

DECISION MEMORANDUM

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

FROM: SCOTT WOODBURY
DEPUTY ATTORNEY GENERAL

DATE: JUNE 9, 2009

SUBJECT: CASE NO. PAC-E-09-05 (PacifiCorp)
POWER PURCHASE AGREEMENT WITH LOWER VALLEY
ENERGY, INC.

On May 28, 2009, PacifiCorp dba Rocky Mountain Power (PacifiCorp; Company) filed an Application with the Idaho Public Utilities Commission (Commission) requesting approval of a May 22, 2009 Power Purchase Agreement (Agreement) between PacifiCorp and Lower Valley Energy, Inc. (Lower Valley).

Lower Valley intends to construct, own, operate and maintain a run-of-river hydroelectric generating facility for the generation of electric power located in or near the town of Afton, Lincoln County, Wyoming with an expected nameplate capacity rating of 940-kilowatts (the Facility). The project is located on Swift Creek in Lincoln County, Wyoming, partially within the Bridger-Teton National Forest at approximately 42° 43' north and 110° 54' west. The Facility will be a qualified small power production facility (QF) under the applicable provisions of the Public Utilities Regulatory Policy Act of 1978 (PURA).

The Agreement between PacifiCorp and Lower Valley is for a three-year term expiring May 1, 2012. Agreement ¶ 2.1. Under terms of the Agreement (¶ 5.1) PacifiCorp will pay Lower Valley non-levelized, conforming energy or non-conforming energy purchase prices for capacity and energy adjusted for seasonality and on-peak/off-peak hours in accordance with Commission Order No. 30480.

The Swift Creek facility is interconnected to Lower Valley's electrical system and Lower Valley will transmit net output to PacifiCorp at the Goshen Substation in Idaho by

way of transmission facilities operated by Bonneville Power Administration (BPA). Lower Valley will acquire and pay for a transmission services agreement to schedule and deliver the power to PacifiCorp and PacifiCorp intends to accept scheduled firm delivery by way of BPA of Lower Valley's net output.

The total nameplate capacity of the Swift Creek facility is 940 kilowatts. Lower Valley will be required to provide data on the Facility that PacifiCorp will use to determine whether under normal and/or average conditions: (1) the feasibility that Facility net energy will equal or exceed 4,696,298 kWh in each full calendar year for the full term of the Agreement; and (2) the likelihood that the Facility, under average design conditions, will generate at no more than 10 MW in any calendar month. Agreement ¶ 7. Should the Facility exceed 10 average MW on a monthly basis, PacifiCorp will accept the energy (Inadvertent Energy) that does not exceed the maximum capacity amount, but will not purchase or pay for this Inadvertent Energy. Agreement ¶ 5.3. Lower Valley has elected June 1, 2009 as the commercial operation date for the Swift Creek Facility. Agreement ¶ 2.2.5. Staff is informed that Lower Valley is currently serving Swift Creek output into its own load and will continue to do so until the Agreement is approved.

PacifiCorp requests that the Commission approve the Power Purchase Agreement without change or condition. The Company also requests that the Commission declare that the prices to be for energy and capacity are just and reasonable, in the public interest, and that the costs incurred by PacifiCorp for purchasing capacity and energy from Lower Valley are legitimate expenses, all of which the Commission will allow PacifiCorp to recover in rates in Idaho in the event other jurisdictions deny recovery of their proportionate share of said expenses.

COMMISSION DECISION

PacifiCorp requests that the Commission issue an Order approving the three-year May 22, 2009 Power Purchase Agreement between PacifiCorp and Lower Valley without change or condition. The Company further requests a Commission finding that all payments for purchases of energy under the Agreement will be allowed as prudently incurred expenses for ratemaking purposes.

Staff recommends that the Company's Application in Case No. PAC-E-09-05 be processed pursuant to Modified Procedure, i.e., by written submission rather by hearing. Reference Commission Rules of Procedure, IDAPA 31.01.01.201-204. Does the Commission agree with Staff's recommended procedure?



Scott Woodbury
Deputy Attorney General

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