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Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF)	
PACIFICORP DBA ROCKY MOUNTAIN)	CASE NO. PAC-E-09-5
POWER FOR APPROVAL OF A POWER)	
PURCHASE AGREEMENT BETWEEN)	
PACIFICORP AND LOWER VALLEY)	COMMENTS OF THE
ENERGY, INC.)	COMMISSION STAFF
)	
)	

COMES NOW the Staff of the Idaho Public Utilities Commission, by and through its Attorney of record, Scott Woodbury, Deputy Attorney General, and responses to the Notice of Application and Notice of Modified Procedure issued on June 17, 2009. The Staff submits the following comments.

BACKGROUND

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

Lower Valley intends to construct, own, operate and maintain a run-of-river hydroelectric generating facility for the generation of electric power located near the town of Afton, Wyoming (the Facility). The project is located on Swift Creek in Lincoln County, Wyoming, partially

within the Bridger-Teton National Forest. The Facility will be a qualified, small power production facility (QF) under the applicable provisions of the Public Utility Regulatory Policies Act of 1978 (PURPA).

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 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 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.

STAFF ANALYSIS

The rates included in the Agreement are non-levelized rates adjusted for seasonality and on- and off-peak hours, and are in accordance with Commission Order 30480 and its Errata. With only a few exceptions, which will be discussed in more detail below, all other terms and conditions contained in the Agreement are typical of previous PacifiCorp QF contracts.

Lower Valley Energy

Probably the most unique feature of this Agreement is that the owner of the generation facility is an electric utility rather than a private developer. Lower Valley Energy is a rural electric cooperative with over 13,000 members. Lower Valley's service territory roughly covers the Jackson/Afton area in Wyoming and extends to cover the Swan Valley/Palisades area in Idaho. This Agreement would mark the first in Idaho in which a project is developed as a PURPA Qualifying Facility by one utility and the output sold to another regulated utility.

Prior to 2006, PURPA (CFR § 292.206) required that a cogeneration facility or small power production facility not be owned by a person primarily engaged in the generation or sale of electric power. Effectively, electric utilities could not hold more than a 50 percent equity interest in any cogeneration or small power production facility in order to be eligible as a QF. However, the Energy Policy Act of 2005 completely eliminated this ownership restriction. As of March 2006, any electric utility can be the owner of a QF and is therefore able to sell the QF's output to another utility at the purchasing utility's avoided cost rate.

On July 15, 2008, Lower Valley submitted to FERC a Notice of Self Certification as a Small Power Production Facility. Under FERC rules for self certification, no further notice will be issued. Consequently, Lower Valley's facility is already deemed to be a Qualifying Facility (QF08-641-000) and is therefore entitled to sell power to PacifiCorp at PacifiCorp's avoided cost rates.

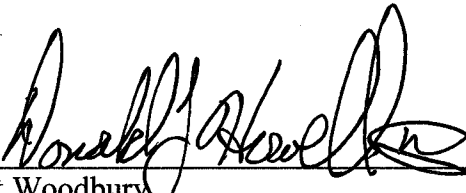
Contract Length

Although the maximum length of a PURPA contract in Idaho is currently 20 years, this Agreement is for a term of approximately three years. It is Staff's understanding that some portion of the power Lower Valley currently receives under an existing power supply agreement with BPA will not be available in three years. After its agreement with BPA expires, Staff believes Lower Valley intends to use power from the Swift Creek facility to serve its own load.

RECOMMENDATIONS

Staff recommends approval of the Agreement as submitted. Staff further recommends that the costs incurred by PacifiCorp for purchasing capacity and energy from Lower Valley be accepted as legitimate expenses. Staff recommends PacifiCorp be allowed to recover in rates in Idaho the appropriate allocated costs under the Revised Protocol.

Respectfully submitted this 9th day of July 2009.


for Scott Woodbury
Deputy Attorney General

Technical Staff: Rick Sterling

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 9TH DAY OF JULY 2009, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. PAC-E-09-05, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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SECRETARY

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