

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 APPROVAL FOR
A POWER PURCHASE AGREEMENT WITH ST. ANTHONY HYDRO,
LLC, CASE NO. PAC-E-13-07

On April 15, 2013, PacifiCorp dba Rocky Mountain Power filed an Application for approval of a Power Purchase Agreement (PPA) between itself and St. Anthony Hydro, LLC. St. Anthony Hydro (a pending qualifying facility (QF)) is an Idaho limited liability company that has made an offer to purchase Rocky Mountain's hydroelectric facility at St. Anthony in Fremont County, Idaho. See Case No. PAC-E-13-06. The PPA¹ is contingent on the Commission's approval of the utility's application to sell its existing (but inoperable) hydroelectric facility to St. Anthony Hydro. PPA at § 2.1. The hydro facility is not currently in operation but has an expected capacity rating of 700 kW.

THE AGREEMENT

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 its hydroelectric facility 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 non-conforming energy prices for capacity and energy adjusted for seasonality and on-/off-peak hours in accordance with Commission Order No. 30480 and its errata. *Id.* at ¶ 4.

¹ 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.

Section 2.1 of the PPA provides that the contract will not become effective until: (1) the Commission has approved the PPA; and (2) the Commission has approved and the parties have closed on the sale of the hydro facility from PacifiCorp to St. Anthony. Application at ¶ 6.

The parties have agreed that the commercial operation date for the facility is defined as 180 days after the effective date of the contract. The parties have 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 split between the parties with Rocky Mountain taking the first 10 years of RECs and the QF taking the last 10 years. PPA at § 4.5.

By its own terms, the PPA will not become effective until the Commission has approved all of the terms and conditions and declared that all payments made by Rocky Mountain to the QF for the purchase of “energy and capacity are just and reasonable, in the public interest, and that cost incurred by the PacifiCorp for purchasing capacity and energy from [the QF] 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 proportional share of said expenses.” *Id.* at ¶ 6.

The utility requests that this Application be processed under Modified Procedure. *Id.* at 11. However, the Company stands ready to present testimony in support of its Application if the Commission determines that a technical hearing is required.

STAFF RECOMMENDATION

Staff recommends that the Application be processed by Modified Procedure with a 21-day comment deadline.

COMMISSION DECISION

Does the Commission agree that this matter may be processed under Modified Procedure with a 21-day comment deadline?



Don Howell
Deputy Attorney General

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