

## BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

<b>IN THE MATTER OF THE APPLICATION OF          PACIFICORP DBA ROCKY MOUNTAIN          POWER FOR APPROVAL OF A POWER          PURCHASE AGREEMENT WITH LOWER          VALLEY ENERGY, INC.</b>	) ) ) ) ) ) )	<b>CASE NO. PAC-E-14-06               ORDER NO. 33107</b>
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On July 3, 2014, PacifiCorp dba Rocky Mountain Power filed an Application with the Commission requesting that the Commission approve a Power Purchase Agreement between Rocky Mountain Power and Lower Valley Energy, Inc. for the sale and purchase of electric energy produced by the Lower Valley hydroelectric project located in Afton, Wyoming. The Commission issued a Notice of Application and Notice of Modified Procedure on July 30, 2014, setting a comment deadline. Order No. 33085. Commission Staff was the only person/party to file comments.

By this Order, we approve the June 17, 2014, Agreement between Rocky Mountain Power and Lower Valley Energy for the sale and purchase of electric energy.

### THE APPLICATION

#### *A. Background*

Lower Valley owns, operates and maintains three run of river hydroelectric generating facilities in Lincoln County, Wyoming – two are located on Swift Creek and one is located on the culinary water system located in/near the town of Afton. The Swift Creek facilities were completed in 2009 and have maximum capacities of 940 kW (the “Upper Facility”) and 535 kW (the “Lower Facility”). The third facility – the “Culinary Facility” – has a nameplate capacity of 225 kW.

On May 22, 2009, PacifiCorp and Lower Valley entered into a Power Purchase Agreement (PPA) regarding the Upper Facility for a three-year term, expiring on May 1, 2012. The Commission approved the PPA in July 2009. Order No. 30864. In February 2010, the Company and Lower Valley executed a Revised and Restated Power Purchase Agreement to include generation from the Lower Facility. The Commission approved the revised agreement on February 25, 2010, by Minute Order. In May 2011, PacifiCorp and Lower Valley sought another revision of the PPA. The parties requested that the Commission add output from the

newly constructed Culinary Facility and extend the term of the entire contract through September 1, 2014. The Commission approved the addition of the Culinary Facility and extension of the contract term on August 10, 2011. Order No. 32323.

### ***B. The Agreement***

PacifiCorp and Lower Valley executed an agreement on June 17, 2014, pursuant to the terms and conditions of the various Commission orders applicable to this PURPA agreement for a hydroelectric resource. Under the terms of the PPA, Lower Valley elected to contract with Rocky Mountain for a two-year term using non-levelized published avoided cost rates established at the time of the PPA under Order No. 32817 for energy deliveries of less than 10 average megawatts (aMW).

The nameplate rating of the facilities as a whole is 1.7 MW. Lower Valley has attested and documented through its generation profile that its facilities will not exceed 10 aMW on a monthly basis. Should the facilities exceed 10 aMW on a monthly basis, Rocky Mountain will accept the energy that does not exceed the maximum facility delivery rate (inadvertent energy), but will not purchase or pay for the inadvertent energy. Furthermore, this PURPA agreement includes the 90-110 performance band as required by Commission Order No. 29632.

PURPA QF generation must be designated as a network resource on Rocky Mountain's system, which requires the Company's merchant function to submit a Transmission Service Request on behalf of the facilities to PacifiCorp transmission. Submission of this request occurred on May 29, 2014. Upon resolution of any necessary upgrades to acquire network transmission capacity for delivery of energy and upon execution of the PPA, the facilities may then be designated as a network resource.

Lower Valley has also been made aware of and accepted the provisions of the PPA regarding curtailment or disconnection of its facilities should certain operating conditions develop on the Company's system. Section 6 of the PPA defines the condition for curtailment and obligations of Lower Valley in the event of curtailment.

By its own terms, the Agreement will not become effective until the Commission has approved all of the terms and conditions and declares that all payments made by Rocky Mountain Power to the project for purchases of energy "are just and reasonable, in the public interest, and that the costs incurred by [Rocky Mountain Power] for purchases of capacity and energy from [Lower Valley] are legitimate expenses, all of which the Commission will allow

[Rocky Mountain Power] to recover in rates in Idaho in the event other jurisdictions deny recovery of their proportionate share of said expenses.” Agreement ¶ 2.1.

### **COMMENTS**

Staff was the only person or party to file comments. Staff noted that this Agreement is intended to replace an existing Agreement that will expire on September 1, 2014. Staff further identified that nearly all of the terms of the new Agreement are identical to those in the expiring Agreement. One difference between the old and new Agreements, however, is that the rates in the new Agreement have been updated. Staff confirmed that the Agreement contains the non-levelized published avoided cost rates in accordance with Commission Order No. 32817. Staff confirmed that the monthly on-peak/off-peak multipliers contained in the Agreement are also correct.

The Agreement does not specify ownership arrangements for any renewable energy credits (RECs) associated with the project, but PacifiCorp through e-mail correspondence confirmed with Staff that the RECs for this project will be owned by the QF. This ownership arrangement is consistent with recent Commission Orders. *See* Order Nos. 32697, 32802.

Based on its review, Staff recommended that the Commission approve all of the Agreement’s terms and conditions and declare that all payments made by PacifiCorp to Lower Valley for purchase of energy be allowed as prudently incurred expenses for ratemaking purposes.

### **FINDINGS AND CONCLUSIONS**

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 and power granted it under Title 61 of the Idaho Code and the Public Utility Regulatory Policies Act of 1978 (PURPA). The Commission has authority under PURPA and the implementing regulations of the Federal Energy Regulatory Commission (FERC) to set avoided costs, to order electric utilities to enter into fixed-term obligations for the purchase of energy from qualified facilities (QFs) and to implement FERC rules.

The Commission has reviewed the record in this case, including the Application, the existing and new Agreements, and the comments of Commission Staff. Based on the record, we find that the proposed Agreement submitted in this case contains acceptable contract provisions including the non-levelized avoided cost rates in accordance with Commission Order No. 32817.

Consequently, we approve the Agreement without material change or condition. We further find it reasonable to allow payments made under the Agreement as prudently incurred expenses for ratemaking purposes.

### ORDER

IT IS HEREBY ORDERED that the Energy Sales Agreement between Rocky Mountain Power and Lower Valley Energy is approved without change or condition.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

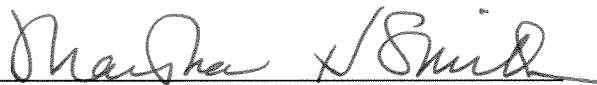
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 27<sup>th</sup> day of August 2014.



PAUL KJELLANDER, PRESIDENT

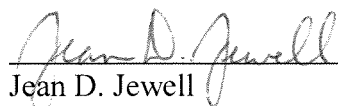


MACK A. REDFORD, COMMISSIONER



MARSHA H. SMITH, COMMISSIONER

ATTEST:



Jean D. Jewell  
Commission Secretary

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