BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of PACIFICORP for Approval of its Proposed Electric Rate Schedules and Electric Service Regulations	)))))	DOCKET NUMBER: 01-035-01

POST-HEARING BRIEF OF SALT LAKE COMMUNITY ACTION PROGRAM, CROSSROADS URBAN CENTER AND UTAH LEGISLATIVE WATCH, COLLECTIVELY KNOWN AS UTAH RATEPAYERS ALLIANCE

August 21, 2001

I. INTRODUCTION

Salt Lake Community Action Program, Crossroads Urban Center and Utah Legislative Watch, collectively known as Utah Ratepayers Alliance (hereinafter URA), support the revenue position taken by the Committee of Consumer Services (Committee), based primarily on the testimony of witness Falkenberg. URA argues that the Public Service Commission (Commission) should adopt the final Committee position, a Utah adjustment to PacifiCorp's (Company) proposed net power cost of -$129, 034, 370, resulting in a decrease in the revenue requirement for Utah ratepayers.

In addition, URA urges the Commission to strongly move ahead with Demand Side Management (DSM) measures by ordering PacifiCorp to greatly expand the DSM proposal it made in the middle of this proceeding and include many if not all of the measures proposed by witness Nichols. We urge the Commission to resolve the financing issues in a later portion of this case or in a future hearing.

Finally, URA urges the Commission to order the Company to better integrate its Integrated Resource Planning (IRP), its Resource and Market Planning Program (RAMPP) documentation and meetings, and its ongoing sales and purchases of off-system power to more fully include DSM measures in long-term Company planning.

II. THIS COMMISSION SHOULD ADOPT THE ADJUSTMENTS TO NET POWER COSTS PROPOSED BY COMMITTEE/DIVISION OF PUBLIC UTILITIES WITNESS FALKENBERG

Witness Falkenberg, appearing on behalf of the Division of Public Utilities (Division or DPU) and the Committee, proposed six adjustments to the Company's proposed net power costs. The total of all these adjustments, as shown on DPU Exhibit 9.9, is $129, 034, 370. URA supports each of these adjustments and this total figure.

Mr. Falkenberg detailed these adjustments in his DPU Exhibit 9-SR and each of these points is worth reviewing here. Perhaps the most significant in terms of dollars are the adjustments for actual versus normalized short term power costs, the "losses" on short term firm (STF) sales, and the use of a six year rather than a four year availability model.

He based his use of the actual figures on three points: consistency with past cases, particularly this Commission's order in Case. No. 99-035-010; compliance with the annualization regulations of this Commission (R746-407-3) and the elimination of "hypothetical losses." (Tr.1117-18). The primary reasoning behind each of these adjustments, as well as the other less "expensive" ones, is that they are not typical expenses and thus are not properly included in rates for the future. Witness Falkenberg repeated, in one form or another, that "The basis for this is not prudence but whether it's a recurring cost." (Tr. 1140) (forward buying of

expensive power). The analysis is similar for the losses on short term firm transactions. Falkenberg argues convincingly that losses due to unexpected changes in market prices, such as those which took place during the test year, are not likely to repeat in future years, and thus a forward-looking analysis should exclude them from consideration. And, in addition, since the record shows that the average cost of purchases exceeded the average revenue for sales, Falkenberg's methodology of using purchase price for sales prices, eliminating the losses, makes good sense.

This was also the position of this Commission in Case No. 99-035-01 where STF losses were considered abnormal and excluded from rate base, using an average of transactions each month. (Tr. 1144).

Falkenberg gives other examples where PacifiCorp has included unusual and uncommon experiences in the test year and now asks this Commission to include them in a test year which could be the basis for rates for years to come. "....it's unreasonable, I think, to assume from a ratemaking perspective that the Company is always going to have that kind of bad luck.... But we shouldn't build into rates a permanent adjustment to reflect this kind of a problem that occurred in a specific test year." (Tr. 1121)(market losses).

The same applies to the choice to use a six year outage average, not the four year model suggested by the Company. Unusually high outage rates, including Cholla (and more recently, but thankfully outside the test year, Hunter) have spiked the Company averages for outage times. The six year average is a fairer number which more accurately reflects long term Company trends, rather than freezing numbers based on bad luck. In addition, the long outage time for Cholla should not be included in computing average availability factors. This adjustment is

particularly important because it represents an alternative that was not tried in the Hunter case, where the Company directly asked for deferred accounting and this Commission established a separate docket, to be examined later.

The issue of normal or abnormal outages is particularly important in a case like the present, where it appears to Witness Falkenberg that “ in reality, a significant portion of the increase [sought] is due to an increase in generator outages.” (DPU Exhibit 9 at 6).

Finally, among the other adjustments, is the proper method of accounting for the Company’s unwise and untimely sale of some of its Bonneville Power Authority (BPA) power rights. Falkenberg recommends, and URA agrees, that the current Southern California Edison contract price should be imputed, not the below market actual sales price of the contract. This is consistent with the order in Case No. 99-035-10.

III. THIS COMMISSION SHOULD REVIEW AND REVISE THE RAMPP/IRP PROCESS TO REQUIRE PACIFICORP TO MORE FULLY INTEGRATE THIS PLANNING PROCESS INTO THEIR BUSINESS PLAN AND OPERATIONAL PROCEDURES

PacifiCorp CEO Johansen testified that: “The primary focus for PacifiCorp, the Company that I am CEO of, is to protect the retail customers and provide low-cost, reliable service. And to do so in a way that meets the needs of the customers and also provides a fair return to the investors.” (Tr. 72). She and other Company witnesses explained that, despite the appearance of spinning off a subsidiary, Pacific Power Marketing (PPM), to generate power that was needed to meet retail customer demand, the focus of the Company, the regulated Company was still to serve retail customers. Unfortunately the evidence which came out in this hearing shows that

what planning was undertaken was done more to dominate the wholesale market in the western United States and less to serve the retail customers. While the structure is in place to review this planning, it is not being done in an effective way. This then undercuts the Company's ability to serve its retail customers and results in rate cases like the present one, where ratepayers are being asked to cover the costs of bad planning by the Company.

URA urges the Commission not to reward PacifiCorp for this failure in planning, to require the Company to better plan for its retail customers, to revitalize the RAMPP process and to emphasize the importance of this undertaking.

Several witnesses demonstrated the shift in strategy by the Company between RAMPP-4 and RAMPP-5, where the Company became much more involved in large long term wholesale purchases and sales. The simplest representation of this pattern, and the clearest showing of how retail customers were affected was in testimony and exhibits of DPU Witness Compton. His DPU Exhibit 13.1 SR shows the "native load" compared to PacifiCorp capacity over several years. His conclusion:

> And my point and Ms. Wilson's is that what caused them to get into this problem is not bad trades in the short-term market, but the fact that they had overcommitted in the long market and had to meet the long-term needs with very high prices on the short-term market.

(Tr. 1209). This is the essence of Witness Wilson's testimony as well: bad planning and an overcommitment to non-retail loads has caused most of the need for this rate increase. This Commission need not sanction this bad planning now by bailing out the Company for its speculative activities.

And this is true even if there was some benefit for consumers in other years. Whether the

benefit to ratepayers was the $1.3 billion that Witnesses Watters and Johansen testified to (Tr. 138; 59) or the smaller amount Witness Wilson found (Tr.1221), it is no longer a revenue credit for retail customers at all. In fact, Witness Wilson termed it a "revenue debit." (Tr.1222). The issue in this case is whether ratepayers should pay that bill. If the Commission finds that bad planning and overcommitment to low-cost wholesale sale contracts caused the high-price purchases that are driving this rate increase request, no increase should be granted.

This again requires us to look at the Company's planning effort. Despite some positive-sounding rhetoric from CEO Johansen about integrated resource planning and expansion of demand side management (Tr. 48), her testimony demonstrated that much of the planning for new plant is actually being done by the unregulated PPM entity which may or may not even sell to PacifiCorp. This does not seem like planning to protect retail customers from increased rates or costs. Rather it seems like a business strategy designed to appeal to investors and bond-rating companies. (Tr. 122). Perhaps the critical question is the one asked by Commissioner Campbell:

> ...if the Company did pursue a strategy of playing the wholesale market, does that mean that ratepayers -- retail ratepayers need to cover all the risk you're seeing in the wholesale market because we received this billion dollar benefit, even though -- even though it wasn't necessarily required for retail load? (Tr.121).

Testimony from nearly all of the non-Company witnesses concluded that this market playing did occur and it is the primary reason for this rate case. Another way to state this is that the Company clearly did not properly plan for its retail customer load. It failed to timely adopt appropriate DSM measures, which will be discussed more fully below, and it failed to properly develop a valid long-range planning process to provide least-cost energy service to its regulated customers.

While much of the discussion in this case has focused on RAMPP-4, RAMPP-5 was not

acknowledged by this Commission for a variety of reasons which really set the stage for this rate case and offered a preview of what did come to pass. In the Commission Order filed in 1999 in Case No. 97-2035-06, the Commission ordered the Company to make a number of changes in its resource planning. While RAMPP-6 was just filed, too late to be considered in this case, the problems identified two years ago are graphically illustrated in this case.

First, this Commission in addressing RAMPP-5, ordered the Company to show that there was consistency between the strategic business plan and the IRP Action. The testimony and exhibits in this case show that the overall business plan for the Company involves even more plant development and wholesale sales. Some of this may be done either by the regulated Company or the newly separate PPM which is beginning an aggressive building plan. But the testimony does not clearly explain how, with this new development, the overall business plan fits with any resource planning. Mr. Widmer suggested that even though the business plan and the IRP are still developed by entirely different groups of people, that they are compatible.(Tr. 430-31). Yet the submissions to the regulators and the submissions to the investors show a very different emphasis: using the market to enhance profitability is not synonymous with "insulating" retail customers from the market. This case is about asking the Commission and the Utah ratepayers to be the insulation for the stockholders because of the cost of the worst contracts.

The planning failure here is also apparent in the Commission's RAMPP-5 Order in Case No. 97-2035-06 where the Commission found that " the artificial separation of the unregulated wholesale market from the regulated retail market has repercussions for planning" and called for an end to planning load to meet wholesale contracts. This case is rife with testimony that those planning decisions were made to meet wholesale contracts (the business plan) and not to mitigate

risks for and meet the demand of the retail customers (the resource plan).

No discussion of planning to meet demand would be complete without mention of the Centralia plant sale. Here the Company chose to sell a plant with substantial capacity in order to avoid cleanup costs, then negotiated to buy back much of the power generated to meet load forecasts at a relatively high price as then reflected in the market. The Company has urged that since the Commission's order in that case, Case No. 99-2035-03, assigned the gain from the sale 95% to ratepayers, that now 95% of the higher cost power the Company has been forced to buy should be charged to ratepayers. Rather, this Commission should determine how these expenses should be distributed now. This is not second-guessing the Company in a belated prudence review of the Commission's approval of the sale. It is a recognition that the Commission dealt only with the gain on the sale of the plant and discussed future risks without issuing an order specifically dealing with the cost consequences of that sale. The costs in this case are a result of the Company selling the plant, giving up rights to some inexpensive BPA power, and other Company decisions. All of these actions tied into the business plan of meeting wholesale demands with wholesale contracts rather than coordinating the business plan with integrated resource planning.

The Centralia sale involved business decisions, first to apply to the Commission for approval, then to consummate the sale after approval. The timing of the sale, the decision to buy power from TransAltus, the price of that power, and how to replace it all were Company decisions. There clearly has been some cost associated therewith, but this Commission has not decided how to assess that cost and to whom. In this hearing, the need for power to replace Centralia has been rolled in to the need to buy power to cover the Hunter outage, the low water

year, and all of the other causes of a need to purchase power. Better planning and an integration of the business plan with the IRP might have changed all of this. RAMPP and the business plan should both clearly articulate how retail customers will be isolated from the need to purchase high-cost power in the market to meet long-term wholesale contracts. As yet that has not been done and there is no reason for ratepayers to now shoulder this burden.

IV. THE COMMISSION SHOULD ACTIVELY AND AGGRESSIVELY REQUIRE THE COMPANY TO EXPAND ITS DSM OFFERINGS AND RESOLVE THE ACCOUNTING QUESTIONS FOR SUCH PROGRAMS

As will be seen more in the later phase of this hearing, URA strongly urges the Commission to prod the Company to do more DSM. This is consistent with this Commission's recent Order in Case No. 01-035-T09, whereby four new DSM tariffs were approved, subject to cost recovery being addressed in an appropriate rate hearing. These proposals are a good start, but as testified by Utah Energy Office (UEO) Witness Nichols, woefully short of the DSM potential for Utah. This Commission seemed to imply some of this same perspective when, in that case, it urged " the parties to continue to investigate additional cost-effective DSM programs and bring them to the Commission for approval as soon as reasonable." The reality is that only the Company can really bring these programs before the Commission and the Company has lagged badly.

Witness Nichols' testimony and the Tellus Report, UEO Exhibit 2.2 , lay out a smorgasbord of DSM choices for various classes of service. The Company in its recent filing has undertaken a few of those. But serious DSM planning and programs, and their introduction long

before the summer heat, would have had large effects on resource planning and diminished the need to purchase expensive power.

Witness Nichols' direct testimony, UEO Exhibit 2, demonstrates that many of these additional programs, including appliance recycling, residential and commercial load control, efficient cooling, Combined Heat and Power (CHP) and others can be cost-efficient and meet the most stringent standards used by the Commission for evaluating such programs, such as the Rate Impact Measure (RIM) test. The Commission needs to push the Company to undertake many more of these programs which provide a least cost way to meet the energy requirements of customers. URA urges the Commission to order the Company to undertake and submit studies of the proposals recommended by Witness Nichols and submit those results to the Energy Efficiency Advisory Group. Those that provide cost effective resources should be adopted quickly upon proposal and comment.

And the Commission should clarify how it prefers to treat these expenses in rate cases. Whether that is done in the spread of the rates portion of this case, in a separate docket, as a tariff rider, or in some other manner is not critical. While many of the parties spent much of their time focused on the rate impacts of these proposals, most agreed that they were a cost-effective way to avoid additional market purchases of expensive power. The Commission must order prompt submission of these additional DSM measures so that evaluation and authorization can be accomplished in a timely manner to meet next summer's peak demand, thus avoiding the need to resort to another round of high-cost market purchases.

CONCLUSION

This Commission should deny the Company a rate increase for its net power costs because of its corporate decisions which have resulted in a free-market business plan that utterly failed to protect or insulate Utah retail customers from high prices in that market. The Company's lack of appropriate planning and failure to integrate its business plan and its resource plans as well as its limited DSM proposals have left the Company with expensive wholesale contracts to meet. That should not be the expense of the ratepayers. Nor should the lack of serious DSM proposals. The Commission should order the Company to evaluate and submit cost-effective DSM measures as proposed in the Tellus report as soon as possible and determine how they should be accounted for either later in this case or in a future proceeding.

Respectfully submitted this 21st day of August, 2001.

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