

DECISION MEMORANDUM

TO: COMMISSIONER REDFORD
COMMISSIONER SMITH
COMMISSIONER KEMPTON
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL

FROM: SCOTT WOODBURY

DATE: NOVEMBER 21, 2007

SUBJECT: CASE NO. PAC-E-05-09 (PacifiCorp)
THIRD AMENDED POWER PURCHASE AGREEMENT –
SCHWENDIMAN WIND LLC

On March 31, 2006, the Idaho Public Utilities Commission (Commission) in Case No. PAC-E-05-09, Order No. 30000, approved a January 27, 2006 Amended Power Purchase Agreement between Schwendiman Wind LLC and PacifiCorp dba Utah Power & Light (PacifiCorp; Company). As reflected in the underlying Second Amended Agreement, Schwendiman proposes to design, construct, install, own, operate and maintain a wind generating facility with a nameplate capacity rating of 20 MW to be located in Bonneville County, Idaho at a location more particularly described as Sections 3 and 4, Township 2 North, Range 39 East and Sections 33 and 34, Township 3 North, Range 39 East, Boise Meridian. Pursuant to the First Amended Agreement, PacifiCorp was to purchase the net output of 7.15 aMW from the 82.5 MW clipper wind generators comprising the QF. The Amended Agreement approved by the Commission contemplated an estimated annual sale and purchase of 62,723,088 kWh. The scheduled commercial operation date in the Amended Agreement was changed to July 31, 2007.

On September 24, 2007, PacifiCorp dba Rocky Mountain Power and Schwendiman Wind LLC filed a Joint Motion with the Commission for approval of a Second Amended Power Purchase Agreement (Second Amended Agreement) dated September 7, 2007. Prior to the Commission's consideration of the Second Amended Agreement, the parties notified the Commission that minor changes to the contract were required. The parties requested that the Commission refrain from considering the Second Amended Agreement. On November 19,

2007, a Third Amended Agreement dated October 16, 2007 incorporating all changes was submitted for approval.

Rocky Mountain Power and Schwendiman Wind entered into a 20-year Power Purchase Agreement on July 19, 2005 (the Original Agreement) and submitted it to the Commission for approval in this docket on August 15, 2005. Pursuant to Order Nos. 29880 and 29921, the parties submitted an Amended Agreement (September 26, 2006 Agreement) which was subsequently approved by the Commission on March 31, 2006 in Order No. 30000.

As set forth in the January 27, 2006 Agreement, Schwendiman Wind proposes to design, construct, install, own, operate and maintain a wind generating facility with a nameplate capacity of 20 MW to be located in Bonneville County, Idaho (the facility). Schwendiman Wind would sell approximately 7.15 aMW of electric energy generated by the facility to the Company. As previously described in the Application and exhibits filed August 15, 2005, the facility has been self-certified with FERC as a qualified small power production facility (QF) under the Public Utility Regulatory Policies Act of 1978 (PURPA), and would interconnect with the Company's system on the Sugar Mill/Goshen-Rigby 69 kV line, 11 miles northeast of Idaho Falls, Idaho.

Changes to the January 27, 2006 Agreement

The Third Amended Agreement includes the following changes to the January 27, 2006 Agreement:

- (a) Replace Exhibits A, B, D, and F-2 with new exhibits reflecting Schwendiman Wind's substitution of Nordic wind turbines for Clipper wind turbines;
- (b) Update the Recitals to reflect the Nordic wind turbine output (average annual Net Output reduced from 62,723,088 to 53,923,276 kilowatt hours (kWh));
- (c) Move forward in time on the Scheduled Commercial Operation Date (from July 31, 2007 to November 1, 2008) and other intermediate milestones in Section 2;
- (d) Stipulate (in Section 2.3) to Schwendiman Wind's liability for Delay Liquidated Damages, from August 1, 2007, until the Commercial Operation Date;
- (e) Update the capacity factor table in Section 4.2.1 to reflect the substitution of turbines; and

- (f) Add a new Section 22 containing security provisions applicable to Schwendiman Wind. "Default Security" (\$275,000) amount identified as the estimated value of Delay Liquidated Damages (replacement power) from August 1, 2007 to the new Commercial Operation Date, November 1, 2008.

The Third Amended Agreement also adds pricing for the year 2028 in Section 5 and updates obsolete contract information in Section 21. Otherwise, PacifiCorp contends no substantive changes to the January 27, 2006 Agreement are contemplated.

PacifiCorp requests that the Commission process the Third Amendment to its Power Purchase Agreement with Schwendiman pursuant to Modified Procedure, i.e., by written submission rather than by hearing. Reference Commission Rules of Procedure, IDAPA 31.01.01.201-204. PacifiCorp requests a Commission Order approving the Third Amended Power Purchase Agreement without change or condition; and reaffirming that prices to be paid for energy and capacity are just and reasonable, in the public interest, and that the cost incurred by the Company for purchasing capacity and energy from Schwendiman Wind are legitimate expenses, all of which the Commission will allow the Company to recover from rates in Idaho in the event other jurisdictions deny recovery of their proportionate share of said expenses.

COMMISSION DECISION

Tendered for Commission approval is a Third Amendment to the Power Purchase Agreement between PacifiCorp and Schwendiman Wind LLC. The Commission Staff has reviewed the Third Amendment and recommends approval without further notice or procedure.



Scott D. Woodbury

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