

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION RECEIVED

JUN 04 2013

DEPARTMENT OF
WATER RESOURCES

IN THE MATTER OF THE APPLICATION)
OF ROCKY MOUNTAIN POWER FOR) CASE NO. PAC-E-13-06
AUTHORITY TO SELL THE ST. ANTHONY)
HYDROELECTRIC GENERATION PLANT) NOTICE OF APPLICATION
LOCATED IN FREMONT COUNTY, IDAHO)
) NOTICE OF
) MODIFIED PROCEDURE
)
) NOTICE OF
) TELEPHONIC HEARING
)
) ORDER NO. 32822

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

BACKGROUND

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

¹ 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 and several exhibits 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.*

NOTICE OF APPLICATION

YOU ARE HEREBY NOTIFIED that PacifiCorp 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 if the Commission approves 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.²

YOU ARE FURTHER NOTIFIED that PacifiCorp 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 would completely modernize the hydro plant and its support structures. Under “Alternative 2,” the Company would perform minimum repairs to the failed shafts and replace the wooden flume feeding water into the turbine. Under “Alternative 3,” the Company examined decommissioning the generating facility. Although this alternative would remove the hydro facility from service, the utility would still incur ongoing operational costs of the dam and water conveyance structures. Under all three alternatives, the Company determined that net costs to benefits would be unfavorable to customers. *Id.* at ¶¶ 6-8.

² In a companion application in Case No. PAC-E-13-07, the Company and St. Anthony Hydro anticipate that once repaired, the facility will resume operation on or about November 30, 2013.

YOU ARE FURTHER NOTIFIED that Rocky Mountain determined the most cost-effective alternative was to sell the facility “as is.” This would relieve the utility from operating and maintaining the electric and dam facilities and represent lower costs than decommissioning. *Id.* at ¶ 9. 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.

YOU ARE FURTHER NOTIFIED that although Rocky Mountain has determined that the best alternative is to sell the hydro facility “as is,” the transaction “will result in [a] 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.

YOU ARE FURTHER NOTIFIED that 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.*

YOU ARE FURTHER NOTIFIED that 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.

YOU ARE FURTHER NOTIFIED that Rocky Mountain requests that the Application be processed by Modified Procedure.

NOTICE OF MODIFIED PROCEDURE

YOU ARE FURTHER NOTIFIED that the Commission has determined that the public interest may not require a formal hearing in this matter and will proceed under Modified Procedure pursuant to Rules 201 through 204 of the Idaho Public Utilities Commission's Rules of Procedure, IDAPA 31.01.01.201 through .204. The Commission notes that Modified Procedure and written comments have proven to be an effective means for obtaining public input.

YOU ARE FURTHER NOTIFIED that the redacted Application together with its redacted exhibits have been filed with the Commission and are available for public inspection during regular business hours at the Commission offices. The redacted Application and PPA are also available on the Commission's web site at www.puc.idaho.gov by clicking on "File Room" and "Electric Cases," and then clicking on the case number, PAC-E-13-06.

YOU ARE FURTHER NOTIFIED that the Commission does not intend to hold a hearing in this proceeding unless it receives written protests or comments opposing the use of Modified Procedure. Persons desiring a hearing must specifically request a hearing in their written comments and state why Modified Procedure is inappropriate in this case.

YOU ARE FURTHER NOTIFIED that any person desiring to state a position on this Application **may file a written comment in support or opposition with the Commission within twenty-one (21) days from the service date of this Notice.** The comment must contain a statement of reasons supporting the comment. Written comments concerning this Application shall be mailed to the Commission and Rocky Mountain Power at the addresses reflected below:

Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074

Street Address for Express Mail:

472 W. Washington Street
Boise, ID 83702-5918

Daniel E. Solander
Senior Counsel
Ted Weston
Idaho Regulatory Affairs Manager
Rocky Mountain Power
201 S. Main Street, Suite 2300
Salt Lake City, UT 84111
E-Mail: daniel.solander@pacificorp.com
ted.weston@pacificorp.com

Bruce Griswold
Director, Short-Term Origination
PacifiCorp
825 N.E. Multnomah, Suite 1800
Portland, OR 97232
E-mail: bruce.griswold@pacificorp.com

These comments should contain the case caption and case number shown on the first page of this document. Persons desiring to submit comments via e-mail may do so by accessing the Commission's home page located at www.puc.idaho.gov. Click the "Comments and Questions" icon, and complete the comment form, using the case number as it appears on the front of this document. These comments must also be sent to Rocky Mountain at the e-mail addresses listed above.

YOU ARE FURTHER NOTIFIED that all proceedings in this case will be held pursuant to the Commission's jurisdiction under Title 61 of the Idaho Code and specifically *Idaho Code* § 61-328. The Commission may enter any final Order consistent with its authority under Title 61.

YOU ARE FURTHER NOTIFIED that all proceedings in this matter will be conducted pursuant to the Commission's Rules of Procedure, IDAPA 31.01.01.000 *et seq.*

NOTICE OF TELEPHONIC HEARING

YOU ARE FURTHER NOTIFIED that the Commission will hold a telephonic hearing in this matter on **THURSDAY, JUNE 27, 2013, COMMENCING AT 10:30 A.M. IN THE COMMISSION HEARING ROOM, 472 W. WASHINGTON STREET, BOISE, IDAHO (208) 334-0338.** The purpose of this meeting will be to allow Commissioners to

question the parties regarding the Application and the standards set out in *Idaho Code* § 61-328. Parties may participate in person at the Commission's Hearing Room or participate

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telephonically be dialing 1-888-706-6468 and entering Participant Code: 2253752. Persons desiring to listen to the proceedings may do so by dialing the number and participant code as noted above.

YOU ARE FURTHER NOTIFIED that all hearings and prehearing conferences in this matter will be held in facilities meeting the accessibility requirements of the Americans with Disabilities Act (ADA). Persons needing the help of a sign language interpreter or other assistance in order to participate in or to understand testimony and argument at a public hearing may ask the Commission to provide a sign language interpreter or other assistance at the hearing. The request for assistance must be received at least five (5) working days before the hearing by contacting the Commission Secretary at:

IDAHO PUBLIC UTILITIES COMMISSION
PO BOX 83720
BOISE, IDAHO 83720-0074
(208) 334-0338 (Telephone)
(208) 334-3762 (FAX)
E-Mail: secretary@puc.idaho.gov

O R D E R

IT IS HEREBY ORDERED that this matter be processed under our rules of Modified Procedure, IDAPA 31.01.01.201-.204.

IT IS FURTHER ORDERED that persons and parties interested in filing written comments regarding this matter should do so no later than 21 days from the service date of this Order.

IT IS FURTHER ORDERED that the Commission Secretary serve this Order on the Director of the Department of Water Resources.

IT IS FURTHER ORDERED that a technical hearing will be convened on June 27, 2013, as set out above.

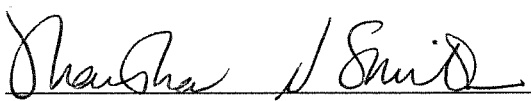
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 31st
day of May 2013.



PAUL KJELLANDER, PRESIDENT

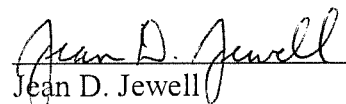


MACK A. REDFORD, COMMISSIONER



MARSHA H. SMITH, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

bls/O:PAC-E-13-06_dh

