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Attorneys 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-11-15
POWER FOR APPROVAL OF A REVISED)
POWER PURCHASE AGREEMENT)
BETWEEN PACIFICORP AND LOWER) COMMENTS OF THE
VALLEY ENERGY, INC.) COMMISSION STAFF
)**

COMES NOW the Staff of the Idaho Public Utilities Commission, by and through its Attorney of record, Kristine A. Sasser, Deputy Attorney General, submits the following comments in response to the Notice of Application and Notice of Modified Procedure issued on June 23, 2011, Order No. 32269.

BACKGROUND

On May 19, 2011, PacifiCorp dba Rocky Mountain Power filed a request with the Commission to amend the Power Purchase Agreement (PPA, Agreement) between PacifiCorp and Lower Valley Energy, Inc. (Lower Valley) dated May 6, 2011. On June 17, 2011, PacifiCorp filed a supplement to its original request. The parties seek to amend the Agreement originally approved by the Commission on July 16, 2009. Order No. 30864.

Lower Valley owns, operates and maintains three run of the river hydroelectric generating facilities in Lincoln County, Wyoming – two are located on Swift Creek and one is located on the existing culinary water system for the town of Afton. The Swift Creek facilities were completed in

2009 and have maximum capacities of 940 kW (the “Upper Facility”) and 535 kW (the “Lower Facility”). The third facility – the “Culinary Facility” – is the subject of PacifiCorp’s request for an amendment. The project will be a “qualifying facility” (QF) under the applicable provisions of the federal PURPA.

The Culinary Facility was completed in December 2010, and has a maximum capacity of 225 kW. PacifiCorp represents that Lower Valley purchases firm point-to-point transmission from Bonneville Power Administration (BPA) in amounts sufficient to deliver output from all three facilities via a single scheduled delivery to PacifiCorp at Goshen, Idaho.

PacifiCorp requests Commission approval of amendments to the Agreement to: (1) add a provision for the purchase of net output from the new Culinary Facility; (2) extend the term of the Agreement from May 1, 2012 to September 1, 2014; (3) provide that the Culinary Facility receive the published avoided cost rates of Order No. 32234¹; and (4) provide that the “Upper Facility” and “Lower Facility” receive the published avoided cost rates of Order No. 32234 commencing on May 1, 2012, the expiration date of the existing Agreement.

Various requirements have been placed on Lower Valley in order for PacifiCorp to accept energy deliveries from the Culinary Facility. PacifiCorp states that it will monitor Lower Valley’s compliance with these requirements. *Id.* at 5. Lower Valley has selected seven days after Commission approval of the Agreement as its Commercial Operation Date for the Culinary Facility.

STAFF ANALYSIS

The primary purpose of PacifiCorp's request to amend the Agreement is to accommodate the addition of a third generation facility, the "Culinary Facility," under a single power sales agreement. Although each facility is a separate QF pursuant to PURPA, Lower Valley intends to operate its Upper Facility, Lower Facility and Culinary Facility as a single generating facility under a single power purchase agreement. PacifiCorp and Lower Valley represent that purchasing and selling power for all three facilities under a single PPA is the most efficient means of effectuating the sale and delivery of net output from these facilities for two reasons: (1) the use of one Agreement reduces costs in generating monthly statements and processing monthly payments for both PacifiCorp and Lower Valley and (2) because Lower Valley delivers net output from the three

¹ Order No. 32234 revised PacifiCorp’s published avoided cost rates pursuant to a change in cost of capital triggered by the result of PacifiCorp’s most recent general rate case, PAC-E-10-07.

facilities via a single point-to-point transmission reservation, the three projects arrive at PacifiCorp's system via a single schedule that is amenable to treatment by PacifiCorp as a single resource. Supplement at 4.

Because all of the terms contained in the Amended Agreement are identical to those in the original Agreement, Staff believes that the avoided cost rates in the Amended Agreement are the only thing that merits scrutiny. Rates for the existing Upper and Lower Facilities remain unchanged from those contained in the original Agreement for the remaining term of the original four-year Agreement. However, the proposed Amendment extends the term of the original Agreement by 28 months, therefore, rates for the Upper and Lower Facilities for the extended term will be in accordance with Order No. 32234, PacifiCorp's most recently approved avoided cost rates. The Culinary Facility is also eligible for PacifiCorp's current published avoided cost rates from Order No. 32234. Staff believes that all of the rates in the Amended Agreement are proper given the difference in time between the online dates of the three generation facilities. The new Culinary Facility will be entitled to new rates, while the Upper and Lower Facilities will still be bound by the old rates until the expiration date of the original Agreement.

The Commission recently limited the published avoided cost rate eligibility of wind and solar QFs to facilities of 100 kW or less in Order No. 32176. As run-of-river hydroelectric facilities, none of the Facilities in this Amended Agreement are subject to the 100 kW eligibility cap.

STAFF RECOMMENDATION

Staff recommends that the Commission approve the second amendment to the power purchase agreement between PacifiCorp and Lower Valley Energy as submitted.

Respectfully submitted this 13TH day of July 2011.



Kristine A. Sasser
Deputy Attorney General

Technical Staff: Rick Sterling

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 13TH DAY OF JULY 2011, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. PAC-E-11-15, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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