

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF ROCKY MOUNTAIN</b>	)	<b>CASE NO. PAC-E-21-13</b>
<b>POWER'S APPLICATION FOR APPROVAL</b>	)	
<b>OR REJECTION OF THE POWER</b>	)	
<b>PURCHASE AGREEMENT BETWEEN</b>	)	<b>ORDER NO. 35146</b>
<b>PACIFICORP AND DRY CREEK LLC</b>	)	
	)	

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On May 11, 2021, Rocky Mountain Power, a division of PacifiCorp (“Company”), requested the Commission approve or reject a Power Purchase Agreement (“PPA”) with Dry Creek LLC (“Seller”) for energy generated by the 3.4-megawatt Dry Creek Project hydroelectric facility (“Facility”). The Facility is a qualifying facility under the Public Utility Regulatory Policies Act of 1978 (“PURPA”). The Facility is in Butte County, Idaho.

On June 14, 2021, the Commission issued a Notice of Application and set deadlines for public comments and the Company’s reply. Only Staff filed comments.

Having reviewed the record, we now approve the Company’s Application as discussed below.

**BACKGROUND**

Under PURPA, electric utilities must purchase electric energy from Qualifying Facilities (“QFs”) at purchase or “avoided cost” rates approved by the Commission. 16 U.S.C. § 824a-3; *Idaho Power Co. v. Idaho PUC*, 155 Idaho 780, 789, 316 P.3d 1278, 1287 (2013). The Commission has established two methods for calculating avoided costs, depending on the size of the QF project: (1) the surrogate avoided resource method, used to establish “published” avoided cost rates; and (2) the integrated resource plan method, to calculate avoided cost rates for projects exceeding published rate limits. *See* Order No. 32697 at 7-22. Published rates are available for wind and solar QFs with a design capacity of up to 100 kilowatts and QFs of other resource types with a design capacity of up to 10 average megawatts. *Id.*; *see also* 18 C.F.R. § 292.304(c).

**THE APPLICATION**

The Seller has been delivering energy from the Facility to the Company under a power purchase agreement dated May 2, 1986 (“1986 PPA”). The 1986 PPA expires on April 30, 2022. The new PPA contains published, non-seasonal, non-levelized avoided cost rates for a 20-year term. The PPA’s effective date is May 1, 2022.

The Company requests the Commission declare that the avoided cost prices in the PPA are just and reasonable, in the public interest, and that the Company's incurrence of such costs are legitimate expenses for recovery in retail rates.

### **STAFF COMMENTS**

Staff recommends approval of the PPA between the Company and the Seller. Staff also recommends that the Commission approve the avoided cost prices in the PPA as just and reasonable, in the public interest, and that the Company's incurrence of such costs are legitimate expenses. Staff's review of the PPA focused on implementing the 90/110 Rule, capacity payment eligibility, avoided cost rates, and long-range forecasting.

Staff verified that the PPA contains the 90/110 Rule as required by Commission Order 29632. Staff notes that the PPA uses a 10-day advanced notice to revise future monthly estimates. Staff believes any timeframe between a month in advance and 5 days in advance is reasonable based upon Order Nos. 34263 and 34870. The Company uses the Palo Verde Hub to establish market prices for the purpose of the 90/110 Rule. Staff believes the Company's determination of market prices is fair and reasonable.

Staff is confident that the project has contributed to meeting the Company's need for capacity during the term of the 1986 PPA and should receive full capacity payments in the PPA for all generation from the Facility. This Facility was also paid for capacity at the end of the original contract term.

Staff also verified that the proposed rates in the PPA are correct.

### **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.

Having reviewed the record, including the Company's Application, the PPA, and Staff's comments, the Commission finds it reasonable to approve the PPA. The Facility is eligible

based on characteristics such as the 90/110 Rule, capacity payment eligibility, avoided cost rates, and long-range forecasting. Additionally, the Commission finds it just and reasonable that the Facility receive full capacity payments in the PPA for all generation from the Facility as it helped offset the Company's need for additional capacity investments. The Facility was being paid capacity payments at the end of the prior contract term and has not ceased operations. Last, the Commission approves the avoided cost prices in the PPA as just and reasonable, in the public interest, and that the Company's incurrence of such costs for purchases of energy and capacity are prudently incurred expenses for ratemaking purposes.

**ORDER**


IT IS HEREBY ORDERED that the Company's PPA with the Seller is approved.

IT IS FURTHER ORDERED that all payments made by the Company for purchases of energy and capacity 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 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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DONE by order of the Idaho Public Utilities Commission at Boise, Idaho this 27<sup>th</sup> day of August 2021.

  
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PAUL KJELLANDER, PRESIDENT

  
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KRISTINE RAPER, COMMISSIONER

  
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ERIC ANDERSON, COMMISSIONER

ATTEST:

  
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Jan Noriyuki  
Commission Secretary

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