



STATE OF ALABAMA
ALABAMA PUBLIC SERVICE COMMISSION
P.O. BOX 304260
MONTGOMERY, ALABAMA 36130-4260

LUCY BAXLEY, PRESIDENT
TWINKLE ANDRESS CAVANAUGH, ASSOCIATE COMMISSIONER
TERRY L. DUNN, ASSOCIATE COMMISSIONER

WALTER L. THOMAS, JR.
SECRETARY

Alabama Power Company,
Petitioner

PETITION: For a certificate of convenience and necessity for the acquisition of rights and the assumption of payment obligations under a power purchase arrangement pertaining to a wind energy generating resource operated in Grant and Garfield Counties, Oklahoma, together with all transmission facilities and arrangements, appliances, appurtenances, equipment, acquisitions and commitments necessary for or incident thereto.

Docket No. 31653

ORDER

BY THE COMMISSION:

I. INTRODUCTION

Alabama Power Company (“Alabama Power” or “Company”), acting in accordance with the provisions of Rate CNP (Certificated New Plant) and Alabama Code § 37-4-28, filed with the Commission a petition for a certificate of convenience and necessity (“Petition”). By this Petition, the Company sought to certify a purchased power arrangement (“PPA”) with Chisholm View Wind Project, LLC (“Chisholm View”) involving up to 202 MW of wind energy supplied from a wind farm being developed by Chisholm View in Grant and Garfield Counties, Oklahoma (collectively, the “Chisholm View PPA”).

Following proper notice, an evidentiary hearing was held at which time the Company offered evidence in support of its petition. No opposing testimony or other evidence was offered by the intervening parties. Alabama Industrial Energy Consumers (“AIEC”) did offer four joint stipulations on behalf of itself and Alabama Power that set forth certain conditions proposed to be included in any order certifying the PPA. On the basis of the record compiled at the hearing and other available information, the Commission is of the opinion that the Company’s Petition should be and hereby is granted. In so doing, the Commission adopts the stipulations jointly recommended by AIEC and the Company, as modified herein.

II. PROCEDURAL BACKGROUND

The Company filed its Petition with the Commission on June 10, 2011. In support, the Company submitted two exhibits, the testimony of John B. Kelley and a copy of the PPA, with the latter reflecting redactions of commercially sensitive and proprietary business information. A Notice of Petition was issued by the Commission on June 17, 2011, advising interested parties of the Company’s filing and prescribing a procedural schedule for any petitions to intervene and for any responsive testimony. By filing dated June 28, 2011, AIEC petitioned to intervene. The Office of the Attorney General subsequently petitioned to intervene as well. Neither AIEC nor the Office of the Attorney General filed responsive testimony or other evidence.

A hearing on this petition was held on August 17, 2011. During the hearing, the Presiding Judge granted party status in the proceeding to both AIEC and the Office of the Attorney General. Thereafter, Mr. Kelley appeared as a witness and his direct testimony and the PPA were entered into the record as exhibits. Counsel for AIEC and the Office of the Attorney General were afforded an opportunity to conduct cross-examination, and a representative of the Commission Staff asked Mr. Kelley a number of clarifying questions. Subsequently, counsel for AIEC

introduced an exhibit with four joint stipulations that had been agreed upon by AIEC and Alabama Power. The four joint stipulations were offered by AIEC and Alabama Power with a recommendation that they be made part of any order of the Commission, should it determine to grant Alabama Power's petition and issue a certificate of convenience necessity with respect to the PPA involving the Chisholm View wind facility.

III. DISCUSSION

Under the terms of the Chisholm View PPA, the Company agrees to purchase up to 202 MW of wind energy. The contract term is twenty (20) years, with service expected to commence on or about December 31, 2012. Along with the energy, the Company also obtains rights to all related environmental attributes (which generally include any fuel-related, emissions-related, air quality-related credits and offsets), at no additional cost above the energy price.

As the wind resource is located in north-central Oklahoma, transmission service is required through the Southwest Power Pool ("SPP") and Entergy Services, Inc. ("Entergy") balancing authority areas. Under the terms of the PPA, Chisholm View is responsible for procuring transmission rights to effectuate firm delivery of the resource's output to the Southern balancing authority area. Prior to deliveries under the PPA, these rights will be assigned to the Company, which will then be responsible for the associated costs. In the event Chisholm View is unable to secure the requisite transmission service, the PPA terminates without any cost responsibility to the Company.

As described in the Company's Petition and discussed at the hearing, the PPA is projected to bring positive benefits to customers over its term. Specifically, the delivered price of energy from the wind facility is expected to be lower than the cost the Company would incur to produce that energy from its own resources (i.e., below the Company's avoided costs), with the resulting

energy savings flowing directly to the Company's customers. Staff has analyzed the PPA and its terms and conditions, and has reviewed the Company's economic analyses and supporting data in order to test the reasonableness of that data and the associated projections. In Staff's view, this information demonstrates that the Chisholm View PPA reflects an opportunity to procure rights to a cost-effective renewable energy resource that can be expected to yield positive net benefits to customers over its term.

Staff also has reviewed the joint stipulations offered by Alabama Power and AIEC at the hearing. The four joint stipulations are as follows:

1. The PPA provides for three instances where, if a specified cost cap is exceeded and Chisholm View does not undertake to pay the excess costs, Alabama Power has the option to incur the excess costs and continue to accept delivery of energy. Those cost cap provisions are as follows:
 - Section 8.5 – Excess Transmission Costs.
 - Section 10.4 – Exceeding Buyer's Additional Charges Cap.
 - Section 10.6 – Termination of Agreement Due to Exceeding Seller's Additional Charges Cap.

Prior to the exercise of any of these three options, Alabama Power will make a submission to the Commission staff that includes the economic justification for the exercise of the option and any other information reasonably necessary for the staff to assess the decision. Absent written notice of disapproval within seven (7) business days of the submission (or within such other period agreed to by staff and Alabama Power), the staff shall be deemed to have concurred in the exercise of the option by Alabama Power.

2. Proceeds received by Alabama Power pursuant to the PPA and related to the sale to third parties of energy, transmission rights, or renewable energy credits will be credited against Rate ECR or Rate CNP – Part B, consistent with appropriate Commission direction, the terms of the PPA and other applicable rates.
3. The PPA certified by the Commission may not be materially altered or amended without prior notice and approval of such alteration or amendment by the Commission, as provided under applicable laws and regulations.
4. In the event the PPA is terminated for any reason, the authority conferred by the order of the Commission granting the certificate of public convenience and necessity shall, from that point forward, be deemed cancelled without the need for further action by the Commission.

The second, third and fourth stipulations are reflective of the authority inherent in a certificate of convenience and necessity issued pursuant to Alabama Code § 37-4-28 and Part B of Rate CNP. Staff supports their adoption, with modification, as does the Commission. In this regard, the Commission acknowledges the representations of the Company set forth in its petition and the testimony of Mr. Kelley that costs related to transmission would be passed through Part B of Rate CNP and that energy costs would be recovered through Rate ECR. The Commission, however, reserves the right to determine whether it would be in the public interest to credit any revenues from the sale of energy, transmission rights, or renewable energy credits, as set forth in the second stipulation, to rate mechanisms other than Rate ECR or Rate CNP – Part B.

The first stipulation is unique. It requires notification to Staff regarding certain potential decisions of the Company (should one or more of the enumerated options mature over the term of

the PPA) and affords Staff, and hence the Commission, an opportunity to review the basis for the option the Company proposes to exercise.

The Commission does not wish to establish a system that unduly injects Staff or the Commission into the managerial decisions of Alabama Power, either as a general matter or under the proposed PPA. Special circumstances, however, are presented here. First, Alabama Power has joined with AIEC in recommending this stipulation. This gives the Commission comfort that the proposed review does not and will not improperly interfere with the managerial prerogatives of the Company. Second, the PPA provisions referenced in the first stipulation involve cost caps that are intended to mitigate risk and cost exposure to customers. The Commission recognizes that situations may arise where the Company determines that the incurrence of costs over the identified cost caps is economically justified. The review procedure described in the first stipulation (and as supported by Alabama Power) represents a vehicle whereby the Company will communicate that economic justification to Staff for its consideration and feedback, after consultation with the Commission. Any “notice of disapproval” under this process will, by law, be issued by the Commission, and absent such notice, the Company’s proposed exercise of the subject contractual option will be deemed approved pursuant to this Order. Given the facts and circumstances presented by this proceeding, and with the understanding that Staff also supports the adoption of this stipulation, the Commission believes it to be an acceptable condition of the certificate.

IV. FINDINGS AND CONCLUSIONS

In review of the foregoing, and after consideration of the recommendation by Staff, the materials of record and other information available to the Commission, the Commission **FINDS** that it is in the interest of the Company and the public served by it that a certificate of convenience

and necessity be issued for the Chisholm View PPA, conditioned upon the four stipulations recited above, as modified herein.

IT IS, THEREFORE, ORDERED BY THE COMMISSION, that the June 10, 2011 Petition of Alabama Power be and hereby is granted.

IT IS FURTHER ORDERED BY THE COMMISSION that with the issuance of this certificate of convenience and necessity to Alabama Power pertaining to the Chisholm View PPA, the Commission does hereby grant and convey upon Petitioner, Alabama Power Company, its successors and assigns, all of the rights, power and authority, which under the laws of the State of Alabama, the Commission is authorized to confer for the purposes of acquiring the rights and assuming the payment obligations under the described Chisholm View PPA, together with all transmission facilities and arrangements, appliances, appurtenances, equipment, acquisitions and commitments necessary for or incident thereto.

IT IS FURTHER ORDERED BY THE COMMISSION, that the Company is authorized to recover all costs related to energy purchased and to credit all revenues it receives for energy sold to third parties under the terms of the PPA through Rate ECR (Energy Cost Recovery), subject to the right of the Commission to review, at its option or upon recommendation by the Company, whether revenues the Company receives from any such sales should be credited to other rate mechanisms as the Commission determines would be in the public interest.

IT IS FURTHER ORDERED BY THE COMMISSION, that the Company is authorized to recover all other costs and to credit all other revenues it receives, including those derived from the resale of transmission rights and sale of renewable energy credits to third parties under the terms of the PPA, in accordance with the provisions of Part B of Rate CNP and other applicable rates, subject to the right of the Commission to review, at its option or upon recommendation by

the Company, whether revenues the Company receives from any such resales or sales should be credited to other rate mechanisms as the Commission determines would be in the public interest.

IT IS FURTHER ORDERED BY THE COMMISSION, that jurisdiction in this cause is hereby retained for any further order or orders that this Commission may find just and reasonable under the circumstances.

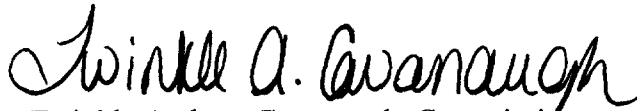
IT IS FURTHER ORDERED BY THE COMMISSION, that this Order shall be effective as of the date hereof.

DONE at Montgomery, Alabama, this 9th day of September, 2011.

ALABAMA PUBLIC SERVICE COMMISSION



Lucy Baxley, President

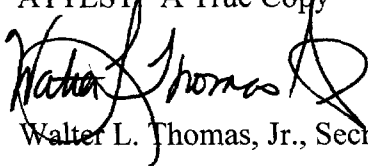


Twinkle Andress Cavanaugh, Commissioner



Terry L. Dunn, Commissioner

ATTEST A True Copy



Walter L. Thomas, Jr., Secretary