

## DECISION MEMORANDUM

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

**FROM:** DON HOWELL  
DEPUTY ATTORNEY GENERAL

**DATE:** MAY 23, 2013

**SUBJECT:** ROCKY MOUNTAIN POWER'S APPLICATION FOR AUTHORITY TO  
SELL ITS ST. ANTHONY HYDRO FACILITY, CASE NO. PAC-E-13-06

On April 9, 2013, PacifiCorp dba Rocky Mountain Power filed an Application pursuant to *Idaho Code* § 61-328 for authority to sell its St. Anthony hydroelectric facility located within the city limits of St. Anthony, Idaho.<sup>1</sup> This facility shares a FERC license with the nearby Ashton facility. The St. Anthony facility consists of a 1-unit powerhouse that contains a 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 750 horsepower. The "head works" 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.*

### LEGAL STANDARDS

*Idaho Code* § 61-328 governs the sale of utility property located within the State of Idaho. Briefly, 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: (1) that 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

---

<sup>1</sup> 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 as a public document on May 17, 2013, but redacted certain information it claimed was trade secret pursuant to Rule 67 and *Idaho Code* § 9-304D.

the burden of showing that the standards set out above have been satisfied. *Idaho Code* § 61-328(2).

The Commission has been vested with the authority to approve, reject or condition the transaction. The Commission 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.*

### **BACKGROUND**

The utility 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. The utility was granted an extension of time by the Idaho Department of Water Resources (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 upon the Commission’s approval of the Application to sell the facility, the water rights will be withdrawn from the bank and transferred to the new owner (St. Anthony Hydro LLC) when the plant resumes operations.<sup>2</sup>

### **THE APPLICATION**

Rocky Mountain Power evaluated four alternatives before deciding that sale of the facility was the most appropriate alternative. Under “Alternative 1,” the Company evaluated 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 evaluated the cost-effectiveness of completely modernizing the hydro plant and its support structures. Under “Alternative 2,” the Company would simply repair the failed shafts and replace the wooden flume feeding water into the turbine. Under “Alternative 3,” the Company would decommission the generating facility but would still incur ongoing operational costs of the dam and conveyance structures. Under all three alternatives, the Company determined that net costs to benefits would be unfavorable to customers. *Id.* at ¶¶ 6-8.

---

<sup>2</sup> In an accompanying application in Case No. PAC-E-13-07, the Company and the purchaser of the facility anticipate that it will resume operation on or about November 30, 2013.

Rocky Mountain determined that the most cost-effective alternative was to sell the facility “as is.” 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 the 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 LLC has the financial ability and intent to operate the plant in the public interest as demonstrated by its willingness to enter into a PPA.

Rocky Mountain requests that the Application be processed by Modified Procedure.

### **STAFF RECOMMENDATION**

Staff recommends that the Application be processed by Modified Procedure with a 21-day comment deadline. Staff notes that *Idaho Code* § 61-328(2) requires that the Commission issue a public notice and “conduct a public hearing upon the application.” Consequently, Staff believes that the parties and other interested persons may submit written comments regarding the Application and that the Commission schedule a telephonic hearing and for the parties to make their technical experts available in the event that the Commission has questions regarding the transaction.

### **COMMISSION DECISION**

1. Does the Commission agree with Rocky Mountain and Staff’s recommendation that the Application be processed under Modified Procedure with a 21-day comment deadline?
2. Does the Commission agree that Rocky Mountain, Staff and other interested parties make their technical experts available during a telephonic hearing?
3. Does the Commission wish to serve a copy of its Order on the Director of the Department of Water Resources so that he may include any conditions required by *Idaho Code* §§ 61-328(4) and 42-1701(6)?

  
\_\_\_\_\_  
Don Howell  
Deputy Attorney General

bls/M:PAC-E-13-06\_dh