Office of the Secretary
Service Date
July 31, 2013

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF ROCKY MOUNTAIN POWER FOR AUTHORITY TO SELL THE ST. ANTHONY HYDROELECTRIC GENERATION PLANT LOCATED IN FREMONT COUNTY, IDAHO	)))))	**CASE NO. PAC-E-13-06** **ORDER NO. 32864**

On April 9, 2013, PacifiCorp dba Rocky Mountain Power filed an Application pursuant to *Idaho Code* § 61-328 for authority to sell a hydroelectric facility located in Fremont County, Idaho.[1] This facility (located within the St. Anthony city limits) shares a FERC license with the nearby Ashton hydroelectric facility. The St. Anthony hydro facility consists of a 1-unit powerhouse that contains submerged double horizontal K-style turbines that were commissioned in 1915. Application at ¶ 4. The facility is powered by diverting water from the Henry's Fork of the Snake River. The turbine is rated at about 750 horsepower. The "head works" that divert river flows to the hydro facility are also used to meet the utility's obligation to deliver water to the Egin Bench Canals, Inc. The facility's generator has been out of operation since 2002 when the shaft that connects the two turbines failed. *Id.* The utility has entered into an agreement to sell the St. Anthony facility to a private entity, St. Anthony Hydro, LLC.

On June 3, 2013, the Commission issued a Notice of Application, a Notice of Modified Procedure, and scheduled a telephonic public hearing regarding Rocky Mountain's Application. Order No. 32882. The Commission's Notice invited written comment to be filed no later than June 24, 2013. The public hearing was held on June 27, 2013. The only comments filed in response to the Commission's Notice of Modified Procedure were submitted by the Director of the Idaho Department of Water Resources (IDWR) and Commission Staff. At the hearing, appearances were entered by Staff and Rocky Mountain in support of the sale. Based upon our review of the Application, the comments and testimony received at our public hearing, we approve the sale of the hydro facility to St. Anthony Hydro, LLC.

[1] When Rocky Mountain initially filed its Application, the entire sales agreement was marked confidential. After discussions with Commission Staff, the utility refiled the sales agreement and several exhibits on May 17, 2013, but redacted certain information it claimed was trade secret pursuant to Rule 67 and *Idaho Code* § 9-304D.

BACKGROUND

A. The Public Utilities Law

Idaho Code § 61-328 governs the sale of utility property located within the State of Idaho. This section provides that no electric utility may dispose of generating property "except when authorized to do so by order of the public utilities commission." *Idaho Code* § 61-328(1). Before authorizing a sale of utility property, the Commission must find that: (1) the transaction is consistent with the public interest; (2) the cost of and rates for supplying service will not be increased by reason of such transaction; and (3) the purchaser has the bona fide intent and financial ability to operate and maintain said property in the public service. The utility bears the burden of showing that the standards set out above have been satisfied. *Idaho Code* § 61-328(2).

The Commission also may attach such terms and conditions as in its judgment the public and convenience and necessity may require. *Idaho Code* § 61-328(4). In addition, the Commission shall include in any authorization to dispose of utility facilities "the conditions required by the director of the department of water resources under section 42-1701(6)." *Id.* Section 42-1701(6) provides that IDWR may condition the sale of hydropower water rights to prevent injury to other water right holders.

B. The Application

PacifiCorp has a water right for its hydroelectric facility of 700 cubic feet per second (cfs), non-consumptive use for hydro power operation. Water Right No. 21-12914. The priority date for the water right is December 20, 1912. Application at ¶ 5. After the facility became non-operational, Rocky Mountain was granted an extension of time by IDWR to resume beneficial use of the water right until December 31, 2012. On March 12, 2012, IDWR accepted the utility's application to place the facility's water rights in the State water supply bank. Consequently, the water rights will remain valid in the water supply bank until June 30, 2017. The parties anticipate that if the Commission approves the Application to sell the facility, the water rights will be withdrawn from the bank and transferred to the new owner (St. Anthony Hydro) when the plant resumes operations.[2]

PacifiCorp evaluated four alternatives before deciding that selling the facility was the most appropriate and cost-beneficial alternative. Under "Alternative 1," the Company evaluated

[2] In a companion application in Case No. PAC-E-13-07, the Company and St. Anthony Hydro anticipate that once repaired, the facility will resume operation on or about November 30, 2013.

the cost-effectiveness of making the necessary repairs and increasing the amount of generation through increased efficiencies. *Id.* at ¶ 7. Under this alternative, the Company would completely modernize the hydro plant and its support structures. Under "Alternative 2," the Company would perform minimum repairs to the failed shafts and replace the wooden flume feeding water into the turbine. Under "Alternative 3," the Company examined decommissioning the generating facility. Although this alternative would remove the hydro facility from service, the utility would still incur ongoing operational costs of the dam and water conveyance structures to provide the Egin Canal with water. Under all three alternatives, the Company determined that net costs to benefits would be unfavorable to customers. *Id.* at ¶¶ 6-8.

Rocky Mountain determined the most cost-effective alternative ("Alternative 4") was to sell the facility "as is." This would relieve the utility from operating and maintaining the electric and dam facilities and represent lower costs than decommissioning. *Id.* at ¶ 9. Consequently, the Company prepared a Request for Proposals (RFP) and distributed the RFP to 31 parties that expressed interest in acquiring the facility. *Id.* at ¶ 10. Of the 31 parties that received the RFP package, 13 completed non-disclosure agreements and 6 parties indicated continuing interest. Three of the six submitted offers with varying levels of contingencies. *Id.* After reviewing the three bids, Rocky Mountain selected a bid from St. Anthony Hydro that constituted "the best balance between cost and risk." *Id.* at ¶ 12. St. Anthony proposes to restore the facility to operation and enter into a power purchase agreement (PPA) with Rocky Mountain and sell the facility's output to Rocky Mountain at PURPA avoided cost rates. The utility and St. Anthony Hydro have entered into a PPA which has been filed for the Commission's approval in Case No. PAC-E-13-07. The PPA is contingent upon the Commission's approval of Rocky Mountain selling its facility to St. Anthony Hydro. PPA § 2.1.

Although Rocky Mountain has determined that the best alternative is to sell the hydro facility, the transaction "will result in [a] sale below remaining book value of the facility, akin of the decommissioning alternative." *Id.* at ¶ 11. The utility proposes that the sale of the facility will be credited to FERC Account 101 (Electric Plant in Service) and that other accounting entries will be made to FERC Account 108 (Accumulated Depreciation) and FERC Account 282 (Accumulated Deferred Income Tax Reserve) to eliminate the balances associated with the plant. The exact book value of the transactions and entries will not be known until equipment sales are closed. *Id.* at ¶ 14.

Because this plant is operated under a FERC license, the utility will reflect the sale under FERC accounting procedures. Net proceeds will be included in FERC Account 108 as part of the Ashton-St. Anthony project. The Company maintains that this accounting procedure is consistent with past practices and approvals such as when the Cove Development was decommissioned on the Bear River. *Id.*

The utility maintains that the sale of the facility is in the public interest because it "represents the best balance of cost and risk for customers. Discontinuance of operations associated with the St. Anthony hydroelectric generating plant . . . will not adversely affect retail or wholesale customers." *Id.* at ¶ 15. The utility further maintains that loss of the plant's 0.625 MW generation capacity "will have no material effect on Rocky Mountain Power's generation capacity which is comprised of approximately 10,579 MW." *Id.* (footnote omitted). Moreover, the utility believes that St. Anthony Hydro has the financial ability and intent to operate the plant in the public interest as demonstrated by its willingness to enter into a PPA.

COMMENTS

1. IDWR Comments. On June 19, 2013, the Director of IDWR filed written comments in response to the Commission's Notice. The Director explained that the utility's hydro facility shares diversion works with the Egin Canal. Based upon this arrangement, the Director stated that it "is important that any sale of the hydroelectric facility does not result in an operational change that interferes with delivery of irrigation water into the canal." IDWR Comments at 1. He noted that the canal company is aware of the proposed transaction and it has not expressed any concern regarding the impending sale. Consequently, the Director stated that the sale would not "cause injury to other water right holders, and I do not propose to add conditions to the sale of the water right." *Id.* The Director did note that when the sales transaction has closed, the new owner must notify IDWR of the change in water right ownership pursuant to *Idaho Code* § 42-248.

2. Staff Comments. Based upon its analysis of the Application, Staff believes the sale of the hydro facility to St. Anthony Hydro is the preferred option. Staff states that the proposed sale satisfies the public interest standards set forth in *Idaho Code* § 61-328(1) and the proposed sales does not adversely affect Rocky Mountain customers.

Staff agreed with the Company's analysis that net costs for Alternatives 1-3 would exceed benefits. Staff believes that the underlying assumptions were applied consistently among the four alternatives and are fundamentally sound, with the exception of the reliance on market price in the benefit/cost analysis. Staff determined that Alternative 4 (sale the plant "as is") produces the most favorable net (cost)/benefit-PVRR and levelized annual cost by a wide margin. "Alternative 4 was nearly twice as beneficial over decommissioning (Alt. 3); four times as beneficial as Alternative 2; and eight times as beneficial as Alternative 1." Comments at 4. The large disparity in the cost/benefit analysis was due mainly to consideration of upfront capital outlays necessary to upgrade the facilities and ongoing O&M, as well as decommissioning costs. *Id.*

Staff noted that even though the sale of the facility (Alt. 4) was the best performing option, it still results in a net cost to the Company. However, Staff determined that this cost is *de minimis* given the size of the transaction relative to PacifiCorp's customer-generated revenue. The sale would not result in a rate increase, thus satisfying the second condition set out at *Idaho Code* § 61-328(3)(b).

Staff also opined that St. Anthony Hydro has the financial ability and intent to repair and operate the hydro plant. Staff concurred with the utility's analysis that St. Anthony Hydro "was the only bidder who showed clear ability to assume Rocky Mountain Power's maintenance and regulatory responsibilities." *Id.* at 5. Consequently, Staff concluded that St. Anthony's intent to operate the hydroelectric facility as a PURPA qualifying facility (QF) satisfied the third condition. *Idaho Code* § 61-328(3)(c).

Staff also noted that Rocky Mountain and St. Anthony agreed to equally divided ownership of the renewable energy credits (RECs) associated with the repaired project. Under the terms of the accompanying Power Purchase Agreement (PPA) in Case No. PAC-E-13-07, Rocky Mountain would receive the RECs for first 10 years of the PPA and St. Anthony would retain them for the last 10 years of the contract. Comments at 5.

Finally, Staff acknowledged that selling the hydro facility "as is" will result in a sale below remaining book value of the facility. *Id.* Because the hydro plant is a FERC-licensed facility, Staff reviewed the proposed accounting procedure. Staff determined that net proceeds will be included in FERC Account 108 as part of the license for the Ashton-St. Anthony project. Staff has reviewed the proposed accounting entries for recording the sale of the hydro facility and found them to be consistent with past practices and in accordance with Generally Accepted Accounting Principles (GAAP). Although the exact book value of the transaction and entries will not be known until equipment sales are closed, Staff recommended the Company file the final accounting entries associated with the sale within 45 days of the closing of the transaction.

PUBLIC HEARING

Only Rocky Mountain and Staff participated at the public hearing and they each urged the Commission to approve the proposed sale. Tr. at 2; 5. Company witness Mark Stenberg testified that out of the six proposals received by the Company, St. Anthony Hydro was the most experienced bidder in small hydro operations and had the most cash available. Tr. at 7. Mr. Stenberg was confident that St. Anthony Hydro could make the necessary repairs and return the facility to operation as soon as FERC approved the transfer of the facility to St. Anthony Hydro. *Id.* at 7-8.

COMMISSION FINDINGS

Based upon our review of the Application, the filed comments, and testimony received at our telephonic public hearing, we approve the Application to sell the hydro generating facility to St. Anthony Hydro, LLC. We find that this transaction meets all of the requirements of *Idaho Code* § 61-328. The sale of the facility "as is" to St. Anthony Hydro will not cause any increase in rates and the purchaser will be able to maintain the acquired facility necessary to supply PURPA power to Rocky Mountain. This transaction is in the public interest.

O R D E R

IT IS HEREBY ORDERED that the Application to sell the St. Anthony hydro facility from PacifiCorp dba Rocky Mountain Power to St. Anthony Hydro, LLC is approved.

IT IS FURTHER ORDERED that Rocky Mountain Power file the final accounting entries associated with the sale of this facility within 45 days of the closing transaction.

THIS IS A FINAL ORDER. Any person interested in this Order (or in issues finally decided by this Order) or in interlocutory Orders previously issued in this Case No. PAC-E-13-06 may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order or in interlocutory Orders previously issued in this case. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 31st day of July 2013.

PAUL KJELLANDER, PRESIDENT

MACK A. REDFORD, COMMISSIONER

MARSHA H. SMITH, COMMISSIONER

ATTEST:

Jean D. Jewell
Commission Secretary

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