

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF ROCKY MOUNTAIN) CASE NO. PAC-E-21-14
POWER’S APPLICATION FOR APPROVAL)
OR REJECTION OF THE POWER)
PURCHASE AGREEMENT BETWEEN) ORDER NO. 35223
PACIFICORP AND MINK CREEK HYDRO)
LLC)
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On June 11, 2021, Rocky Mountain Power, a division of PacifiCorp (“Company”), applied for an order approving or rejecting the Power Purchase Agreement (“PPA”) with Mink Creek Hydro LLC for energy generated by a 2.95-megawatt hydroelectric power plant (“Facility”). Application at 1. The Facility is near the city of Preston, in Franklin County, Idaho. *Id.* The Facility is a qualifying facility (“QF”) under the Public Utility Regulatory Policies Act of 1978 (“PURPA”). *Id.* at 2. The PPA’s effective date is April 1, 2022. *Id.* at 3; *see also* PPA at 10, § 2 attached to the Application.

On July 16, 2021, the Commission issued a Notice of Application and set deadlines for comments and reply comments. Only Commission Staff (“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 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. *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 21, 1985, which expires March 31, 2022. Application at 3. The Company represented that during the negotiation of the PPA it found that the nameplate rating for the Facility in the original power purchase agreement was 2.70 Megawatts (“MW”). *Id.* at 4. However, the Company stated the Facility’s actual nameplate rating is 2.95 MW. *Id.* As a result, the Company represented that the PPA contains two sets of rates, one with capacity and energy for the first 2.70 MW and the second with energy only for production above that level until the Company’s next capacity deficiency period. *Id.* The PPA contains published non-seasonal, non-levelized avoided cost rates for a 20-year term. *See* PPA Exhibit K attached to the Application. The Company asks the Commission to declare that the avoided cost prices set forth in the PPA are just and reasonable, in the public interest, and that the Company’s incurrence of such costs are legitimate expenses for cost recovery. Application at 5.

STAFF COMMENTS

Staff’s review of the PPA focused on nameplate capacity rating, capacity payment eligibility, avoided cost rates, the 90/110 rule, and long-range forecasting. Staff Comments at 2. Staff noted differing capacity ratings and peak contributions of the Facility and that actual capacity payment amounts will depend on its actual generation. *Id.* at 2. Staff confirmed that the Facility should receive capacity payments for the first 2.70 Megawatt hours (“MWh”) generated each hour from the Facility. *Id.* During the Facility’s original power purchase agreement term the Company added significant resources to meet its capacity deficiencies, which also qualifies it for immediate capacity payments as in Case Nos. IPC-E-19-04, IPC-E-19-30, and IPC-E-19-35. *Id.* Staff also recommended that generation amounts over 2.70 MWhs would not receive capacity payment until 2029, its first deficit year. *Id.* 2-3.

Staff confirmed the PPA contains the 90/110 Rule as required by Commission Order No. 29632 and believes that the advanced notice provisions and market prices used for determining prices outside of the 90/110 band are reasonable. *Id.* at 3. Staff reviewed advanced notice requirements and the determination of market prices in the PPA and believes they are reasonable. *Id.* at 3-4. Staff did not oppose the Seller providing annual updates to the generation profile described in Section 6.7.1 of the PPA. *Id.* Staff also noted that the Company and Seller are securing

a new stand-alone generation interconnection agreement. *Id.* at 4. This generation interconnection agreement is required by the PPA before the PPA becomes effective. *Id.*

Staff recommended that the Commission approve the PPA and exhibits as filed with two sets of rates. *Id.* at 2-4. One set of rates with avoided cost of capacity and avoided cost of energy for up to 2.70 MWh each hour, and the second only with avoided cost of energy for production above that level until the Company's first capacity deficiency date. *Id.* at 2. Staff also recommended that the Company file the executed stand-alone generation interconnection agreement in this case. *Id.* at 4. Last, Staff recommended the Commission find that the avoided cost prices in the PPA are prudently incurred expenses for ratemaking purposes. *Id.*

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. *Id.* 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 and exhibits as filed. 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 also approves two sets of rates. One set of rates with avoided cost of capacity and avoided cost of energy for up to 2.70 MWh each hour, and the second only with avoided cost of energy for production above that level until the Company's first capacity deficiency date.

The Company shall also file the executed stand-alone generation interconnection agreement required by the terms of the PPA with the Commission. Lastly, the Commission finds the avoided cost prices in the PPA are 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 and exhibits as filed with the Seller are approved.

IT IS FURTHER ORDERED that the Company shall file the executed stand-alone generation interconnection agreement with the Commission.

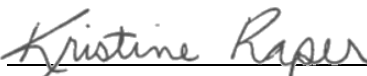
IT IS FURTHER ORDERED that all payments made by the Company for purchases of energy and capacity under the PPA are allowed as prudently incurred expenses for ratemaking purposes.

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.

DONE by order of the Idaho Public Utilities Commission at Boise, Idaho this 12th day of November 2021.



PAUL KJELLANDER, PRESIDENT

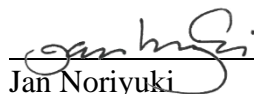


KRISTINE RAPER, COMMISSIONER



ERIC ANDERSON, COMMISSIONER

ATTEST:



Jan Noriyuki
Commission Secretary

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