BEFORE THE PUBLIC SERVICE COMMISSION OF WYOMING

IN THE MATTER OF THE APPLICATION OF ROCKY MOUNTAIN POWER FOR A MODIFICATION OF AVOIDED COST METHODOLOGY AND REDUCED TERM OF PURPA POWER PURCHASE AGREEMENTS	))))))	DOCKET NO. 20000-545-ET-18 RECORD NO. 15133

POST HEARING BRIEF ON BEHALF OF ROCKY MOUNTAIN COALITION FOR RENEWABLE ENERGY AND VK CLEAN ENERGY PARTNERS, LLP

Rocky Mountain Coalition for Renewable Energy ("RMCRE") and VK Clean Energy Partners, LLP ("VK Clean Energy") (collectively "RMCRE")[1] hereby submit this post-hearing brief to the Public Service Commission in Wyoming ("Commission") to address the proposals raised by the parties in this docket and to discuss the testimony submitted by the parties and the evidence presented to the Commission at the hearing on July 9-11, 2019.

I. INTRODUCTION AND HISTORY OF RELATED PROCEEDINGS

On August 26, 2015 Rocky Mountain Power ("RMP" or "Company") filed an application with this Commission in Docket No. 20000-481-EA-15 ("2015 QF Docket") seeking to reduce the maximum term length of power purchase agreements ("PPA") with qualifying facilities ("QF") from 20 years to three (3) years. RMP sought to justify its proposal to substantially reduce the maximum term length of QF contracts at least partly on the stated basis that a three-year QF PPA term was consistent with the Company's hedging and trading policies for non-QF

[1] VK Clean Energy intervened as an independent party in this docket. After intervening, counsel for RMCRE entered an appearance on behalf of VK Clean Energy and, since that time, VK Clean Energy has—for all intents and purposes—acted as a member of RMCRE, along with Sustainable Power Group ("sPower") and Chevron Power and Energy Management Company, a division of Chevron, U.S.A. Inc. ("Chevron"). This brief represents the positions of RMCRE, which include the positions of VK Clean Energy.

contracts.[2] In the 2015 QF Docket, RMP also sought to modify the partial displacement differential revenue requirement ("PDDRR") methodology used to determine avoided cost pricing for QFs in Wyoming.

RMP and multiple intervenors, including RMCRE, submitted testimony and evidence in the 2015 QF Docket and participated in a public hearing on March 29-30, 2016. The Commission held public deliberations on April 22, 2016 and, on June 23, 2016, issued a Memorandum Opinion, Findings of Fact, Decision and Order ("2015 Order") consistent with its decision to deny RMP's application in that docket on several grounds. The Commission found that RMP had not met its burden to demonstrate either that its proposed reduction in the QF PPA term or its proposed modifications to the PDDRR methodology would address the problems that RMP alleged gave rise to its application in the 2015 QF Docket.[3] The Commission ultimately denied the application and ordered parties to engage in a collaborative process to negotiate the issues addressed in the 2015 QF Docket. Pursuant to the Commission's 2015 Order, the parties engaged in negotiations, but that process did not yield a resolution to the issues raised in the 2015 QF Docket.

On November 2, 2018, RMP filed its application in this docket, again seeking to reduce the maximum QF PPA term and again seeking to modify the PDDRR methodology, along with proposed changes to Schedule 37 and Schedule 38. RMP's proposed modifications differ from those proposed in the 2015 QF Docket. In this docket RMP proposes to reduce the maximum QF PPA term from 20 years to 7 years and to modify the PDDRR methodology in various ways,

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[2] Memorandum Opinion, Findings of Fact, Decision and Order, dated June 23, 2016 in Docket No. 20000-481-EA-15 ("2015 QF Order") at 7, ¶ 40.
[3] *Id*. at 21, ¶ 96.

including modifications to the methods in which avoided capacity and avoided energy payments are calculated and modifications to Schedule 38.

Various parties, including RMCRE, intervened in this matter and submitted testimony and evidence and a public hearing was held on the matter on July 9-11, 2019.

II. APPLICABLE WYOMING LAW

This Commission identified the applicable Wyoming law at issue in this docket in Paragraphs 80-88 of its June 23, 2016 Memorandum Opinion, Findings of Fact, Decision and Order in Docket No. 20000-481-EA-15 (Record No. 14220) ("2016 QF Order").[4] Rather than repeat back to the Commission its discussion of applicable Wyoming law from the 2016 QF Order, RMCRE incorporates that discussion as though set forth herein.

III. APPLICABLE FEDERAL LAW

This Commission also identified the general principles of applicable federal law at issue in this docket in Paragraphs 91-95 of its 2016 QF Order, including a discussion of the history and purpose of the Public Utilities Regulatory Policies Act of 1978 ("PURPA") and certain regulations passed by the Federal Energy Regulatory Commission ("FERC"), interpreting and implementing PURPA. RMCRE will not repeat that discussion here and, instead, incorporates that discussion as though set forth herein. In addition to that discussion, RMCRE will discuss more specific aspects of PURPA and FERC regulations in the appropriate sections below.

IV. PURPA PRINCIPLES

In this docket RMP requests certain specific modifications to this Commission's implementation of PURPA, including a reduction in the maximum PPA term length, certain

[4] *See* Hearing Ex. 723 (¶¶ 80-88).

changes to the avoided cost calculation methodology, and changes to Schedule 38. Before addressing those proposed changes, RMCRE will respond to RMP's assertions about the validity and viability of PURPA itself, which RMP claims as support for its specific proposals. RMP asserts that there have been a "vast amount of changes" in the energy and utilities industry in the 40 years since PURPA was enacted.[5] RMP's system, however, has undergone almost no changes of significance with respect to the underlying policy objectives of PURPA. While there have been significant technological advances in renewable generation systems, those technological advancements have not addressed (and cannot address) PURPA's goal of creating a competitive market for electricity generation by removing obstacles imposed by incumbent utilities, which have ben and remain unwilling to purchase power from competitive generators absent a legal requirement to do so.

Unlike electric utilities whose transmission systems have transitioned to an independent system operator or regional transmission operator, PacifiCorp maintains the very same type of "closed" vertically-integrated utility system that Congress saw as an impediment to market access for small power producers when it passed PURPA 40 years ago. While RMP cites the "burden" of the PURPA mandatory purchase requirement as though it continues to be universally applicable to all utilities in the United States, it is not. In 2007, Congress passed new Section 210(m) of PURPA, which permits utilities to request that FERC lift the mandatory purchase obligation, <u>but only if QFs within the utility system have access to competitive markets</u>.[6] While some electric utilities have sought and obtained waivers of the mandatory

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[5] *See, e.g.*, Hearing Tr. (Vol. I) at 18:2.
[6] *See* Ex. A (Federal Register, Vol. 72, No. 125 (June 29, 2007) at 35873 ("Section 210(m)(1)(A) of PURPA requires the Commission to terminate an electric utility's obligation to purchase from

purchase obligation from FERC, RMP has not. This is because there are no organized wholesale competitive markets for long-term sales of capacity and energy available to QFs in Wyoming. In short, the mandatory purchase obligation that continues to apply to RMP is not a relic of a dated federal law, but rather reflects the current reality that QFs within RMP's footprint largely have no access to competitive markets and RMP cannot, therefore, qualify for FERC termination of the mandatory purchase obligation.

RMP relies on its incorrect claims about the ongoing validity of PURPA's goals to assert that this Commission must enact RMP's proposed changes in this docket to "rebalance" the relationship between the mandatory purchase obligation and the "customer indifference" principle.[7] This framing presents a one-sided and incorrect view of the "customer indifference" standard (which is concerned not just that ratepayers pay too much for QF energy, but also that QFs are not charged unfairly discriminatory rates).[8] Moreover, the notion that a "rebalancing" of regulatory objectives is required to counteract any alleged harm from the mandatory purchase obligation seeks to ignore the fact that this obligation only applies because PacifiCorp operates its system in a way that eliminates competition and access to wholesale markets, such that the mandatory purchase obligation continues to apply to PacifiCorp and its customers.

In Wyoming, the principles underlying PURPA remain as viable today as they were when Congress enacted PURPA 40 years ago. PURPA continues to provide a framework for generation resources to compete with RMP. This Commission should, therefore, reject RMP's assertion that its proposals in this docket should be adopted because PURPA is out of date or

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a QF if the QF has nondiscriminatory access to" wholesale markets). A copy of Exhibit A is attached hereto.

[7] *See, e.g.*, Hearing Tr. (Vol. I) at 19:15-18, 42:9-19, 172:2-4

[8] *See* 16 U.S.C. § 824b.

unsuited for the current energy environment. PURPA remains relevant and this Commission must keep its principles in mind as it considers RMP's proposals discussed below.

V. DISCUSSION OF RMP'S PROPOSALS

A. MAXIMUM PPA TERM LENGTH

RMP has failed to carry its burden to demonstrate that its proposal for a 7-year maximum QF contract term is consistent with PURPA and, as such, this Commission should reject RMP's proposal and maintain the current 20-year QF PPA term length. As set forth below, A) federal law requires that a QF PPA term must be long enough to allow QFs reasonable opportunities to attract capital from potential investors, B) RMP has not demonstrated that a 7-year PPA is long enough to allow QFs reasonable opportunities to attract capital from potential investors, and C) intervenors have demonstrated that a 20-year PPA is long enough to allow QFs reasonable opportunities to attract capital from potential investors.

1. PURPA Requires That A QF PPA Term Must Be Long Enough To Allow QFs Reasonable Opportunities To Attract Capital From Potential Investors

Federal laws and regulations require that state utility commissions implement PURPA in such a way that ensure that a QF may sell energy or capacity to a public utility, such as RMP, pursuant to a legally enforceable obligation.[9] If the QF sells energy or capacity pursuant to a PPA or other legally enforceable obligation, the QF may elect to receive pricing based on the forecasted avoided costs calculated at the time the obligation is incurred.[10] FERC has ruled that "state regulatory authorities cannot preclude a QF—even an intermittent QF—from obtaining a

[9] *See* 18 C.F.R. § 292.304(d) (2016).
[10] *See also Windham Solar LLC*, 157 FERC ¶ 61134, ¶ 4 (2016).

legally enforceable obligation with a forecasted avoided cost rate."[11] FERC "has long held that its regulations pertaining to legally enforceable obligations 'are intended to reconcile the requirement that the rates for purchases equal to the utilities' avoided costs with the need for qualifying facilities to be able to enter into contractual commitments, by necessity, on estimates of future avoided costs.'"[12]

Utilities and state commissions have long expressed the concern "that, if the avoided cost of energy at the time it is supplied is less than the price provided in the contract or obligation, the purchasing utility would be required to pay a rate for purchases that would subsidize the qualifying facility at the expense of the utility's other ratepayers."[13] While FERC "recognize[s] this possibility" with respect to any individual QF contract, but recognizes that "in other cases the required rate will turn out to be lower than the avoided cost at the time of purchase," and that "in the long run, 'overestimations' and 'underestimation' of avoided cost will balance out."[14] The Commission expressly rejected arguments that avoided costs were "intended to require a minute-by-minute evaluation of costs which would be checked against rates established in long term contracts between qualifying facilities and electric utilities."[15] That is, FERC has asserted that PURPA does not require a QF's rates to match up with the utility's avoided costs at a given point in time during the QFs contracted term. Rather, the requirement that a QF be permitted to receive rates based on a forecast of avoided costs expressly acknowledges that the utility's

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[11] *Id.*, ¶ 6.
[12] *Id.*, ¶ 8 (quoting *Small Power Production and Cogeneration Facilities; Regulations Implementing Section 210 of the Public Utility Regulatory Policies Act of 1978*, Order No. 69, FERC Stats. & Regs. ¶ 30,128, at 30,880, Fed. Reg., Vol. 45 No. 38 (Feb. 25, 1980) at 12224 ("Order No. 69"). A true and correct copy of Order No. 69 is attached hereto as Exhibit B.
[13] Order No. 69 at 12224.
[14] *Id*.
[15] *Id*.

avoided costs may ultimately be higher or lower than what was forecast, but that these over- and under-estimations will ultimately "balance out."

Finally, FERC "has explicitly agreed with previous commenters that 'stressed the need for certainty with regard to return on investment in new technologies.'"[16] Given this "need for certainty with regard to return on investment," coupled with Congress' directive that the Commission 'encourage' QFs,"[17] FERC has ruled that "a legally enforceable obligation should be long enough to allow QFs reasonable opportunities to attract capital from potential investors."[18]

Interpreting the language from *Windham Solar* that a legally enforceable obligation be "long enough to allow QFs reasonable opportunities to attract capital from potential investors," the Iowa Utilities Board issued an order in January of 2018 requiring a utility to offer a 20-year PPA for three 8 MW QF wind projects.[19] The Board rejected the utility's argument that a 5-year QF PPA was sufficient to attract capital, noting that the utility's recent request for proposals ("RFP") for wind projects generated five proposals—one for a 15-year PPA and four for 25-year PPAs.[20] The Board noted that "[t]his competitive market information supports a finding that a term of 15 to 25 years is necessary for these types of projects," and ordered the utility to offer

[16] *Windham Solar*, 157 FERC, ¶ 61134, ¶ 8 (quoting Order No. 69 at 12224)
[17] 16 U.S.C. § 824a-3(a) (2012) (directing FERC to adopt rules that "encourage cogeneration and small power production").
[18] *Windham Solar*, 157 FERC, ¶ 61134, ¶ 8.
[19] *See In re Optimum Renewables, LLC*, FCU-2017-0004, 2018 WL 30596, at *2 (Iowa U.B., Jan. 3, 2018). A true and correct copy of the Iowa Utility Board's ruling in *In re Optimum Renewables, LLC* is attached hereto as Exhibit C.
[20] *Id*.

20-year terms for the projects at issue, noting that "a 20-year term is of sufficient length to allow the project owners a reasonable opportunity to attract capital, as required by PURPA."[21]

As set forth below, RMP has failed to demonstrate that a 7-year PPA is "long enough to allow QFs reasonable opportunities to attract capital from potential investors" and, therefore, this Commission should decline to adopt RMP's proposal to reduce the maximum QF contract term to 7 years, and should retain the current 20-year QF contract term.

2. RMP Has Not Demonstrated That A 7-Year PPA Is Long Enough To Allow QFs Reasonable Opportunities To Attract Capital From Potential Investors

RMP has failed to carry its burden to demonstrate that its proposal to modify the maximum QF PPA term from 20 years to 7 years is consistent with PURPA and, as such, this Commission should decline to adopt the proposal. RMP has failed to offer any evidence upon which this Commission could determine that a 7-year PPA is long enough to allow QFs in Wyoming "reasonable opportunities to attract capital from potential investors."[22] RMP's testimony in this docket identifies several policy arguments that, in RMP's view, a QF contract term shorter than 20 years would improve utility operations. Some of these policy arguments are mere pretext for RMP's preferred outcome, but none of them address the issue of whether a 7-year QF PPA term is sufficient to provide QFs in Wyoming "reasonable opportunities to attract capital from potential investors."

RMP offers scant evidence about the availability of capital or opportunities available to Wyoming QFs to attract capital from potential investors, and none of the scant evidence it does offer supports a 7-year QF PPA term. RMP witness Daniel MacNeil offered no testimony

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[21] *Id*.
[22] *Windham Solar*, 157 FERC, ¶ 61134, ¶ 8.

regarding opportunities available to Wyoming QFs to attract capital from potential investors. RMP witness Mark Tourangeau offered testimony that, as a general matter, capital is available for renewable generation projects,[23] that renewable developers in the United States have signed PPAs for terms less than 20 years,[24] and that alternative funding programs may help finance QF projects.[25] As discussed below, none of this testimony supports a finding that a 7-year PPA is "long enough to allow QFs reasonable opportunities to attract capital from potential investors."

a. Mr. Tourangeau's Testimony About The General Availability Of Capital Investment Does Not Support A 7-Year QF PPA Term In Wyoming.

Mr. Tourangeau testifies that, as a general matter, the renewable energy sector is expected to grow over the next several years and that investors are expected to continue to invest in the renewable energy market.[26] This testimony says nothing about whether any of that growth or investment would be available to a QF developer in Wyoming—particularly one trying to finance a project on a 7-year PPA. Indeed, when RMP recently made its own investment in renewable energy projects in Wyoming, it requested a 30-year term to recover that investment.[27] Specifically, in connection with its Energy Vision 2020 project, RMP recently requested and received approval to build 1,150 MW of new wind resources in Wyoming and to repower an additional 999 MW of existing wind resources in Wyoming, for a total cost of $2.56 billion (total Company) and required a 30-year return on that investment.[28] RMP's own investment decisions

[23] *See* Ex. 2.0 (Tourangeau Direct) at 28:15-31:2. All references to Exhibit page numbers refer to the page number in the lower right-hand corner of the page.
[24] *See* Ex. 2.0 (Tourangeau Direct) at 19:6-23:3.
[25] *See* Ex. 2.0 (Tourangeu Direct) at 25:19-28:14.
[26] *See* Ex. 2.0 (Tourangeau Direct) at 28:15-31:2.
[27] *See* Ex. 300 (Higgins Direct) at 16:1-19:1.
[28] *Id*.

certainly contradict Mr. Tourangeau's suggestion that the general interest in financing renewable generation projects translates to an interest in financing them on 7-year terms.

The only non-utility witness with experience in financing renewable energy projects—Hans Isern of Sustainable Power Group ("sPower"), who testified on behalf of RMCRE—confirmed that this general interest in financing renewable energy projects does *not* result in financing for 7-year PPAs. Rather, as Mr. Isern noted, while "[t]here is demand to finance long-term PPAs and there is a well-functioning capital market to serve the increased demand for renewable power when such power is contracted with long-term PPAs . . . [t]here is practically ***no demand*** to finance a 7-year PPA."[29] He further testified that his company "would be highly unlikely to provide capital to a project with only seven years of contracted revenue,"[30] and that "[l]imiting the maximum term of QF PPAs to seven years in Wyoming would severely and negatively impact the ability of renewable energy developers to finance QF projects in Wyoming, which would thwart future development of cost-effective renewable resources."[31]

Mr. Tourangeau's testimony that, as a general matter, there is market interest in financing renewable energy projects simply does not support the suggestion that this would result in reasonable opportunities for QF developers to obtain financing for a 7-year PPA.

b. Mr. Tourangeau's Testimony That Developers Have Signed PPAs For Terms Less Than 20 Years Does Not Support A 7-Year QF PPA Term.

Mr. Tourangeau testifies that developers have signed PPAs of 15 years or fewer with corporate customers in other jurisdictions within the last five years.[32] As with his testimony that

[29] Ex. 701 (Isern Direct) at RMCRE00244, lines 258-262 (emphasis added).
[30] Ex. 701 (Isern Direct) at RMCRE00235, lines 77-79.
[31] Ex. 701 (Isern Direct) at RMCRE00234 lines 54-57.
[32] *See, e.g.*, Ex. 2.0 (Tourangeau Direct) at 19:6-23:3.

there is a general interest in financing renewable energy projects, Mr. Tourangeau's testimony that developers have signed PPAs of 15 years or less with corporate customers in other states similarly offers no support for the notion that capital investment would be available to fund the construction of a renewable development project in Wyoming on a 7-year PPA term. Mr. Tourangeau's pre-filed direct testimony identifies several corporations that have signed PPAs for terms shorter than 20 years in the past five years,[33] and then refers to this as a "trend" toward shorter PPA.[34] As an initial matter, Mr. Tourangeau's testimony does not support his assertion that there is a "trend" toward shorter PPAs. Mr. Tourangeau provided no evidence that there have been *more* PPAs of terms shorter than 20 years built since 2015 than in prior periods. Instead, as discussed below, he presented evidence that a relatively small portion of renewable projects built since 2015 had PPA terms of less than 20 years and then simply asserted that this small percentage represents a "trend." It does not.

In addition to the fact that Mr. Tourangeau fails to identify a "trend" toward PPAs of shorter than 20 years, Mr. Tourangeau's testimony fails to support RMP's proposal to reduce the QF PPA term from 20 years to 7 years. While Mr. Tourangeau claims that "[m]any of the corporate buyers who are contracting for renewables to meet sustainability and/or carbon neutrality goals are seeking contracts as short as seven years,"[35] he fails to cite even a single example of a 7-year PPA or, more importantly, a project financed with a 7-year PPA. In his pre-filed direct testimony, Mr. Tourangeau cites certain corporate customers that have entered into

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[33] *See* Ex. 2.0 (Tourangeau Direct) at 19:6-23:3.
[34] *Id*. at 19:8.
[35] Ex. 2.0 (Tourangeau Direct) at 19:9-11.

PPAs of 12 to 15 years,[36] but does not cite a single customer that entered into a 7-year PPA. It is worth noting that all of the individual examples that Mr. Tourangeau cites are contracts for all or portions of capacity from renewable projects that are far larger than 80 MW and, therefore, are far too large to qualify as QFs.[37] This is certainly *not* evidence that a QF developer can build and finance an 80 MW project for PPAs of less than 20 years.

Moreover, all of the PPAs of less than 20 years that Mr. Tourangeau cites in his testimony were located *outside of Wyoming*, which does not give this Commission any basis to conclude that a PPA of less than 20 years will work *in Wyoming*. Mr. Tourangeau agreed that a factor that a developer must consider in where and whether to develop its project is the avoided cost price it will receive.[38] This is common sense. The higher the price, the more likely it is that a developer can finance a project on a shorter-term PPA. The lower the price, the more likely it is that a developer will require a longer-term PPA to finance the project.[39] RMP did not cite a single renewable project that was financed *in Wyoming* on a PPA of fewer than 20 years. Indeed, the only renewable projects referenced in the testimony *in Wyoming* were for 20-year PPAs. This includes the 20-year, fixed-price PPA that RMP entered into with a 200 MW wind

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[36] *Id*. at 19:12-20:11.
[37] *Id*. at 19:12-20:11. The 12-year PPAs signed by Owens Corning and Equinix that Mr. Tourangeau cites are for a 250 MW wind farm. The 15-year PPA signed by Salesforce is for a portion of a 205 MW wind project. Mr. Tourangeau cites an unidentified company that signed a 15-year PPA for a portion of a 200 MW wind project. Mr. Tourangeau also cites to Pattern Energy's Panhandle 2 Wind 2 project, a 182 MW wind project in Texas built and financed with a 13-year, fixed-for-float swap.
[38] Hearing Tr. (Vol. I) at 136:8-19.
[39] *See* Ex. 702 (Klein Direct) at lines 149-152 ("QFs must have a PPA to be financed and the repayment of any financing must be made during the PPA period. If the period is shortened, then the price per MWh must rise.").

project as a result of the Energy Vision 2020 RFP[40] and the 20-year, fixed-price PPA that RMP entered into recently for the 120 MW Cedar Springs III wind project.[41] Looking more broadly at PacifiCorp's system, *all* of PacifiCorp's current non-QF PPAs for wind projects are 20-year, fixed-price PPAs.[42]

In addition to the fact that the market information on PacifiCorp's system demonstrates that 20-year PPAs are required, even RMP's evidence regarding PPAs outside of its system makes clear that short-term PPAs such as the ones RMP proposes here are very rare. Mr. Tourangeau's testimony demonstrates that, since 2015, the vast majority of PPAs for renewable projects have been for terms of more than 15 years. Mr. Tourangeau testified that, since 2015, there have been 4,500 MW of contracted renewable capacity with PPAs of 15 years or less.[43] He further testified that, in that same time period, there have been 20,000 MW of contracted renewable capacity with PPAs of more than 15 years.[44] That is, approximately 24,500 MW of contracted renewable capacity has been added since 2015.[45] 20,000 MW of that 24,500 MW—or 81.63%—have had PPAs of more than 15 years.[46] Only 18.37% of renewable capacity added since 2015 have had PPAs of 15 years or less.[47] According to Mr. Tourangeau's testimony, of the 24,500 MW of contracted renewable capacity added since 2015, less than 1.4% had a PPA of

[40] Hearing Tr. (Vol. I) at 55:23-57:4.
[41] Hearing Tr. (Vol. I) at 54:5-55:2.
[42] Hearing Tr. (Vol. I) at 48:21-54:4.
[43] *Id*. at 20:1-2.
[44] Hearing Tr. (Vol. I) 140:5-10.
[45] 4,500 MW of 15 years or less + 20,000 MW of more than 15 years = 24,500 MW.
[46] 20,000/24,500=81.63%
[47] 4,500/24,500=18.37%

7 years or less,[48] and less than 5% had a PPA of 10 years or less.[49] RMP's proposal to reduce the PPA term to 7 years would limit QF development in Wyoming to such an extent that only 1.5% of contracted renewable capacity added throughout the United States since 2015 would qualify. This does not present Wyoming QF developers with "reasonable opportunities to attract capital from potential investors."[50]

For the foregoing reasons, RMP has failed to carry its burden to demonstrate that its proposed 7-year PPA term is appropriate, and the request should be denied.

c. Mr. Tourangeau's Testimony Regarding Alternative Funding Programs Does Not Support A 7-year QF PPA Term.

Mr. Tourangeau's testimony about alternative funding programs that may help finance QF development[51] offers no support for the notion that capital investment would be available to fund the construction of a renewable development project in Wyoming on a 7-year PPA term. First, Mr. Tourangeau testifies that renewable developers like sPower and Cypress Creek Renewables Power ("Cypress Creek") sometimes "refinance[] project level debt with syndicated funding" or "raise debt capital to fund additional growth," and suggests that these mechanisms could finance a project on a 7-year PPA.[52] Mr. Tourangeau testified that he did not know if this

[48] *See* Hearing Tr. (Vol. I) 138:17-140:10. Mr. Tourangeau testified that 8% of the 4,500 MW with PPAs of 15 years or less had PPAs of 7 years or less. 8% of 4,500 MW is 360 MW. As such, of the 24,500 MW of contracted renewable capacity added since 2015, only 360 MW had PPAs of 7 years or less. 360 out of 24,500 is 1.47%.
[49] *See id*. Mr. Tourangeau testified that 26% of the 4,500 MW with PPAs of 15 years or less had PPAs of 10 years or less. The 26% number for PPAs of 10 years or less includes all of the projects that are also included in the 8% number for PPAs of 7 years or less. 26% of 4,500 MW is 1,170 MW. As such, of the 24,500 MW of contracted renewable capcity added since 2015, only 1,170 MW had PPAs of 10 years or less. 1,170 out of 24,500 is 4.78%.
[50] *Windham Solar*, 157 FERC, ¶ 61134, ¶ 8.
[51] *See* Ex. 2.0 (Tourangeau Direct) at 25:19-28:14.
[52] *Id*. at 25:21-27:5.

type of funding had ever actually been used to finance a project on a 7-year PPA,[53] and offers no support for his testimony that it could be used for that purpose. In response to Mr. Tourangeau's testimony, sPower's Hans Isern testified that the financing events referenced by Mr. Tourangeau "were for portfolios of projects with PPAs averaging 19.5 to 23.5 years," and that "contrary to the point Mr. Tourangeau is attempting to make, finance risk was reduced by *extending* the average of the years of a contracted power purchase."[54] Mr. Isern went on to note that the financing events referenced by Mr. Tourangeau "were possible due to the low risk associated with longer term contracts" and constituted "evidence of the importance of 20-year PPA terms," and "is ***not*** evidence that a shorter-term PPA term is financeable."[55]

Second, Mr. Tourangeau identifies certain federal government programs that can provide loans and grants for renewable energy projects.[56] As discussed in the pre-filed direct testimony of Mark Klein of VK Clean Energy Partners, LLC ("VK Clean Energy"), whose testimony was sponsored by RMCRE, these programs provide very limited access to funds and are not a financing option for the vast majority of renewable developers.[57] Specifically, Mr. Klein testified that these programs are available only for rural landowners who wish to build a renewable project on their own land to supply operations with green power, caps funding at $25 million and would not fund a project larger than 25 MW, and have other terms that would make it impossible to obtain additional funding to build a larger project.[58] In other words, the federal government programs referenced in Mr. Tourangeau's testimony do not provide renewable

[53] Hearing Tr. (Vol. I) at 141:7-142:16.
[54] Ex. 701 (Isern Direct) at RMCRE00243-244, lines 249-253 (emphasis in original).
[55] *Id*. at lines 252-255 (emphasis in original).
[56] *See* Ex. 2.0 (Tourangeau Direct) at 27:6-28:14.
[57] *See* Ex. 702 (Klein Direct) at lines 227-252.
[58] *Id*.

developers a reasonable opportunity to obtain financing to build a QF project in Wyoming, let alone on a 7-year PPA. Indeed, Mr. Tourangeau conceded that he was unaware of any project with that had been financed with these federal government programs on a 7-year PPA.[59]

RMP has failed to demonstrate that developers would have reasonable opportunities to attract capital to fund projects in Wyoming if this Commission were to reduce the maximum QF PPA term to 7 years. RMP has, therefore, failed to carry its burden to demonstrate that its proposal is consistent with PURPA and this Commission should decline to adopt the proposal.

3. Intervenors Have Shown That A 7-Year PPA Is Not Long Enough To Allow QFs Reasonable Opportunities To Attract Capital From Potential Investors

Testimony offered by various witnesses sponsored by intervenors RMCRE, REC, and WIEC demonstrate that a 7-year QF PPA term is not sufficient to allow QFs reasonable opportunities to attract capital from potential investors and that a 20-year PPA term does offer reasonable opportunities to attract capital. As discussed below, intervenors have demonstrated that 1) RMP's proposal is contrary to its own investment practices; 2) competitive market information demonstrates that a 20-year PPA is necessary for renewable projects in Wyoming; 2)

a. RMP's Proposal To Reduce The Maximum QF PPA Term From 20 Years to 7 Years Is Contrary To How The Company Treats Its Own Investment In Generation Resources.

In pre-filed testimony and at the hearing, numerous witnesses pointed out that RMP's proposal to reduce the QF PPA term to 7 years stands in stark contrast to the Company's own practice of requiring ratepayers to finance utility-owned generation resources for a period of 30

[59] Hearing Tr. (Vol. I) at 141:7-18, 143:6-19.

years or more.[60] As only the most recent example, in 2017 RMP requested and received approval to build 1,150 MW of new wind resources in Wyoming and to repower an additional 999 MW of existing wind resources in Wyoming.[61] RMP's economic justification of these projects relied on a 30-year period to recover its investment in these wind projects.[62] With respect to the repowering of existing wind resources, ratepayers will even be required to continue to pay the depreciated cost of the existing wind turbines that are replaced and which will no longer be in service.[63] RMP seeks to justify its unequal treatment of its own generation investments and QF resources by asserting that it is a public utility with unique obligations to ratepayers.[64] This explanation may explain why the utility receives a guaranteed rate of return on its investment—rather than having to recover its investment on a basis of the energy produced, as a QF must do—but does not explain why the utility requires a 30-year period to recover its investments while it asks the Commission to require a QF to finance its projects with only a 7-year PPA.

When RMP invests its money to build a wind or solar project, it claims it must be able to recover that investment over a 30-year period. By contrast, when a developer invests its money or obtains financing to build a wind or solar project, RMP claims that the developer must find a way to recover that investment over only a 7-year period. RMP's insistence that a 30-year term

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[60] *See, e.g.*, Ex. 701 (Isern Direct) at RMCRE00236, lines 90-94; Ex. 300 (Higgins Direct) at 16:1-19:1; Ex. 700 (Hellman/Kaufman Direct) at RMCRE00063, lines 1-11; Ex. 702 (Klein Direct) at lines 180-197.

[61] *Id*.

[62] *Id*.

[63] *See* Ex. 701 (Isern Direct) at RMCRE00237 line 125 to RMCRE00238 line 130; Ex. 300 (Higgins Direct) at 18:11-18.

[64] Hearing Tr. (Vol. I) at 255:17 to 259:14.

is necessary to recover its own investment demonstrates that a 7-year PPA does not provide reasonable opportunities for a developer to attract financing for its own projects.

RMP seeks to hold developers of QF projects to higher standards of financing capability and acumen with more risk and lower returns than it holds its own investments in generation and non-QF PPAs. Given its desire to reduce the QF PPA term under Schedule 38 from 20 years to 7 years while retaining 30 year recovery on its own generation investments and 20-year contract terms for non-QF PPAs, RMP's motive is clear—RMP seeks to reduce competition in Wyoming just ahead of a major new investment cycle as aging generation is replaced with wind and solar generation and energy storage resources. If RMP's proposal for shorter QF PPA terms is approved in a claimed effort to reduce customer risk, the shorter term will end QF project development in Wyoming, thus reducing competition and leading to higher customer prices.

b. Competitive Market Information Demonstrates That A 20-Year PPA Is Necessary To Fund Renewable Project Development.

RMP regularly signs 20-year, fixed-price PPAs for non-QF projects, including the 20-year PPA for a 200 MW wind project as a result of the Energy Vision 2020 RFP [65] and the 20-year PPA that RMP entered into recently for the 120 MW Cedar Springs III wind project,[66] both of which are to reach commercial operation in 2021. In fact, *all* of PacifiCorp's current non-QF PPAs for wind projects are 20-year, fixed-price PPAs.[67] Based on similar evidence, the Iowa Board of Utilities required a utility to offer 20-year QF PPAs to three 8 MW wind projects, rejecting the utility's argument that a 5-year PPA was sufficient for the developers to attract

[65] Hearing Tr. (Vol. I) at 55:23-57:4.
[66] Hearing Tr. (Vol. I) at 54:5-55:2.
[67] Hearing Tr. (Vol. I) at 48:21-54:4.

capital.[68] Based on the results of the utility's recent RFP for wind projects, which generated one proposal for a 15-year PPA and four proposals for 25-year PPAS, the Board determined that "[t]his competitive market information supports a finding that a term of 15 to 25 years is necessary for these types of projects," and ordered the utility to offer a 20-year term to the developer. Here, all of PacifiCorp's non-QF PPAs are for 20 years or more.[69] This competitive market information supports a finding that a term of 20 years is necessary for these types of projects, and this Commission should decline to adopt RMP's proposal to reduce the maximum QF PPA term from 20 years to 7 years.

RMP attempts to justify its request to reduce QF projects to 7 years despite its practice of signing 20-year PPAs with non-QF developers by asserting that QFs do not go through the IRP planning process or through competitive solicitations.[70] However, RMP recently signed a 20-year, fixed-price PPA for the 120 MW Cedar Springs III project located in Wyoming that was not the result of an IRP planning process indicating that a new wind resource was required for system operations.[71] The Cedar Springs III project also was not bid into a competitive solicitation.[72] It is clear, then, that RMP believes it is necessary for a wind developer in Wyoming to receive a 20-year PPA to finance a project and that ratepayers are not at risk from such a 20-year PPA even when the project is not the result either of the IRP process or an RFP.

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[68] *In re Optimum Renewables, LLC*, FCU-2017-0004, 2018 WL 30596, at *2 (Iowa U.B., Jan. 3, 2018). A true and correct copy of the Iowa Utility Board's ruling in *In re Optimum Renewables, LLC* is attached hereto as Exhibit C.
[69] *Id*. at *2.
[70] *See, e.g.*, Ex. 2.0 (Tourangeau Direct) at 5:14-20.
[71] *See* Hearing Tr. (Vol. I) at 65:13-69:10. *See also* Ex. 701 (Klein Direct) at 162-179.
[72] *See Id*.

c. Renewable Developers Testify That 7-Year PPAs Are Insufficient To Build Projects In Wyoming And That The Commission Should Not Reduce The Current 20-Year Term.

Parties that develop renewable projects have testified as to why the Commission should decline to adopt RMP's proposal to reduce the maximum QF PPA term to 7 years and why the Commission should retain the current 20-year term.[73] As discussed below, Mark Klein of VK Clean Energy and Hans Isern of sPower, each of whom has significant experience in developing renewable generation projects, testified that a 7-year PPA is insufficient to attract capital and that 20-year PPA is a reasonable term for QF projects.

i. Mark Klein of VK Clean Energy

Mark Klein of VK Clean Energy has 20 years of experience in the wholesale power industry and, with VK Clean Energy, has developed numerous solar projects in Wyoming and elsewhere.[74] Mr. Klein testified that a 7-year PPA would "impair the ability of QFs to achieve project financing and capital, and would severely discourage QF development in Wyoming."[75] Mr. Klein also testified that a 7 year PPA term "would adversely affect the abilities of renewable energy developers, like VK Clean Energy, to finance QF projects," and that "[a] seven-year QF PPA contract will not provide a sufficient return to attract interest from traditional QF financing options."[76] Mr. Klein also responded to RMP's suggestion that it would not be difficult to finance a short-term PPA because the project could seek an additional PPA after the expiration of the first term.[77] Mr. Klein stated that the uncertainty about the price at the end of the first

[73] *See generally, e.g.*, Ex. 701 (Isern Direct); *see also* Ex. 702 (Klein Direct) at lines 104-259.
[74] *See* Ex. 702 (Klein Direct) at lines 7-35. *See also* Hearing Tr. (Vol. III) at 445:9-17.
[75] *Id*. at lines 129-131.
[76] *Id*. at lines 133-136.
[77] *See* Hearing Tr. (Vol. III) at 455:7-456:19.

term of the PPA—whether the PPA is 7 years, 10 years, or 15 years—the uncertainty regarding the price of that new PPA and uncertainty regarding the potential for policy changes that might make a new PPA impossible would prevent the developer from obtaining financing.[78]

Mr. Klein testified that the Commission should not reduce the current maximum QF PPA term of 20 years, stating that "anything less than 20 years will represent a financing challenge for QF developers in the state of Wyoming."[79] Mr. Klein described the process of financing for QF development, and testified that "the Wyoming Commission's current approach to contract terms is reasonable and provides an appropriate framework encouraging QF development while protecting customer interests."[80] At the hearing, Mr. Klein testified that returns on projects financed with a 15-year PPA are significantly lower than returns on projects with longer PPAs.[81]

RMP may assert that VK Clean Energy's pursuit of financing for a 20 MW solar project in Montana on a 15-year PPA supports a reduction to the 20-year maximum QF term in Wyoming. It does not. VK Clean Energy is seeking (but has not yet secured) financing for a 20 MW PPA that was the result of a competitive solicitation related to the Community Renewable Energy Program.[82] Mr. Klein testified that the project has not yet been built, and that VK Clean Energy is currently pursuing financing for that project.[83] As Mr. Klein notes, whether a project can or cannot succeed is partly a function of the number of years of years of the contract and partly a function of the price.[84] Mr. Tourangeau agreed that both the length of the contract and

[78] *Id.*
[79] Hearing Tr. (Vol. III) at 445:20-22.
[80] Ex. 702 (Klein Direct) at lines 111-113.
[81] *See* Hearing Tr. (Vol. III) at 468:6-470:2.
[82] *See* Hearing Tr. (Vol. III) at 466:15-468:3.
[83] *See* Hearing Tr. (Vol. III) at 466:15-469:6.
[84] *See* Ex. 702 (Klein Direct) at lines 127-159.

the price would affect whether a developer would pursue a project.[85] Generally speaking, the shorter the term, the higher the price must be. As Mr. Klein testified, "[i]f the period is shortened, then the price per MWh must rise."[86] As such, to determine whether a 15-year PPA would provide reasonable opportunities for a solar developer to obtain financing for a project in Wyoming, the Commission would need to know the price that would be offered. RMP provided no evidence as to what price would be available for a solar project on a 15-year PPA in Wyoming under the current IRP and provided no comparison of PPA prices in Montana and Wyoming.[87] Also, because the 2019 IRP has not yet been filed, we cannot know what avoided cost price will be available for a solar project on a 15-year PPA going forward. Evidence in the record suggests that the price for VK Clean Energy's 20 MW solar project in Montana on a 15-year PPA is similar to prices offered for similarly-sized solar projects in Wyoming on a 20-year PPA.[88] A reduction in the PPA term from 20 years to 15 years in Wyoming, however, would result in fewer years of capacity payments and lower pricing than has been offered for solar projects in Wyoming for 20 year projects. That VK Clean Energy currently seeks (but has not yet secured) financing for a 20 MW solar project on a 15-year PPA in Montana is, therefore, not evidence that it has a reasonable opportunity to obtain financing for a solar project on a 15-year PPA in Wyoming with lower prices.

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[85] *See* Hearing Tr. (Vol. I) at 136:8-19.
[86] *See* Ex. 702 (Klein Direct) at lines 150-151.
[87] *See* Hearing Tr. (Vol. I) at 136:20-23.
[88] *Compare* Hearing Tr. (Vol. III) at 469:7-23 *with* Hearing Tr. (Vol. II) at 294:4-296:2 & Ex. 300.3. Exhibit 300.3 shows the average prices for solar projects of various sizes. The prices for the 20 MW and 40 MW prices on a 20-year PPA are similar to the range of pricing Mr. Klein identified for the 15-year PPA that 25 MW

Mr. Klein also noted that the changes that RMP is proposing to the avoided cost pricing in this docket, as well as other challenges facing QF development in Wyoming—including challenges with the interconnection process and the reduction in the investment tax credit—make development in Wyoming challenging. As such, Mr. Klein recommended that the Commission decline to adopt any policy that would reduce the 20-year term for QF PPAs.[89]

ii. Hans Isern of sPower

Hans Isern of sPower has significant experience in the electric energy industry and has led development efforts for 150 renewable generation projects, 80 of which he has developed from inception to construction.[90] Mr. Isern testified that RMP's proposal to reduce the maximum QF PPA term from 20 years to 7 years would not provide a reasonable opportunity for a developer to attract financing for a project and, therefore, is not consistent with PURPA.[91] He further testified that a reduction of the maximum QF PPA term to 7 years "would severely and negatively impact the ability of renewable energy developers to finance QF projects in Wyoming."[92] Mr. Isern testified that, "in virtually all cases of which [he is] aware, project financing of new projects requires PPAs with terms of at least 15-20 years."[93] Mr. Isern testified that the 7-year QF PPA term proposed by RMP "is unreasonable, unreasonably short, and would

[89] *See* Hearing Tr. (Vol. III) at 471:24-473:18.
[90] *See* Ex. 701 (Isern Direct) at RMCRE00232, lines 15-21.
[91] *Id*. at RMCRE00234, lines 48-53.
[92] *Id*. at RMCRE00234, lines 54-57.
[93] *Id*. at RMCRE00235, lines 68-69.

have significant and severe impacts on project sign-up."[94] As such, Mr. Isern stated that "20 years is the market standard" for PPAs and that "the Commission should decline to reduce the maximum QF PPA term to any term less than 20 years."[95]

Mr. Isern also testified that sPower would "absolutely not" pursue a project with a long-term PPA that required mandatory re-pricing during the course of the PPA.[96] Mr. Isern testified that the price may vary throughout the course of the contract, "but it has to be contracted up front in order to go into the lender's models and really [sPower's] own equity models."[97] For this reason, Mr. Isern testified that sPower and most financers would treat a 20-year PPA that required a re-price at year 15 as a 15-year PPA.[98] While sPower has financed its own projects with 15-year PPAs, Mr. Isern noted that financing for a 15-year PPA comes at a premium to financing for a 20-year PPA and that 20-year PPAs are preferred.[99]

d. Testimony From Other Witnesses Demonstrates That 7-Year PPAs Are Insufficient To Build Projects In Wyoming.

Other witnesses, including Kevin Higgins on behalf of WIEC and Two Rivers and Dr. Belinda Kolb on behalf of OCA recommended that the Commission decline to adopt RMP's proposal to reduce the QF term to seven years.

i. Kevin Higgins on Behalf of WIEC and Two Rivers

[94] Hearing Tr. (Vol. II) at 417:1-3.
[95] *Id*. at 416:23-417:25.
[96] *Id*. at 433:18-434:7
[97] *Id*. at 434:1-3.
[98] *Id*. at 434:13-24.
[99] *Id*. at 432:18-432:3.

Mr. Higgins recommended that the Commission decline to adopt the Company's proposal to reduce the QF PPA term to 7 years.[100] Mr. Higgins notes that the avoided cost prices offered for 20-year PPAs are significantly lower than the rates that ratepayers currently pay for energy.[101] Specifically, he notes that the average 20-year avoided-cost price offered to Wyoming QF projects that have not yet signed a PPA is $25.99 per MWh for wind projects and $32.36 for solar projects, each of which is significantly less than the $49.49 per MWh that is RMP's "all-in" cost of generation approved by the Commission in RMP's most recent general rate case.[102] Mr. Higgins noted that, "[a]s a customer advocacy group, WIEC supports keeping power prices at the lowest reasonable levels," and that, for that reason, WIEC supports competition for power supply and believes that setting policies that make it more difficult for QFs to build projects in Wyoming will ultimately hurt Wyoming customers.[103]

ii. Dr. Belinda Kolb on behalf of OCA

On behalf of OCA, Dr. Belinda Kolb recommended that the Commission reject RMP's proposal to reduce the maximum QF PPA term from 20 years to 7 years.[104] Dr. Kolb suggests that the Commission reduce the contract length to a period of 10-15 years. She testified that she selected the 10-year term because, in its IRP, the Company places a particular focus on the first 10 years of its 20-year planning period.[105] However, while PacifiCorp may place a greater emphasis on the first 10 years of its IRP planning period, that certainly does not lead it to sign 10-year contracts for generation resources. As Dr. Kolb knows, nearly all of RMP's non-QF

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[100] *See* Ex. 300 (Higgins Direct) at 16:1-6;
[101] *Id*. at 27:13-28:7.
[102] *See id*.
[103] *Id*. at 26:7-18.
[104] *See* Ex. 201 (Kolb Direct) at 15:10-24. *See also* Hearing Tr. (Vol. III) at 549:22-550:3.
[105] *See* Ex. 201 (Kolb Direct) at 15:25-16:3.

PPAs are for 20 year terms, including recent ones signed outside of the IRP planning period.[106] Dr. Kolb also testifies that "it is difficult to obtain factual evidence" to support a belief that a 10-year PPA would provide a reasonable opportunity to attract investor financing.[107] She also noted that RMP provided evidence of only one 10-year project, and that projects of that length are "rare."[108]

Dr. Kolb testified that reducing the QF PPA term in Wyoming to 15 years would "keep Wyoming in approximate alignment with its neighboring states (except Idaho)," and specifically references Utah, which has a 15-year maximum QF PPA term.[109] Dr. Kolb does not offer any support for the notion that a 15-year term is sufficient to provide a reasonable opportunity to attract investment other than the fact that Utah has a 15-year term. Dr. Kolb does not identify any project in Utah that has actually been financed with a 15-year PPA in Utah and, indeed, the evidence demonstrates that Utah's adoption of a 15-year maximum PPA term has had a negative effect on QF development.[110] The Montana state court recently overturned the Montana Public Service Commission's ruling reducing the maximum QF PPA term from 25 years to 15 years, noting that the Montana Commission's ruling was not supported by substantial evidence that a 15-year term would provide reasonable opportunities to attract capital.[111] The court further noted the Montana Commission's acknowledgement that a reduced PPA term would likely "kill development entirely."[112] This suggests that the adoption of a 15-year term in Utah (and very

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[106] *Id* at 14:26-15:9; 16:16-17:2.
[107] *Id*. at 15:29-16:3.
[108] Hearing Tr. (Vol. III) at 550:4-10.
[109] Ex. 701 (Kolb Direct) at 16:4-15.
[110] *See* Hearing Tr. (Vol. II) at 319:16-320:1. *See also*
[111] *See* Ex. 701.1 at RMCRE00255.
[112] *Id*. at RMCRE00252.

briefly in Montana) is not a sufficient reason to believe that a 15-year term would provide reasonable opportunities for developers in Wyoming to attract investment.

4. Conclusion

In conclusion, RMP has failed to carry its burden of proof to support its proposal to reduce the maximum QF PPA term from 20 years to 7 years. There is also insufficient record evidence to demonstrate that a 15 year term, or any other term of less than 20 years, is sufficiently long to provide renewable developers "reasonable opportunities to attract capital from potential investors." *Windham Solar*, 157 FERC, ¶ 61134, ¶ 8.

As such, RMCRE respectfully requests that this Commission decline to adopt RMP's proposal to reduce the QF PPA term to 7 years and that the Commission keep the current maximum QF PPA term of 20 years.

B. AVOIDED COST PRICING

RMP and other parties, including REC, RMCRE, WIEC and Two Rivers, have proposed modifications to the current Partial Displacement Differential Revenue Requirement ("PDDRR") method of calculating avoided costs for QFs. Avoided cost calculations consist of two components—avoided energy costs and avoided capacity costs. The avoided energy cost is a calculation of the production costs that the Company expects to save by utilizing the output of the QF and reducing output of the resources in the Company's preferred portfolio.[113] This calculation is achieved using two runs of the Generation and Regulation Initiatives Decision Tools ("GRID") model—one without the QF and one with the QF.[114] The avoided capacity cost is a calculation of the capital costs and non-fuel operation and maintenance costs, expressed in

[113] *See* Ex. 3.0 (MacNeil Direct) at 7:1-10.
[114] *Id*.

dollars per kilowatt, of the next deferrable generating unit in the Company's most recent IRP that are avoided because of the QF project.[115]

Various parties have proposed modifications to the manner in which avoided energy costs and avoided capacity costs are calculated. Those proposed modifications are addressed below.

1. Avoided Capacity Costs

RMCRE makes the following recommendations with respect to how RMP calculates avoided capacity costs.

a. RMP's "Like For Like" Proposal For Capacity Contribution For All Resource Types

Under the current methodology for calculating avoided capacity costs, "non-wind QF resources displace proxy gas resources identified in the Company's most recently filed IRP or IRP update preferred portfolio, while wind QFs defer wind resources from the preferred portfolio."[116] In this docket, the Company proposes what it calls a "more nuanced" approach to its forecast of avoided capacity costs, in which renewable QFs would defer renewable resources of the same "type" in the most recent preferred portfolio and, if no renewable resources of the same type as the QF remain in the IRP preferred portfolio, the QF would be assumed to defer thermal resources.[117] RMP's proposal would permit a wind or solar resource to defer a thermal resource if no proxy renewable resource of the same "type" remains in the IRP preferred portfolio. RMCRE approves of this proposed change but, for the reasons set forth in REC's

[115] *See* Ex. 3.0 (MacNeil Direct) 6:8-16.
[116] *Id*. at 7:21-8:1.
[117] *Id*. at 8:11-9:1. All QFs are also eligible to defer FOTs in the years prior to deferring a proxy thermal or renewable resource. *Id*.

post-hearing brief and in the testimony of Dr. Kaufman and Dr. Hellman on behalf of REC and RMCRE,[118] RMCRE proposes that the Commission permit "like for unlike" capacity deferral.

If the Commission does not adopt the "like for unlike" capacity deferral discussed in REC's post-hearing brief, and adopts RMP's proposal, then RMCRE proposes that the Commission adopt the flexible approach to the "like for like" capacity deferral outlined in the testimony of Kevin Higgins.[119]

b. Capacity Costs In The Sufficiency Period Should Be Provided In All Months In Which RMP Relies On Market Transaction And Should Be Based On Costs Of SCCT And Not FOTs.

Drs. Hellman and Kaufman recommend that the Commission approve two modifications to the PDDRR methodology used to calculate avoided capacity costs.[120] Under the current PDDRR methodology, in years that RMP has sufficient capacity—and, therefore, a QF resource does not receive capacity payments for offsetting a generation resource in the IRP preferred portfolio—the QF receives capacity payments for offsetting FOT purchases for capacity.[121] Currently, however, the QF receives credit for avoided capacity payments in only two months—July and December—despite the fact that RMP experiences Loss of Load Probability in other months and QFs defer FOTs in other months.[122] Moreover, the price that RMP pays to QFs for FOT deferral is insufficient. As such, REC and RMCRE recommend the following modifications to the methodology for calculating avoided capacity costs: a) Require RMP to

[118] *See* Ex. 700 (Hellman-Kaufman Direct) at RMCRE00044, line 1 to RMCRE00050, line 13.
[119] Ex. 300 (Higgins Direct) at 32:5-35:17.
[120] *See* Ex. 700 (CONFIDENTIAL Hellman-Kaufman Direct) at RMCRE00038, line 3 through RMCRE00043, line 16.
[121] *Id*. at RMCRE00038, lines 13-17. *See also* Hearing Tr. (Vol. I) at 194:23-195:13.
[122] *Id*. at RMCRE 00039, lines 6-7.

provide avoided capacity payments in all months that QFs defer FOTs, and b) Require RMP to value deferred FOTs based on the costs of a Simple Cycle Combustion Turbine gas plant ("SCCT").

i. RMP Should Be Required To Provide Avoided Capacity Payments In All Months That QFs Defer FOTs.

As noted in the testimony of Dr. Marc Hellman and Dr. Lance Kaufman, RMP provides avoided capacity payments to QFs for deferring FOTs only the months of July and December, despite the fact that RMP's own Loss of Load Probability studies and its own market transactions show that QFs defer FOTs in other months.[123] Specifically, RMP's own Loss of Load Probability studies demonstrate that RMP relies on FOTs to meet capacity needs in six months, not just the two months for which it currently pays QFs to offset those FOT purchases.[124] In response, RMP asserts that the Loss of Load Probability outside of the months of June through August is "negligible," but does not deny that there is *some* loss of load probability in other months.[125] Moreover, RMP does not dispute that it purchases FOTs in months other than July and December—purchases which would be offset by the QF.[126]

Put simply, QFs offset market purchases in multiple months out of the year. This is consistent both with RMP's own data on market purchases and in its own studies regarding loss of load probability. When RMP calculates a QF's avoided capacity cost for FOT deferral, however, it provides a payment only for deferral of market purchases in two months. REC and RMCRE request that the Commission require that, when RMP calculates a QF's avoided

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[123] *See id*. at RMCRE00040, line 10 through RMCRE00041, line 4. *See also* Hearing Tr. (Vol. II) at 326:9-15.
[124] *Id*. at RMCRE00043 & n.35. *See also* Ex. 3.1 (MacNeil Rebuttal) at 10-13.
[125] *See* Ex. 3.1 (MacNeil Rebuttal) at 33:10-34:6.
[126] *Id*.

capacity cot for FOT deferral, that it provide a payment for deferral of FOTs in all months that the QF defers FOTs.

ii. Require RMP To Value Deferred FOTs Based On The Costs Of SCCT.

In addition to the fact that the current methodology fails to provide a QF with avoided capacity costs for FOT deferral in all months in which FOTs are deferred, the assumed price for FOT deferral is insufficient to adequately capture the costs of that FOT deferral. As explained in the testimony of Drs. Hellman and Kaufman, when RMP calculates the value of FOT deferral for a QF, it uses a value of $0.41-kW year throughout the 20-year IRP planning cycle.[127] This price undervalues the long-term avoided capacity value of a QF because it fails to account for the avoided risk associated with relying on FOTs to meet capacity needs.[128] Regional planning studies indicate that the Northwest power system from which RMP makes market purchases to meet capacity needs will have capacity deficits in the near term.[129] Regional capacity shortages will cause FOTs to become scarcer and/or more expensive.[130] In short, RMP's assumed price for FOTs that are offset by QFs is unreasonably low.

Drs. Hellman and Kaufman propose to remedy this issue by having the assumed price for FOTs that are offset by QFs to be based on the cost of new capacity, rather than an assumed price for FOTs that RMP acknowledges will become more scarce and more expensive. A simple cycle combined turbine gas plant ("SCCT") is RMP's cheapest capacity resource and is the cheapest baseline for providing the capacity that will not be available when FOTs are no longer

[127] *See* Ex. 700.18 (CONFIDENTIAL Hellman-Kaufman Direct) at RMCRE00039, lines 1-5.
[128] *Id*. at RMCRE00041, lines 5-13.
[129] *Id*. at RMCRE00041, line 14 through RMCRE00042, line 2.
[130] *See* Hearing Tr. (Vol. II) at 397:22-398:4.

available to meet RMP's planning needs.[131] In Wyoming, prior to 2016, RMP included three months of capacity costs based on the cost of a SCCT in Schedule 37 rates.[132] The State of Washington also recently adopted rules to modify the avoided cost methodology to require a utility to make capacity payments based on the costs of SCCT in resource sufficiency years.[133] The recommendation that RMP utilize the cost of a SCCT for FOTs is, therefore, reasonable.

c. RMP Should Assume That Only 75% Of Executed QFs Will Reach Commercial Operation.

Drs. Hellman and Kaufman also recommend a modification to the avoided capacity cost calculation whereby RMP assumes that only 75% of executed QFs will reach commercial operation.[134] When RMP calculates avoided-cost prices for a QF in development, it assumes that QFs with executed PPAs but which are not yet operational will reach commercial operation and will, therefore, offset generation from the preferred portfolio. This assumption reduces the avoided capacity payment to subsequent QFs.[135] Statistical analysis demonstrates that approximately 75% of QFs that execute contracts with RMP will reach commercial operation.[136] If RMP assumes that all QFs that have executed a PPA will reach commercial operation, then this assumption causes avoided cost calculations to QFs to be unreasonably low.

[131] *See* Ex. 700.18 (CONFIDENTIAL Hellman-Kaufman Direct) at RMCRE00042, lines 9-10.
[132] *See id*. at RMCRE00042, line 11 through RMCRE00043, line 8.
[133] *See id*. *See also* Hearing Tr. (Vol. I) at 197:9-198:17.
[134] *See id*. at RMCRE00065, line 1 through RMCRE00067, line 16.
[135] *See id*. at RMCRE00065, lines 4-8.
[136] *See id*. at RMCRE00065, line 17 through RMCRE00066, line 9.

RMP apparently agrees that an assumption that *all* QFs will reach commercial operation would be unreasonable, because the Company claims that it does not make that assumption.[137] Instead, RMP asserts that it monitors QF development progress and reduces the size or expected COD or will remove a resource if RMP does not believe it will reach commercial operation.[138] This method allows RMP total discretion as to whether it will assume that any particular QF with an executed PPA will reach commercial operation or not. Rather than permitting RMP this discretion, which it may or may not exercise rationally and consistently for all QFs, REC and RMCRE propose that the Commission require RMP to assume that 75% of the QFs with executed PPAs will reach commercial operation, in a manner consistent with the joint testimony of Dr. Marc Hellman and Dr. Lance Kaufman.[139]

2. <u>Avoided Energy Costs</u>

Drs. Hellman and Kaufman make the following recommendations with respect to how RMP calculates avoided energy costs.

a. <u>Allow Coal Units To Cycle</u>

Drs. Hellman and Kaufman further recommend that RMP be required to allow coal units to cycle in its GRID model when it determines the avoided energy costs associated with a QF.[140] The specific recommendation is that "coal units to cycle in a manner consistent to that used in Pacific Power's filings for the Oregon Transition Adjustment Mechanism," which allowed

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[137] *See* Ex. 3.1 (MacNeil Rebuttal) at 38:1-6.
[138] *Id*.
[139] *See* Ex. 700.18 (CONFIDENTIAL Hellman-Kaufman Direct) at RMCRE00066, line 10 through RMCRE00067, line 16.
[140] *Id*. at RMCRE00076 at lines 1-5.

Cholla 4, and Hunter Units 1 and 2 to cycle.[141] While RMP states that allowing those units to cycle in the GRID model "would not be expected to have a significant impact on Wyoming avoided cost rates,"[142] the fact is that the Company is cycling those coal units and, therefore, allowing this adjustment in the GRID model would make RMP's avoided energy cost calculations more accurate, even if the resulting change would be minimal.[143] RMCRE recommends that the Commission require RMP to modify the GRID model to allow the coal units to cycle.

b. Escalate Coal Prices

Drs. Hellman and Kaufman further recommend that RMP be required to assume that coal costs will escalate consistent with historic increases in coal costs.[144] RMP's expectations for coal costs that go into its avoided energy cost calculations do not match the historical record, and RMP has not provided any evidence that the historic pattern will change.[145] RMP responds that the proposal would deviate from the assumptions in its current IRP,[146] but otherwise offers no evidence that those assumptions are correct. As such, RMCRE recommends that this Commission require RMP to assume that coal prices will escalate at historic levels. In the alternative, RMCRE recommends that the Commission conduct a thorough review the

[141] Ex. 3.1 (MacNeil Rebuttal) at 43:11-44:12.
[142] *Id*.
[143] Hearing Tr. (Vol. II) at 362:6-10.
[144] *See* Ex. 700.18 (CONFIDENTIAL Hellman-Kaufman Direct) at RMCRE00076 at lines 6-11.
[145] *Id*.
[146] *See* Hearing Tr. (Vol. I) at 220:15-221:14.

Company's coal price assumptions in its 2019 IRP to ensure that those assumptions are reasonable and prudent.

c. Allow Sales To Entities In Wyoming And East Of Wyoming

Drs. Hellman and Kaufman further recommend that the GRID model be modified to allow sales of trapped energy to entities in eastern Wyoming and east of Wyoming.[147] RMP asserts that it does not have transmission rights to make such sales on a firm basis and does not make this assumption in its planning models and, therefore, it would be arbitrary to make that assumption for this purpose.[148] RMP does not say that it cannot make such off-system sales, only that it does not currently assume that such sales are made. These off-system sales could bring revenue to RMP for the benefit of RMP's customers and would also alleviate trapped energy in PacifiCorp's Wyoming transmission system. As such, RMCRE recommends that this Commission require RMP to allow sales to entities in Wyoming and east of Wyoming.

C. CHANGES TO PROVISIONS IN SCHEDULE 38

RMCRE makes the following recommendations with respect to RMP's proposed modifications to Schedule 38.

1. A Legally Enforceable Obligation Cannot Be Made Contingent Upon An Executed Interconnection Agreement Or Executed PPA

RMP proposes to modify Schedule 38 to include Section I.B.8., which contains language that would violate PURPA and this Commission should, therefore, decline to adopt that section. RMP's proposed modification to Schedule 38 includes the addition of Section I.B.8.[149] Proposed Section I.B.8. includes the statement that "[t]he Company reserves the right to condition

[147] *Id*. at RMCRE00076 at lines 12-18.
[148] *See* Hearing Tr. (Vol. I) at 221:15-222:21.
[149] *See* Ex. 1.2 (Schedule 38 redline) at 32.

execution of the power purchase agreement upon simultaneous execution of an interconnection agreement between the QF Owner and the Company's power delivery function."[150] This proposed language would allow RMP to refuse to sign a contract if PacifiCorp Transmission has not completed an interconnection study. As set forth in the post-hearing brief filed REC, such a provision would violate PURPA. RMCRE adopts the arguments and positions set forth by REC in its post-hearing brief on this issue and recommends that the Commission decline to include RMP's proposed language in Section I.B.8.

2. This Commission Should Not Adopt RMP's Proposal To Modify Schedule 38 Language In A Way That Would Ensure Uncertainty And Increase Disputes

RMP proposes to modify language in various sections of Schedule 38 in a way that would increase uncertainty and specificity and would very likely lead to increased disputes and litigation over whether RMP has satisfied its obligations under Schedule 38. The changes that RMP seeks to make to Schedule 38 are set forth in Exhibit 1.2, which shows the proposed changes in redline. Some of the proposed changes are discussed below

a. Section I.B.2. ("other information promptly and reasonably requested by the Company")

Section I.B.2. of Schedule 38 sets forth the requirements for a QF developer to obtain an indicative pricing proposal from the Company, which consists of the QF developer providing RMP with certain information.[151] RMP proposes to amend this language in various ways, including by adding a proposed requirement that the requirement, in newly-proposed Section I.B.2.l., that the QF developer provide "other information promptly and reasonably requested by the Company." The Company has testified that the purpose of Schedule 38 is "to outline a

[150] *Id.*
[151] *See* Ex. 1.2 (Schedule 38 redline) at 16-17.

specific process with specific timelines," for RMP and for QF developers alike.[152] The language proposed by RMP is not specific and is, rather, vague and ambiguous both as to what type of information RMP might request and when it might make that request.

That this language is vague and ambiguous is apparent from a review of the testimony of RMP witness Mark Tourangeau regarding the proposed change. Mr. Tournageau testified that, while he could not identify any specific information that the Company would want to receive, but stated that there may be additional information it might want if the QF project at issue utilized battery storage technology.[153] As an initial matter, the type of information Mr. Tourangeau stated that the Company might request if battery storage technology is included would be provided in response to other requests under Section I.B.2., such as Section I.B.2.c. ("design capacity (MW), station service requirements, and net amount of power to be delivered to the Company's electric system") and Section I.B.2.d. ("quantity and timing of monthly power deliveries (including Project ability to respond to dispatch orders from the Company) and an hourly generation profile (12x24 profile minimum, 8760 preferred) . . . ."). In addition, Mr. Tourangeau also could not identify what length of time the term "promptly and reasonably requested" might mean, stating that it could mean 10 days or 30 days or some other number.[154]

The language that RMP proposes for Section I.B.2.l. introduces uncertainty into a document that is intended to provide certainty. The language also provides RMP with a great deal of discretion about what "other information" it may require a QF to provide without any limitations on its exercise of that discretion. The proposed language will almost certainly lead to

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[152] Hearing Tr. (Vol. I) at 158:17-21.
[153] *See id*. at 156:24-158:21.
[154] *See id*.

additional disputes between RMP and QFs about whether RMP is using this language appropriately or whether it is using the uncertain language for the purpose of delay. RMP has not demonstrated a need for the proposed language in Section I.B.2.l. and RMCRE recommends that the Commission decline to adopt that proposed language.

b. Section I.B.4. ("Other information promptly and reasonably requested")

RMP also proposes to introduce the language regarding "other information promptly and reasonably requested" into Section I.B.4. of Schedule 38, which sets forth the requirements for a QF to obtain a draft PPA from the Company.[155] For the same reasons discussed above, introduction of this proposed language into Section I.B.4. introduces uncertainty into a document intended to provide certainty and the Commission should reject the proposal.

c. Section I.B.3. ("reasonably diligent efforts")

Section I.B.3. of Schedule 38 sets forth the Company's obligations in response to a QF's request for indicative pricing. Section I.B.3. currently states that "[w]ithin 30 calendar days following receipt of all information required in Paragraph 2, the Company shall provide the owner with an indicative pricing proposal . . . ."[156] RMP proposes to change this language in two ways, both of which are discussed below.

First, RMP proposes to modify the first sentence of Section I.B.3. to state that "[w]ithin seven (7) days of its receipt of a request for indicative pricing and supporting materials as specified in Paragraph 2 above, the Company shall confirm its receipt of the request and notify the QF Owner whether the request includes all of the required information or, if not, what

[155] *See* Ex. 1.2 (Schedule 38 redline) at 20. *See also* Hearing Tr. (Vol. I) at 159:7-17.
[156] Ex. 724 (Schedule 38) at RMCRE00429.

additional information is needed to complete the requests."[157] RMCRE supports this modification because it adds certainty to the process because it identifies when RMP must respond and what it must say in that response.

Second, RMP proposes to modify the time required to provide indicative pricing. While the current version of Section I.B.3. states that RMP "shall" provide indicative pricing within 30 days of its receipt of the information from Section I.B.2.,[158] RMP proposes to modify Section I.B.3. to state that "[t]he Company will make reasonable diligent efforts to provide the QF owner with an indicative pricing proposal . . . within 30 calendar days after the Company notifies the QF owner that its request for indicative pricing is complete."[159] This proposal modifies RMP's obligations under Section I.B.3. in two ways. It starts the clock for RMP to provide indicative pricing when RMP indicates that it has received all of the information from the QF Owner, rather than when it actually receives all of the information from the QF Owner—so that clock would start ticking 7 days later than under the current Schedule 38. It then states that RMP "shall make reasonably diligent efforts" to provide that information within 30 days. Taken together, RMP's proposal would extend the time from its receipt of information required by Section I.B.2. to providing indicative cost pricing from the current 30 days to 37 days, and would replace the obligation that it "shall" provide that information on a date certain to a situation in which it must "make reasonable diligent efforts" to do so.[160]

RMP has not demonstrated that these changes are beneficial or necessary. Mr. Tourangeau stated that there are times when the Company has failed to meet the current

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[157] Ex. 1.2 (Schedule 38 redline) at 17.
[158] Ex. 724 (Schedule 38) at RMCRE00429.
[159] Ex. 1.2 (Schedule 38 redline) at 17.
[160] *See* Hearing Tr. (Vol. I) at 159:17-161:8.

obligation to provide indicative cost pricing within the currently-required 30 days.[161] Mr. Tourangeau did not state that it has ever suffered any consequences from its failure to meet the current requirement in its tariff. It would seem that, if the Company cannot meet this Commission's regulatory requirements that the Company could endeavor to hire more personnel to meet those requirements. RMP asks, instead, to loosen the requirements. Mr. Tourangeau states that any issues that may arise from the change from "shall" to "reasonably diligent efforts" can be addressed in the dispute resolution process.[162] Of course, the dispute resolution process can address any instances in which RMP has failed to meet the current 30-day "shall" deadline.

RMP has not demonstrated that it needs 37 days from the date by which a QF owner provides all of the information required by Section I.B.2. to provide an indicative pricing proposal. As noted above, RMCRE recommends that this Commission adopt RMP's proposal in the first sentence of Schedule 38 that RMP "shall" confirm its receipt of an indicative pricing request within 7 days and inform the QF owner if it has provided the information required under Section I.B.2.

RMP has also not demonstrated any basis that change the word "shall" to "reasonably diligent efforts." The term "reasonably diligent efforts" is vague and ambiguous. There is no description in RMP's Application or testimony in this docket as to what that term means or how this Commission can determine whether RMP has or has not used "reasonably diligent efforts." Whether the Company has used "reasonably diligent efforts" under any given set of circumstances can be a fact-intensive inquiry that is difficult and expensive to litigate and may require a great deal of the Commission's time and efforts to resolve. RMCRE recommends that

[161] *Id.* at 160:3-22.
[162] *Id*. 160:23-161:9.

the Commission decline to adopt the "reasonably diligent efforts" language and, instead, keep the current requirement that RMP "shall" provide indicative pricing within a certain number of days.

Finally, RMP has not demonstrated that it requires 37 days between the date it receives the information required by Section I.B.2. and the date by which it must provide indicative pricing to the QF owner. As such, RMCRE recommends that Section I.B.3. state either that RMP "shall" provide the indicative pricing proposal within 30 calendar days after the Company receives all information required by Section I.B.2., or that RMP "shall" provide the indicative pricing proposal within 23 calendar days after the Company notifies the QF owner that its request for indicative pricing is complete.

d. Section I.B.5. ("reasonably diligent efforts")

RMP also proposes to introduce the language regarding "reasonably diligent efforts" into Section I.B.5. of Schedule 38, which currently states that RMP "shall" provide a draft PPA within 45 calendar days of its receipt of the information outlined in Section I.B.4..[163] As discussed above, RMCRE approves of RMP's proposal to modify the first sentence of Section I.B.5., which states that RMP "shall" confirm its receipt of information specific in Section I.B.4. within seven calendar days. That change is appropriate. For the reasons discussed above, however, RMCRE recommends that the Commission keep the "shall" requirement and decline to adopt the "reasonably diligent efforts" language. RMCRE also opposes RMP's proposal to increase the time between RMP's receipt of the information set forth in Section I.B.4. and the

[163] *See* Ex. 1.2 (Schedule 38 redline) at 21. *See also* Hearing Tr. (Vol. I) at 159:7-17.

time by which it "shall" provide a draft PPA to a QF Owner. RMP's proposal would modify the current requirement that it provide a draft PPA within 45-calendar days by adding an additional 7 days. RMP has not demonstrated that it requires additional time to provide a draft PPA.

D. RMP AGREES THAT THE COMMISSION SHOULD NOT IMPOSE ANY CHANGES FROM THIS DOCKET WITH RESPECT TO QF'S THAT HAVE REACHED CERTAIN MILESTONES AS OF JANUARY 1, 2019

In pre-filed testimony, RMCRE recommended that, in the event that the Commission adopts any changes to the current PPA term or avoided cost pricing methodology as a result of this docket, that those changes not be imposed on existing QF projects in development that meet certain criteria.[164] In a stipulation filed with the Commission on July 3, 2019, RMP stipulated and agreed that it does not oppose RMCRE's proposal that "any Commission order in this matter should not be applied to existing projects in development."[165] RMP and RMCRE agreed that the term "existing projects in development" shall include only those QFs that meet the following description:

> QFs that have requested indicative avoided cost pricing, either initial or updated, from the Company in accordance with the Company's then current Wyoming Schedule 38 at any time from November 1, 2018 through July 3, 2019. Further, any project that is encompassed within [the term "existing projects in development"] will not subsequently lose its status as an "existing project in development" if it requests updated avoided cost pricing after July 3, 2019, so long as the subsequent requests do not contain information that materially differs from the original QF description and specifications (e.g., a material change in project output).

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[164] *See* Ex. 702 (Klein Direct) at RMCRE 00291-296.

[165] *See* Rocky Mountain Power's Withdrawal of Motion to Strike and Stipulations with Rocky Mountain Coalition for Renewable Energy and the Renewable Energy Coalition, filed July 3, 2019 ("Stipulation") at 4.

The Stipulation was approved and accepted by the Commission during the exhibit conference immediately prior to the hearing.[166]

As the Commission may recall, when the Commission last addressed RMP's proposed changes to the QF PPA term and avoided cost pricing issues in Docket No. 20000-481-EA-15, RMP witness Paul Clements indicated that it would be "fair" to allow existing QFs to proceed under existing rules, rather than rules adopted by the Commission in the proceeding.[167] The same is true for this proceeding. As noted in RMCRE's pre-filed testimony, QF projects take several years to develop and the investment of time and effort in QF development is based on the rules existing at the time.[168] While it is appropriate to consider and implement policy changes from time to time, when those policy changes would have major effects on the viability of projects in development, it is also appropriate to decline to impose the policy changes on those projects.

The changes proposed in this docket would have major effects on the viability of QF projects in development. Mark Klein of VK Clean Energy testified that VK Clean Energy has incurred more than $500,000 to develop several projects in Wyoming and that those projects are not viable if RMP's proposals in this docket are adopted and imposed on those projects.[169] These projects have been in development for quite some time and have experienced various delays (outside the control of VK Clean Energy) that have presented them from reaching the

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[166] *See* Hearing Tr. (Vol. I) at 13:20-25.
[167] *See* Ex. 723 (2015 Order) at 11, ¶ 54.
[168] *See* Ex. 702 (Klein Direct) at RMCRE00291-296.
[169] *Id*.

point where a PPA could have been executed prior to entry of an order in this docket.[170] There are, undoubtedly, other projects in development in Wyoming about which the same can be said.

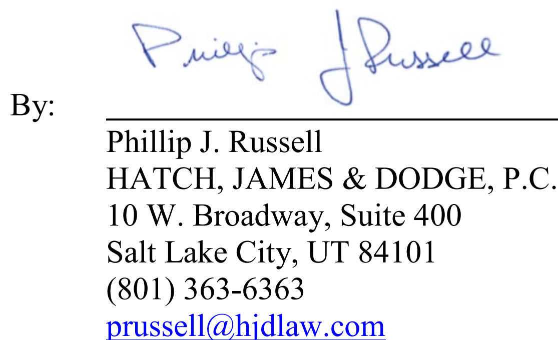
For this reason, RMCRE recommends that, if this Commission adopts any changes to Schedule 38, the PPA term or the avoided cost methodology, that it decline to impose those changes on any QF project that meets the definition of "existing projects in development" set forth above. As noted above, RMP does not oppose this recommendation. No other party in this docket has opposed the recommendation.

VI. CONCLUSION

For the foregoing reasons, RMCRE respectfully requests that this Commission decline to adopt RMCRE's recommendations set forth above with regard to RMP's Application.

DATED this 8th day of August, 2019.

Respectfully submitted



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[170] *Id.*

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CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of August, 2019, the foregoing **POST HEARING BRIEF ON BEHALF OF ROCKY MOUNTAIN COALITION FOR RENEWABLE ENERGY AND VK CLEAN ENERGY PARTNERS, LLP** was e-filed with the Wyoming Public Service Commission and a true and correct copy was sent via electronic mail addressed to the following:

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