used for determining prices outside of the 90/110 band were reasonable. Staff recommended that the Seller receive both energy and capacity payments based on the contract rates, and Staff recommended energy and capacity payments during the lapsed contract period using the recommended avoided cost rates mentioned above. Staff did not oppose the long-range forecasting provision agreed upon by the parties.

Staff recommended that the Commission: (1) direct the parties to file an amended PPA to use one set of avoided cost rates with immediate capacity payments and to implement the 90/110 Rule based on that rate structure; and (2) allow both energy payments and capacity payments for the lapsed contract period between the May 1, 2021, Initial Delivery Date and the Effective Date of the PPA, using the published rates in the amended PPA. Staff stated that if the updates were made by the parties and filed with the Commission as an amended PPA, Staff would recommend the Commission approve the amended PPA and find that the avoided cost prices set forth in the amended PPA were prudently incurred expenses for ratemaking purposes.

2. Company Reply Comments

The Company represented that based on Staff's recommendations, the Company would work with Sunny Bar to amend the PPA with avoided cost rates that included an immediate capacity payment. The Company stated that the Amended agreement would be filed with the Commission as soon as it was executed by both parties.

3. Supplemental Reply Comments

The Company represented that based on the Commission's approval of the dual rate structures in both the Mink Creek¹ and Amy Family² cases, the Company was concerned about consistent treatment of QF contracts. The Company requested the Commission accept the PPA between the Company and Sunny Bar, which reflected the dual rate approach, as filed with the Company's April 1, 2021, application.

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

¹ PAC-E-21-14.

² PAC-E-20-18.

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, 61-503. The Commission has authority under PURPA and Federal Energy Regulatory Commission (“FERC”) regulations to set avoided cost rates, 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 has reviewed the record, including the Application, the PPA, Staff comments, and the Company comments. The Commission finds it fair, just, and reasonable to approve the Application as filed. The Commission finds that the Facility is eligible based on characteristics such as the nameplate capacity rating, capacity payment eligibility, avoided cost rates, the 90/110 rule, and long-range forecasting. The Commission approves two sets of rates, and the use of the rates published in the PPA for the lapsed contract period between the Initial Delivery Date and the Effective Date.

ORDER

IT IS HEREBY ORDERED that the Company’s Application with the dule rate structure is approved as filed on April 1, 2021.

IT IS FURTHER ORDERED that the Company shall use the rates as published in the PPA for the lapsed contract period between the Initial Delivery Date and the Effective Date.

IT IS FURTHER ORDERED that all payments for purchase of energy under the PPA are allowed as prudently incurred expenses for ratemaking purposes.

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 about 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. *Idaho Code* § 61-626.

DONE by order of the Idaho Public Utilities Commission at Boise, Idaho this 3rd day of August 2022.



ERIC ANDERSON, PRESIDENT

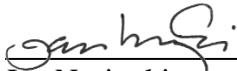


JOHN CHATBURN, COMMISSIONER



JOHN R. HAMMOND JR., COMMISSIONER

ATTEST:



Jan Noriyuki
Commission Secretary

I:\Legal\ELECTRIC\PAC-E-21-10\orders\PACE2110_final_cb.docx