

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF ROCKY MOUNTAIN ) CASE NO. PAC-E-22-14**  
**POWER’S APPLICATION FOR )**  
**APPROVAL OF A CAPACITY )**  
**DEFICIENCY PERIOD TO BE USED FOR ) ORDER NO. 35834**  
**AVOIDED COST CALCUATIONS )**

On October 4, 2022, Rocky Mountain Power (“Company”), a division of PacifiCorp, applied to the Idaho Public Utilities Commission (“Commission”) for approval of a capacity deficiency period determination beginning in the summer of 2023, to be used in determining avoided cost rates and payments for qualifying facilities (“QF”) under the Public Utility Regulatory Policies Act of 1978 (“PURPA”).

On November 7, 2022, the Commission issued a Notice of Application and Notice of Modified Procedure establishing public comment and Company reply deadlines. Order No. 35588.

On December 21, 2022, the Commission issued a Notice of Extension of Comment Deadlines. Order No. 35637. Staff filed comments to which the Company replied. No other comments were received.

Having reviewed the record, we now issue this Order approving the Company’s Application subject to its compliance with the items outlined below.

**BACKGROUND**

Under the requirements of PURPA, the Commission established a Surrogate Avoided Resource (“SAR”) method and an Integrated Resource Plan (“IRP”) method to calculate avoided cost rates for QFs. Under both methods, a QF receives capacity payments beginning after the applicable capacity deficit date is reached. Order Nos. 33377, 33159, and 33898.

The capacity deficiency period is determined through the IRP planning process and is submitted to the Commission in a proceeding separate from the IRP docket. The capacity deficit date<sup>1</sup> determined in the IRP process is presumed to be a correct starting point; however, it is subject to the outcome of the capacity deficiency case. Order No. 32697.

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<sup>1</sup> The Commission has established a SAR method to calculate avoided cost rates for QFs. A QF receives capacity payments only after the applicable capacity deficit date is reached. Order No. 32697.

On June 8, 2023, the Commission issued Order No. 35810 changing the filing date for future capacity deficiency date cases for Avista, Idaho Power, and Rocky Mountain Power to “within thirty (30) days of filing its respective IRP.” Order No. 35810 at 3.

### **THE APPLICATION**

The Company noted that the Commission ordered “all future [load and resource] Balances included in the capacity deficiency date update for avoided costs must contain the most up-to-date information available at the time of filing.” Application at 3 quoting Order No. 35415.

The Company noted that the Commission has ordered that the early retirement of coal resources should not be accounted for in the load and resource balance (“L&R”) unless the Commission has already approved the early retirement date. Application at 3. The Company stated that the early retirement of coal resources incorporated into calculations found in the Application are consistent with Order No. 34918. *Id.*

The Company filed its 2021 IRP on September 1, 2021, followed by the Company filing errata to the 2021 IRP on a September 15, 2021, for the purpose of clarifying some changes that did not “affect the analysis or outcomes of the 2021 IRP.” *See* Order No. 35271 at 1. On September 30, 2021, the Company filed a supplement to the 2021 IRP containing analysis detailing additional sensitivity cases. On April 4, 2022, the Company filed the 2021 IRP Update which the Company asserted provided “a number of updates including a description of resource planning, procurement activities, an updated load and resource balance, an updated resource portfolio reflecting updates to load forecast and other model inputs, and a status update on action plan items from the 2021 IRP.” Company’s Cover Letter attached to the 2021 IRP Update. On August 30, 2022, in Order No. 35514 the Commission acknowledged the Company’s 2021 IRP.<sup>2</sup> The Company states that “[c]ertain adjustments are appropriate to account for committed and uncommitted resource impacts, relative to the representation in the 2021 IRP Update, [including] . . . [r]emoving uncommitted early coal retirements” as well as adding various contracts after the 2021 IRP, demand response programs, and contracted front office transactions, the Company has adjusted its capacity deficiency calculations. *Id.* at 5.

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<sup>2</sup> The Commission acknowledged the Company’s 2021 IRP including errata and updates the Company submitted in September 2021. The 2021 IRP Update, although filed by the Company on April 4, 2022, prior to the final order, was filed too late to be considered by Staff and by other parties in comments (comment due date was March 15, 2022) and was not considered during deliberation for acknowledgement in Order No. 35514.

Due to these updates to the 2021 IRP, the Company stated “the first capacity deficiency of 296 megawatts occurs in the summer of 2023. . . . After a larger deficiency in 2024, a period of sufficiency occurs from 2025 through 2027.” *Id.* at 5.

## COMMENTS

### *Staff Comments Generally*

Staff reviewed the Application and recommended that the Company submit a compliance filing incorporating several changes into its proposed L&R and First Capacity Deficiency Date. Staff identified 11 separate issues regarding this filing listed below followed by Staff’s analysis and the Company’s reply for each issue. Staff believed the Company should:

1. [Use the] capacity deficiency period . . . to determine when capacity payments begin for both IRP-based and SAR-based contracts;
2. Provide the L&R using the 20-year IRP planning horizon, instead of the 9-year timeframe submitted with the Company’s filing;
3. Provide the L&R reflecting both summer and winter peak;
4. Use the 2021 IRP [m]ethod, instead of the 2021 IRP Update [m]ethod, to determine capacity contributions of all resources;
5. Assume renewal of PURPA projects located in the State of Idaho, unless the Company has information from specific [QFs] to the contrary;
6. Update the L&R to include all contracts executed by the date of the Commission order that are eligible for rate recovery;
7. Include the additional 3% contingency reserves above the Front Office Transaction (“FOTs”) limit only if it increases the amount of available FOTs that the Company can rely on to meet its load obligations;
8. Include projected growth in existing Demand Response (“DR”) programs;
9. [Only include] DR programs from the 2021 Request for Proposals (“RFP”), [that are] approved programs in the L&R;
10. Include existing DR programs and approved new DR programs consistently in the L&R such that they are both treated either as a decrement to load or as a resource; and
11. Verify the value of the existing Energy Efficiency (“EE”) in the load forecast, ensuring 68 MW is used.

Staff Comments at 2-3.

### ***Company Reply Comments Generally***

The Company believed its responses to Staff's production requests negate the need for a compliance filing. The Company stated the issues not already addressed in its production responses do not require a compliance filing because the Environmental Protection Agency's Ozone Transport Rule and the war in Ukraine have already placed the Company's load forecast higher than its 2021 IRP and IRP Update contemplated.

The Company then addressed each of Staff's concerns.

### **COMMISSION FINDINGS AND DECISION OVERVIEW**

The Commission has jurisdiction over this matter under *Idaho Code* §§ 61-501, 61-502, and 61-503. The Commission is vested with the power to "supervise and regulate every public utility in the state and to do all things necessary to carry out the spirit and intent of the [Public Utilities Law]." *Idaho Code* § 61-501. 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 FERC regulations to set avoided costs, to order electric utilities to enter fixed-term obligations for the purchase of energy and capacity 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's approval of this filing is conditioned upon certain requirements as discussed below. Generally, these requirements center on the need for the Commission to have clear and consistent data to allow for careful and deliberate consideration of the issues presented. Accordingly, the Commission orders the Company to file a compliance filing that conforms to the Commission's requirements herein. Relatedly, the Company's submitted L&R must provide a clear breakdown of its loads and resources to ensure that all the requirements of the compliance filing can be verified.

Discussed below are each of the eleven points raised by Staff in its Comments, the Company's Reply Comments and our decisions on each of these eleven items.

### *Staff Comments on Issue 1*

**The capacity deficiency period should be used to determine when capacity payments begin for both IRP-based and SAR-based contracts/Determination of the First Capacity Deficit Date through the L&R.**

Staff summarized its concern as follows: “the Company requested that the capacity deficiency period be used only for SAR-based contracts . . . [.] However, prior Commission orders require the capacity deficiency period to be used for both SAR- and IRP-based contracts. *See* Order Nos. 33377, 33159, 33898, and 33933.” Staff Comments at 3 (internal citation omitted). Staff asserted that “[r]egardless of the method, QFs should only begin receiving capacity payments starting on the First Capacity Deficit Date authorized at the time when a contract is executed.” *Id.*

**Company Reply:** The Company agreed the capacity deficiency period determined in this case should be used regardless of whether the contract is an IRP- or SAR-based contract. Because this case will establish a capacity deficiency period, the Company did not believe a compliance filing was necessary.

**Commission Decision:** The Commission has previously ordered that public utility companies use the capacity deficiency period to determine capacity payments for IRP- and SAR-based contracts to ensure QF’s are only compensated for costs they avoid in the Company’s system. *See* Order Nos. 33377, 33159, 33898, and 33933. The Commission reiterates the need for the Company to do so in this case through a compliance filing.

### *Staff Comments on Issue 2*

**The Company should provide the L&R using the 20-year IRP planning horizon, instead of the 9-year timeframe submitted with the Company’s filing/Peak Load Forecast and Future Obligations for Incremental Resources.**

The Company’s proposed L&R used “a 9-year timeframe from 2023 through 2031”. Staff Comments at 3. Regarding this, Staff noted the following:

Staff recommended that the timeframe of the L&R be aligned with the planning horizon used in the IRP because the SAR model uses not only the first deficit year information (i.e., when capacity payments will be made), but also deficit values of each year. For example, if a deficit value is smaller than a QF's capacity size, partial capacity payments will be made. Ideally, 20 years of surplus/deficit values are available for a contract term of 20 years.

*Id.* Staff also pointed out that the Company only included a L&R for summer peaks in its Application. *Id.* at 4. Staff asserted that Order No. 34918 required the Company to file a L&R for summer and winter peaks. *Id.* Staff recommended that the Company file an updated L&R for summer and winter peaks in a compliance filing. *Id.*

***Company Reply:*** The Company stated that its “IRP uses a 20-year planning horizon, the 9-year timeframe submitted with the Company’s filing clearly establishes a deficiency period beginning July 2023. Any analysis and adjustments beyond 9 years will have no influence on the deficiency period proposed.” Company Reply Comments at 5.

***Commission Decision:*** The Company submitted an L&R that was compiled using a 9-year timeframe and argued that forecasting data further than 9 years out would not ultimately be utilized. However, although this specific L&R may not necessarily need more than 9 years to determine the deficit date in this case, the SAR model requires the amount of deficit in subsequent years following the first deficit date. The Commission expects, as a matter of practice for this filing, a full 20-year L&R matching what is provided in the Company’s IRP. As loads and existing resources change, providing 20-years of information will ensure sufficient information necessary to set SAR-based rates, and it will provide visibility of deficits based on resources that have regulatory certainty/approvals, such as coal plant retirements, which is not always provided by the L&R in the Company’s IRP. *See* Order No. 34918 at 6. The Commission orders the Company to provide the L&R using the 20-year IRP planning horizon in a compliance filing.

### ***Staff Comments on Issue 3***

#### **Provide the L&R reflecting both summer and winter peak.**

Staff was concerned that the Company failed to comply with Order No. 34918 (which requires an L&R that provides data for both summer and winter peaks) the Company only provided an L&R for the summer peaks. Staff recommended that this issue be corrected in a compliance filing.

**Company Reply:** The Company stated: “[t]he L&R reflecting both summer and peak load resources has been provided in response to [Staff Production Request] 1 and included here as Exhibit No. 1.” Company Reply Comments at 5.

**Commission Decision:** The L&R provided by the Company, in this case, only included the peak during the summer. The Commission directs the Company to submit a compliance filing that provides both summer and winter peaks in its L&R as ordered by the Commission in Case No. PAC-E-20-13. Order No. 34918 at 6.

#### ***Staff Comments on Issue 4***

**Use the 2021 IRP method, instead of the 2021 IRP Update method, to determine capacity contributions of all resources/Capacity Contribution Determination.**

In the proposed L&R, some resources like larger contracts use the 2021 IRP Update method, while other resources like smaller contracts use the regular 2021 IRP method. “Staff believes that only one method should be used for all resources for consistency and recommends that the Company use the 2021 IRP [m]ethod, because the 2021 IRP Update [m]ethod has not been fully vetted.” Staff Comments at 5. Staff argued the regular 2021 IRP method should be used because it “uses significantly more hours beyond the top 5 percent net load hours used in the 2021 IRP Update” and because the 2021 IRP Update method was filed after the Idaho parties submitted comments in the IRP case. *See* Case No. PAC-E-21-19. Staff stated the 2021 IRP Update was not subject to rigorous vetting. *Id.* Staff recommended that this issue be corrected in a compliance filing.

**Company Reply:** The Company stated the “2021 IRP Method and 2021 IRP Update Method use the same capacity contribution from the Company’s coal and gas fleet, which comprises most of its capacity. . . .” Company Reply Comments at 5. The Company stated the 2021 IRP Update method is more consistent with the Western Resource Adequacy Program (“WRAP”) and full implementation of the WRAP will help the Company “meet demand during extreme events.” *Id.* at 6.

**Commission Decision:** The Commission is persuaded that because the 2021 IRP Update method was not robustly vetted, the capacity contribution of some of its resources using this method lacks confidence. The Commission orders the Company to use the 2021 IRP method instead of the 2021 IRP Update method for determining capacity contribution of its resources in the L&R. The Commission orders the Company to address this issue in a compliance filing.

***Staff Comments on Issue 5***

**Assume renewal of PURPA projects located in the State of Idaho, unless the Company has information from specific QFs to the contrary.**

The Company's L&R does not assume that PURPA contracts will be renewed. Staff argued that Order No. 34918 required that the Company take the default position that the PURPA contract will be renewed unless the Company has information to the contrary. Staff recommended that this issue be corrected in a compliance filing.

**Company Reply:** The Company stated that it did not incorporate the renewal of nine PURPA contracts because the contracts have not been renewed. The Company stated the fact that those PURPA contracts were not incorporated into its analysis did not matter because the Company expected larger loads than it did when this case's Application was filed; the Company also stated the nameplate capacity for the nine contracts is less than 20 MW which the Company believed "would not impact deficiency period timing." *Id.*

**Commission Decision:** The Company's L&R did not assume the renewal of PURPA contracts which was required by Order No. 34918. The Company argues that the relevant PURPA contracts were not incorporated because the renewal of those agreements had not currently been formalized. Given that the likelihood that a majority of PURPA contracts will be renewed, the renewal of these contracts should be incorporated into the Company's L&R "unless the Company has information about specific contracts to the contrary." Order No. 34918. The Commission now reiterates this requirement and orders the Company to address this issue in a compliance filing.



*Staff Comments on Issue 6*

**Update the L&R to include all contracts executed by the date of the Commission order that are eligible for rate recovery.**

Staff recommended the Company include all approved contract updates in the L&R since the case was filed. If a contract requires pre-approval from the appropriate state commission, it should not be included in the updated L&R unless authorized. If a contract does not require preapproval from a commission, it should be included if it is executed by both parties and is eligible for rate recovery. Staff recommended that this issue be corrected in a compliance filing.

**Company Reply:** The Company did not believe that it should update some variables and not others. The Company noted that it will update its L&R with its 2023 IRP filing.

**Commission Decision:** The Company shall update the L&R to only include approved contracts where pre-approval is necessary, or executed contracts where pre-approval is unnecessary, but the contract is signed by the parties. Since the deficit date is used to set rates for QFs, which impacts customer rates, until contracts are approved or have a high level of certainty, costs are not known and measurable and should not be included in the Company's L&R. The Commission orders the Company to address this issue in a compliance filing.

*Staff Comments on Issue 7*

**Include the additional 3% contingency reserves above the FOTs limit only if it increases the amount of available FOTs that the Company can rely on to meet its load obligations.**

Staff stated that the additional 3% contingency reserves should not be included in the Company's L&R unless "it increases the amount of available FOTs that the Company can rely on to meet its load obligation. It should not be included in the L&R, if the 3% is only used to ensure the available FOTs can be delivered on a firm basis." Staff Comments at 6.

**Company Reply:** The Company disagreed with Staff's suggestion regarding the treatment of FOTs and believed that FOTs should be treated like other resources. The Company provided an example illustrating that the power purchased would functionally need to equate to 103% of the power

generated. The Company stated it provided for this in its FOT capacity calculations provided to Staff.

**Commission Decision:** The Company was able to sufficiently explain how these reserve amounts are an obligation held by the counterparty or ultimate source of the generation. Accordingly, the Commission is willing to allow the Company to proceed to count 3% FOT contingency reserves in the Company's L&R; however, the Company should provide the Commission with clear evidence in its next filing that these reserves can be reliably counted upon to provide contingency reserves.

#### *Staff Comments on Issue 8*

##### **Include projected growth in existing DR programs.**

Staff stated the Company included current existing DR programs in its proposed L&R but did not include any data related to the projected growth of those programs. Staff believed the projected growth for each of the existing DR programs should be incorporated into the Company's proposed L&R. Staff stated that the inclusion of such estimations was approved in Order No. 33159 in Case No. IPC-E-14-22. Staff recommended that this issue be corrected in a compliance filing.

**Company Reply:** The Company stated: "As explained in the 1st Supplemental Response to item (c) in [Staff's Data Response<sup>3</sup>] 9, the projected growth of existing DR programs is already included in our L&R as 'New Demand Response.'" Company Reply Comments at 7.

**Commission Decision:** After reviewing the Application, the Commission was not able to see "New Demand Response" in the L&R. The Company shall include growth in existing DR programs that is clearly labeled so that the L&R in the Compliance filing can be verified.

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<sup>3</sup> In this Order, "DR" refers to "Demand Response". In the Company's Reply Comments, it occasionally used "DR" to refer to "Data Response."

*Staff Comments on Issue 9*

**Among the selected DR programs from the 2021 RFP, only include approved programs in the L&R.**

Staff expressed concern that the Company’s “proposed L&R includes all the selected DR programs from the 2021 DR RFP. Staff recommends that only *approved* programs be included in the L&R.” Staff Comments at 7 (emphasis added). Staff recommended that this issue be corrected in a compliance filing.

**Company Reply:** The Company disagreed with Staff’s position. The Company stated it should not be required to remove currently unapproved DR programs because the Company is depending on those programs to meet its load obligations and the removal of those programs from the analysis would not result in an earlier deficiency period.

**Commission Decision:** The Commission approves the DR programs the Company can use to meet its load requirements. Accordingly, the Commission finds that the Company must only include approved DR programs in the Company’s L&R. The Commission orders the Company to address this issue in a compliance filing.

*Staff Comments on Issue 10*

**Include existing DR programs and approved new DR programs consistently in the L&R such that they are both treated either as a decrement to load or as a resource.**

Staff stated that different methods for calculations were applied to different DR programs. Specifically, “[t]he proposed L&R includes existing DR programs as a decrement to load but includes selected DR programs from the 2021 DR RFP as a resource.” *Id* at 8. Staff believed the DR programs should be treated consistently to ensure mathematically comparable outputs. Staff argued the best option would be to ensure the planning reserve margin is “applied to the original load forecast before DR resources are decremented.” *Id*.

**Company Reply:** The Company stated:

Within the Company’s filing, both existing and new DR programs are treated consistently as a decrement to load, in the same manner as the original 2021 IRP and 2021 IRP Update filings. Because the planning reserve margin is already

reflected in the system sufficiency/deficiency position, the adjustment to include the capacity associated with the 2021 Demand Response RFP was multiplied by 113%. This is consistent with the treatment of existing demand response, where the planning reserve margin is only applied to the remaining need after its capacity contribution is removed.

Company Reply Comments at 8. The Company references discovery provided to Staff to support its argument.

**Commission Decision:** The Commission is satisfied with the information provided by the Company in its reply on this issue.

### ***Staff Comments on Issue 11***

#### **Verify the value of the existing EE in the load forecast, ensuring 68 MW is used.**

Staff noted that the 2021 IRP Update stated the existing EE mistakenly listed the existing EE as 73 MW when in fact it is 68 MW. “Staff recommends that the Company verify the value of the existing EE used in the load forecast and make sure 68 MW is decremented.” Staff Comments at 8.

**Company Reply:** The Company acknowledged its previous misstatement but stated the correct value was embedded in its load forecast “therefore, this value is not singled out in the SAR Method calculation.” Company Reply Comments at 9. The Company referenced supporting discovery in a footnote.

**Commission Decision:** The Commission is satisfied with the information provided by the Company in its reply on this issue.


## **ORDER**

IT IS HEREBY ORDERED that the Company’s Application is approved subject to its compliance with the items discussed above. The Company shall submit a compliance filing including the matters set forth within 21 days of the issuance of this order.

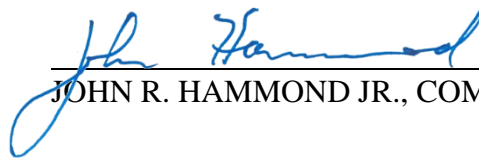
THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7)

days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

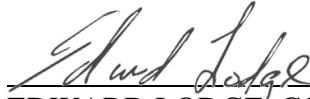
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 29<sup>th</sup> day of June 2023.



ERIC ANDERSON, PRESIDENT

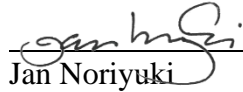


JOHN R. HAMMOND JR., COMMISSIONER



EDWARD LODGE, COMMISSIONER

ATTEST:



Jan Noriyuki  
Commission Secretary

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