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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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

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 potential "qualifying facility" (QF)) is an Idaho limited liability company that has entered into an agreement to purchase Rocky Mountain's hydroelectric facility at St. Anthony in Fremont County, Idaho. *See* Case No. PAC-E-13-06. The PPA[1] is contingent on the

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

Commission's approval of the utility's application to sell its existing (but inoperable) hydroelectric facility to St. Anthony Hydro. PPA at § 2.1. Although the hydro facility is not currently operational, St. Anthony Hydro expects to repair the facility and return it to operation with an estimated capacity rating of 700 kW.

Rocky Mountain and St. Anthony Hydro signed their PPA on December 20 and December 13, 2012, respectively. 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-Peak/Off-Peak Hours in accordance with Commission Order No. [32337]."[2] *Id.* at ¶ 4.

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.

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; (3) the parties have closed on the sale of the hydro facility from PacifiCorp to St. Anthony; and (4) the Commission has 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 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.

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[2] The Company's Application references Order No. 30480 but the proposed rates contained in the PPA are from Order No. 32337.

STAFF REVIEW

The Energy Delivery Schedule found in the PPA is based on historical monthly generation of the facility. Specifically, each month's estimated generation is that month's average generation from 1966 through 2001, excluding most months in which no generation occurred. Assuming this historical annual generation, under the non-levelized rates in the PPA, the annual energy payments by Rocky Mountain will be approximately $178,000 in 2014 increasing to approximately $352,000 in 2033, or a cumulative total of $5.09 million over the 20-year term of the PPA. The net present value of the energy payments over the life of the PPA will be approximately $2.28 million.

The energy prices to be paid to St. Anthony Hydro are based on the avoided cost rates in effect when St. Anthony Hydro signed the PPA on December 13, 2012. The PPA and the Purchase Agreement upon which the PPA is contingent were negotiated prior to orders being issued in the PURPA investigation analyzing SAR and IRP methodologies (Case No. GNR-E-11-03).

Although current rates would result in a slightly higher net present value over the life of the PPA than the contract rates (approximately $2.38 million), the agreement to both sell the hydroelectric facility and purchase the output after the sale, was made based on PURPA rates at the time. Nevertheless the lower contract rates benefit ratepayers over the 20-year term of the contract. Likewise, the issues of REC ownership, delay security damages and liquidated damages were negotiated before the Commission issued Order No. 32697. While Order Nos. 32697 and 32802 in Case No. GNR-E-11-03 have adopted standard PURPA contract terms that differ from the terms in this agreement, the Staff determined that these terms are still reasonable when assessing the merits of the combined sale of the project and associated PURPA purchase of project generation.

REC ownership

The PPA stipulates that the parties split ownership of "Green Tags" (RECs) during the 20 year term of the contract. For the first 10 years, Rocky Mountain will have title to the "Green Tags." Starting in the 11th year and extending through the rest of the term of the PPA, St. Anthony Hydro will have title to the Green Tags.

This departs from the way in which Order No. 32697 decided the issue of REC ownership for projects qualifying for the SAR rates. Under Order No. 32697, published rate

PURPA projects are assigned ownership of all RECs. However, because splitting the RECs between St. Anthony Hydro and Rocky Mountain was negotiated as part of the St. Anthony Hydro Project sale and does not disadvantage ratepayers, Staff has no objection.

Delay security and liquidated damages

The PPA stipulates that St. Anthony Hydro will provide Delay Security to Rocky Mountain in the amount of $45,111 within 5 days of the effective date of the PPA. Actual delay damages are calculated each day as the greater of (a) the difference between PPA rates and market rates or (b) a fraction of the product of $45 times the Maximum Facility Delivery Rate. These provisions differ from those specified in Order No. 32697 which would require Delay Security in the amount of $31,500 within 30 days of Commission approval of the PPA. Furthermore, the delay damages would be based on the difference between the PPA rates and the market rates. However, as with the issue of REC ownership, the PPA provisions were freely entered into by both parties as part of the Hydro Project sale, and do not disadvantage ratepayers.

Alternate methods of estimating energy delivery

As mentioned above, the Energy Delivery Schedule in the PPA is based on average historical generation at the Facility. Unfortunately, the historical data used is missing almost 10% of its data points. Staff had concerns that the schedule included in the PPA may not accurately reflect future generation. Therefore, Staff also considered two alternate Energy Delivery Schedules. The first is also based on historical generation but instead of using monthly averages, it is based on the median year in terms of output. Missing data in this "median" year was estimated using regression techniques. The second is the schedule used by Rocky Mountain in its analysis of the sale of the St. Anthony Facility in Case No. PAC-E-13-06.

	Energy Delivery Schedule		
	Energy Delivery based on median generation year	Energy Delivery per the PPA	Energy Delivery based on Rocky Mountain estimates
Total energy payments	$4.96 million	$5.09 million	$5.33 million
Net present value of payments	$2.25 million	$2.28 million	$2.39 million

Total energy payments will likely fall in the range of $4.96 to $5.33 million with a corresponding net present value in the range of $2.25 to $2.39 million. Based on this analysis, Staff believes that historical generation provides a reasonable approximation of future energy delivery.

RECOMMENDATION

Staff recommends approval of the PPA as submitted. Staff believes that the PPA is reasonable and does not disadvantage ratepayers. Staff further recommends that the costs incurred by Rocky Mountain for purchasing capacity and energy from St. Anthony Hydro be accepted as legitimate expenses subject to approved allocation and recovery from the Idaho jurisdiction.

Respectfully submitted this 20th day of June 2013.

Donald L. Howell, II
Deputy Attorney General

Technical Staff: Cathleen McHugh

i:umisc:comments/pace13.7dhkkcm comments

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 20TH DAY OF JUNE 2013, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF,** IN CASE NO. PAC-E-13-07, BY E-MAILING AND MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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