

## BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION	)	
OF PACIFICORP DBA ROCKY MOUNTAIN	)	CASE NO. PAC-E-13-07
POWER FOR APPROVAL OF A POWER	)	
PURCHASE AGREEMENT BETWEEN	)	
PACIFICORP AND ST. ANTHONY HYDRO,	)	ORDER NO. 32865
LLC	)	

On April 15, 2013, PacifiCorp dba Rocky Mountain Power filed an Application for approval of a Power Purchase Agreement (PPA or Agreement) between itself and St. Anthony Hydro, LLC. St. Anthony Hydro (a potential “qualifying facility” (QF)) is an Idaho limited liability company that has made an offer to purchase Rocky Mountain’s small hydroelectric facility at St. Anthony in Fremont County, Idaho. *See* Case No. PAC-E-13-06. The PPA<sup>1</sup> is contingent on the Commission’s approval of the utility’s application to sell its inoperable hydroelectric facility to St. Anthony Hydro. PPA at § 2.1. St. Anthony Hydro expects to repair the hydro facility and produce power to sell to Rocky Mountain. The estimated capacity rating of the hydro facility is about 700 kW.

On May 30, 2013, the Commission issued a Notice of Application and a Notice of Modified Procedure requesting public comment no later than June 20, 2013. Order No. 32802. Commission Staff filed the only comments and recommended approval of the PPA. Based upon our review of the Application, the PPA and Staff comments, we approve the PPA as set out in greater detail below.

### THE APPLICATION

Rocky Mountain and St. Anthony Hydro entered into their PPA on December 20, 2012. Application at 1. Under the terms of the Agreement, St. Anthony Hydro has contracted to sell the output from the hydroelectric facility (once repaired) to Rocky Mountain for a term of approximately 20 years beginning on or about November 30, 2013. The PPA is structured as a 90-110% banded agreement. Rocky Mountain will pay non-levelized, conforming energy or

---

<sup>1</sup> When Rocky Mountain initially filed its Application, the PPA was marked confidential and proprietary. After discussions with Commission Staff, on May 17, 2013, Rocky Mountain resubmitted the PPA as a non-confidential, public document.

non-conforming energy rates “for capacity and energy adjusted for seasonality and On-Peak/Off-Peak Hours in accordance with Commission Order No. [32337].”<sup>2</sup> *Id.* at ¶ 4.

Section 2.1 of the PPA provides that the contract will not become effective until: (1) the Commission has approved the PPA; (2) the Commission has approved the sale of the hydro facility from PacifiCorp to St. Anthony (Case No. PAC-E-13-06) and the parties have closed on the transaction; and (3) the Commission has declared that all payments made to St. Anthony for the purchase of PURPA power are reasonable, in the public interest, and recoverable in Idaho rates “in the event other jurisdictions deny recovery of their proportional share of said expenses.” Application at ¶ 6.

The parties agreed that the commercial operation date for the facility is defined as 180 days after the effective date of the contract. The parties further agreed that various requirements will be placed upon the QF in order for Rocky Mountain to accept energy deliveries from the facility. *Id.* at ¶ 7. Rocky Mountain will monitor compliance with these initial requirements, and additional requirements through the full-term of the Agreement. The PPA also provides that the renewable energy credits (RECs) will be equally divided between the parties with Rocky Mountain taking the first 10 years of RECs and St. Anthony taking the last 10 years. PPA at § 4.5.

### STAFF COMMENTS

Staff recommended the Commission approve the PPA based upon Staff’s determination that the rates, terms and conditions of the PPA are reasonable and do not disadvantage ratepayers. Based upon generation records while the facility was in operation (1966 through 2001), Staff calculated that the non-levelized, annual energy payments to St. Anthony will be approximately \$178,000 in 2014 and increase to approximately \$352,000 in 2033. Staff calculated the total payments to St. Anthony over the 20-year term of the PPA would be approximately \$5.09 million, with a net present value of approximately \$2.28 million.

Staff noted the energy payments contained in the PPA are based on the avoided cost rates when St. Anthony Hydro signed the PPA on December 13, 2012.<sup>3</sup> Staff calculated the rates

---

<sup>2</sup> The Company’s Application references Order No. 30480 but the proposed rates contained in the PPA are from Order No. 32337.

<sup>3</sup> On December 18, 2012, the Commission issued Order No. 32697 establishing new avoided cost methodologies and rates in Case No. GNR-E-11-03.

contained in the PPA are slightly lower than the current avoided cost rates. Staff asserted the lower contract rates benefit ratepayers over the 20-year term of the Agreement.

Staff also noted the PPA stipulates that St. Anthony will provide delay security to Rocky Mountain in the amount of \$45,111 within five days of the effective date of the PPA. This security provision differs from those standard terms now required by the Commission's PURPA Order No. 32697 which would only require delay security in the amount of \$31,500 within 30 days of Commission approval of the PPA. In addition, Staff noted the PPA stipulates that the parties split the ownership of RECs during the 20-year term of the contract. Rocky Mountain will own the RECs for the first 10 years of the contract, while St. Anthony Hydro will take ownership over the last 10 years of the contract. Although the REC and delay security terms in the PPA differ from current standard PPA provisions, Staff observed that these contract terms do not disadvantage ratepayers and were freely entered into by both parties as part of their negotiations.

### **DISCUSSION AND FINDINGS**

The Idaho Public Utilities Commission has jurisdiction over Rocky Mountain Power, an electric utility, and the issues raised in this matter pursuant to the authority granted it under Title 61 of the Idaho Code and the Public Utility Regulatory Policies Act of 1978 (PURPA). *Afton Energy v. Idaho Power Co.* (“*Afton I/II*”), 107 Idaho 781, 785, 693 P.2d 427, 431 (1984) citing *FERC v. Mississippi*, 456 U.S. 472, 759, 102 S.Ct. 2126, 2137 (1982); Order No. 32802. The Commission has authority under PURPA and the implementing regulations issued by the Federal Energy Regulatory Commission (FERC) to set avoided costs, develop standard terms and conditions of contracts, order electric utilities to enter into fixed-term obligations for the purchase of power from qualified facilities (QFs), and resolve disputes between utilities and QFs. In addition, all PURPA contracts must be submitted to the Commission for approval. *Rosebud Enterprises v. Idaho PUC* (“*Rosebud I*”), 128 Idaho 609, 917 P.2d 776 (1996); *Rosebud Enterprises v. Idaho PUC* (“*Rosebud II*”), 128 Idaho 624, 971 P.2d 781 (1996); *Idaho Code* §§ 61-502, 61-503; Order Nos. 32697 at 44; 32802 at 11; 15746, 38 P.U.R. 4<sup>th</sup> 352 (Idaho 1980).

Having reviewed the Company's Application, the executed PPA and Staff comments, we approve the PPA entered into between Rocky Mountain and St. Anthony Hydro. In particular, we find the avoided cost rates, terms and conditions of the PPA are fair, just and reasonable, and in the public interest. We further find it is reasonable to allow payments made

by Rocky Mountain under the PPA as prudently incurred expenses for ratemaking purposes. Approval of the sale of Rocky Mountain's non-operational hydroelectric facility to St. Anthony Hydro will be addressed separately in Case No. PAC-E-13-06.

### ORDER

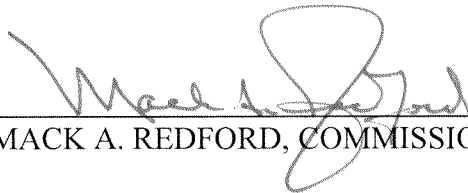
IT IS HEREBY ORDERED that the Power Purchase Agreement entered between PacifiCorp dba Rocky Mountain Power and St. Anthony Hydro LLC dated December 20, 2012, is approved.

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. IPC-E-13-07 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 31<sup>st</sup> day of July 2013.



PAUL KJELLANDER, PRESIDENT

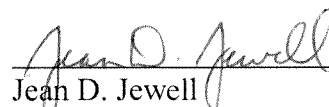


MACK A. REDFORD, COMMISSIONER



MARSHA H. SMITH, COMMISSIONER

ATTEST:



Jean D. Jewell  
Commission Secretary

bls/O:PAC-E-13-07\_dh2