

DECISION MEMORANDUM

TO: COMMISSIONER KJELLANDER
COMMISSIONER SMITH
COMMISSIONER REDFORD
COMMISSION SECRETARY
COMMISSION STAFF

FROM: DONOVAN E. WALKER

DATE: MAY 25, 2007

SUBJECT: ROCKY MOUNTAIN POWER'S APPLICATION FOR APPROVAL OF REDUCTIONS IN BPA'S RESIDENTIAL EXCHANGE CREDITS, CASE NO. PAC-E-07-10

On May 25, 2007, Rocky Mountain Power (Company), a division of PacifiCorp, filed an Application for approval of reductions in the Bonneville Power Administration Residential Exchange Credits. The Company requests expedited treatment of its Application, with the proposed revised tariff Schedule 34 to become effective on June 1, 2007. Staff recommends that the Commission act on the Company's Application in an expedited manner, and approve it.

THE RESIDENTIAL EXCHANGE PROGRAM

All citizens of the Pacific Northwest are entitled to share in the benefits from the region's federal hydroelectric power system. *See* 16 U.S.C. §§ 832, 837-839. As a regional utility, PacifiCorp dba Rocky Mountain Power is entitled to participate in the Residential Exchange Program (REP), which is the mechanism designed to extend the benefits of low cost federal power to residential and small farm/irrigation customers served by investor-owned utilities in the region. 16 U.S.C. § 839c.¹ The REP is administered by the Bonneville Power Administration (BPA), the federal agency tasked with marketing the power generated by the federally owned dams on the Columbia River.

BPA's public power utility customers, such as municipalities, cooperatives, and public utility districts, typically benefit from the federal hydroelectric system through their

¹ 16 U.S.C. §§ 839-839h (2000) is titled the Pacific Northwest Electric Power Planning and Conservation Act of 1980, and is commonly referred to as the "Northwest Power Act" (NWPA).

preferential access to low cost federal power provided by BPA. The residential and irrigation customers of the regional investor-owned utilities, such as PacifiCorp, Idaho Power, and Avista, share in the benefits of the federal hydroelectric system through the REP, by receiving credits on their electric bills. The investor-owned utilities provide electricity to approximately 60% of the Northwest's population. BPA uses formulas based on various factors, including a utility's average system cost for producing power, to distribute benefits through the REP. In application, the REP acts as a cash rebate to the investor-owned utilities, which is passed through directly to the utility's customers as required by the Northwest Power Act (NWPAct).

In 2000, BPA offered the region's investor-owned utilities the option of entering into a settlement of the REP (2000 REP Settlement) in lieu of the traditional REP calculation. The entire region's investor-owned utilities, including PacifiCorp, entered into the REP Settlement with BPA. Payments to Idaho's regional utilities under the REP Settlement totaled approximately \$259 million for the 2002-2006 term, and \$35 million for the first four months of 2007. As previously stated, these payments are passed through directly to customers as credits on their electric bills.

THE 9TH CIRCUIT DECISIONS

On May 3, 2007, the 9th Circuit Court of Appeals issued two opinions in 18 consolidated appeals concluding that certain BPA actions in entering the 2000 REP Settlement with the region's six investor-owned utilities, including PacifiCorp, Idaho Power, and Avista, were "not in accordance with law." *Portland General Electric Co. v. Bonneville Power Admin.*, ___F.3d___, 2007 WL 1288786 (9thCir); *Golden Northwest Aluminum, Inc. v. Bonneville Power Admin.*, ___F.3d___, 2007 WL 1289539 (9thCir) (Court Decisions). Consequently, on May 21, 2007, BPA issued letters to PacifiCorp, Idaho Power, and Avista indicating that because of the Court decisions it was suspending the monthly payments or credits that it was making pursuant to the REP settlements.

THE COMPANY'S APPLICATION

On May 25, 2007, Rocky Mountain Power filed an Application for approval of reductions in the Bonneville Power Administration Residential Exchange Credits. The Company seeks approval of a revised Electric Service Schedule No. 34, submitted with the Application. Also with its Application the Company filed a copy of a letter from BPA regarding the elimination of REP payment, a balancing account study, and an affidavit of Jeffrey K. Larsen

regarding the request for expedited treatment. The Company states that as a result of the proposed revisions eliminating the REP credit pass-through, the net monthly bill for the average Idaho residential customer using 1000 kWh will increase 28 percent. Irrigation customers' net monthly bill, on average, will increase 51 percent for service rendered on and after July 13, 2007.

The Company states that the effect of the proposed revisions to Schedule 34 is to eliminate the REP credit for residential customers and continue the credit to eligible irrigation customers into the first part of the current irrigation season, until the surplus in the balancing account is reduced to zero. Because the irrigation season is just beginning, eligible irrigation customers have not yet received a material level of the REP credits for the year, and continuing their credit until the balancing account is exhausted will provide some level of benefits during at least part of the current irrigation season. The Company anticipates that with the proposed changes, the REP credit would continue for irrigation customers for service through July 12, 2007.

The Company requests expedited treatment stating that it is warranted given the urgent need to match the Schedule 34 credits with the level of benefits that BPA will be providing under the REP – zero – in order to ensure that customers are not paid credits that exceed the benefits received from BPA, and to send an accurate price signal to irrigation customers prior to the irrigation season.

IDAHO IRRIGATION PUMPERS ASSOCIATION COMMENTS

On May 25, 2007, the Commission received a letter from the executive director of the Idaho Irrigation Pumpers Association (IIPA). IIPA stated that it supports distributing the remaining credits in the balancing account to the irrigation class at the “pre-termination levels” until such time as they are exhausted, as proposed by the Company. IIPA stated that this is a necessary step in trying to mitigate the loss of the credits to the irrigation class under the circumstances. IIPA stated that it polled its members, and they support this approach. This was communicated to Rocky Mountain Power prior to the filing of its Application. IIPA expressed its support for the Company’s Application, and asked the Commission to act quickly on it.

STAFF RECOMMENDATION

Staff recommends that the Commission find that good cause exists under these facts to consider and rule upon the Company’s Application on an expedited basis. Additionally, Staff has reviewed the proposed revisions to Schedule 34, and recommends that the Commission

approve the Company's Application. Staff discussed the possibility of several different scenarios for the distribution of the remaining credit balance in the Company's REP balancing account. However, given the expressed preference of the irrigation customers, as stated by the IIPA, Staff supports the requested disbursement.

COMMISSION DECISION

Does the Commission find good cause to consider this Application on an expedited basis and issue its decision?

Does the Commission wish to grant the Company's Application, approving the revisions to Schedule 34 that will eliminate the BPA rate credit effective June 1, 2007?

Does the Commission wish to authorize the disbursement of the credit balance at the current rate to irrigation customers until that balance is exhausted, as proposed by the Company and the Pumpers Association?

Does the Commission wish to address any other matter with regard to this Application?

A handwritten signature in black ink, appearing to read "Donovan E. Walker", written over a horizontal line.

Donovan E. Walker