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2004 WL 2656541 (Utah P.S.C.)

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**(Publication page references are not available for this document.)****H**Re PacifiCorp  
Docket No. 04-035-42Utah Public Service Commission  
October 20, 2004*ORDER APPROVING TEST PERIOD STIPULATION  
SYNOPSIS*

The Commission approves a Stipulation providing for the use of a test period consisting of normalized, forecasted results for PacifiCorp's 2006 Fiscal Year, April 1, 2005 through March 31, 2006 for setting rates in this case effective April 1, 2005.

APPEARANCES: Edward A. Hunter, For PacifiCorp, Attorney at Law, Stoel Rives, Gary A. Dodge for UAE Intervention Group, Attorney at Law, Hatch, James & Dodge, Michael L. Ginsberg for Division of Public Utilities, Assistant Attorney General, Reed T. Warnick for Committee of Consumer Services, Assistant Attorney General, Dale F. Gardiner for AARP, Attorney at Law, Parry Anderson & Gardiner

*PROCEDURAL HISTORY*

On July 30, 2004, PacifiCorp ('Company') filed a Motion for Approval of a Stipulation setting a schedule for the filing of PacifiCorp's proposed general rate case, a first technical conference, discovery and the availability of the Company's GRID model. Parties to this Stipulation are: PacifiCorp, the Division of Public Utilities ('Division'), the Committee of Consumer Services ('Committee'), Utah Industrial Energy Consumers ('UIEC'), Federal Executive Agencies ('FEA'), Utah Farm Bureau Federation ('Farm Bureau'), AARP and Crossroads Urban Center ('Crossroads'). Following notice, a hearing on the Stipulation was held August 20, 2004. No party opposed the Stipulation and the Commission ruled from the bench approving the Stipulation.

On August 4, 2004, PacifiCorp filed an application, including direct revenue requirement testimony, for a rate increase of \$111 million based on a future test period beginning April 1, 2005 and ending March 31, 2006. PacifiCorp filed direct cost of service testimony on August 13, 2004.

Following an August 11, 2004 scheduling conference, the Commission issued a Scheduling Order on August 19, 2004. On August 27, 2004, PacifiCorp filed direct testimony on its rate design proposals. On August 31, 2004, PacifiCorp filed a Motion for Protective Order. A Protective Order was issued by the Commission on

September 1, 2004.

After several schedule changes, the Commission set October 12, 2004 for a hearing on the test year to be used in this case. On October 8, 2004, parties filed a Test Period Stipulation. Parties to the Test Period Stipulation are: PacifiCorp, Division, Committee, UAE Intervention Group ('UAE'), FEA and AARP. A hearing on the Test Period Stipulation was held on October 12, 2004. At the hearing, witnesses for PacifiCorp, Division and Committee presented testimony supporting the Test Period Stipulation. UAE, through its attorney, made a statement supporting this Stipulation. No party opposed the Test Period Stipulation. The Commission questioned the parties and witnesses regarding various aspects of this Stipulation.

Intervenors in this case are: UAE, comprised of Alliant Techsystems, Central Valley Water Reclamation District, Chevron U.S.A., Conoco Phillips, Hexcel Corporation, IHC Health Services, Simplot Phosphates Ltd., Swift & Company-Utah, Utah Association of Energy Users and Western Electrochemical Company; FEA; AARP; Farm Bureau; the Kroger Company; UIEC, comprised of Critical Care, Fairchild Semiconductor, Holcim, Kennecott Utah Copper Corp., Kimberly-Clark Corp., Malt-O-Meal, Micron Technology, Praxair and Western Zirconium; Comcast Cable Communications and Nucor Steel.

#### *TEST PERIOD STIPULATION*

Without modifying its terms in any way, the following is a brief summary of the Test Period Stipulation (Attached). The parties agree that the test period to be used for purposes of determining the Utah revenue requirement in this case consists of normalized, forecasted results for PacifiCorp's 2006 Fiscal Year, April 1, 2005 through March 31, 2006. The parties further agree that the Test Period Stipulation satisfies the requirements of Utah Code 54-4-4(3), allows the parties to challenge any aspect of PacifiCorp's forecasts of its Test Period revenue requirement and has no future binding effect on any of the parties or the Commission with respect to test periods in future proceedings. The Test Period Stipulation also recommends establishment of a Task Force, with a separate docket and a reporting deadline of April 1, 2005, to develop and propose rules to establish timing, evidentiary and procedural requirements to implement the provisions of Utah Code 54-4-4(3) regarding selection of a test period. The Test Period Stipulation requires PacifiCorp to meet certain filing and reporting obligations, including the requirement that PacifiCorp file its next Utah general rate case no earlier than January 1, 2006. The Test Period Stipulation has a Force Majeure provision that allows PacifiCorp to seek deferral of costs (above those in rates and that exceed \$44 million on a Utah-allocated basis) related to a major generation or transmission failure.

#### *DISCUSSION, FINDINGS AND CONCLUSIONS*

A test period as used in traditional rate-base, rate-of-return regulation is a

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twelve month period of utility operations used in setting rates that when properly adjusted will afford the utility a reasonable opportunity to earn its allowed rate of return. This opportunity is achieved through Utah Code 54-4- 4(3) that requires the Commission to select a test period that, on the basis of the evidence, it finds best reflects the conditions that a public utility will encounter during the period when the Commission determined rates will be in effect. Utah statutes, after amendment in 2003, allow, with conditions, the test period to be constructed from historic data with known and measurable adjustments, part historic and part forecasted data, or forecasted data not to exceed twenty months from the date of filing of the utility's case. Ideally, the test period should balance the utility's investment, revenues and expenses so that all elements of the rate case are matched on the same level of operations. Each case needs to be considered on its own merits and the test period selected should be the most appropriate for that case. The test period selected for a utility in a particular case may not be appropriate for another utility or even the same utility in a different case. Some of the factors that need to be considered in selecting a test period include the general level of inflation, changes in the utility's investment, revenues or expenses, changes in utility services, availability and accuracy of data to the parties, ability to synchronize the utility's investment, revenues and expenses, whether the utility is in a cost increasing or cost declining status, incentives to efficient management and operation and the length of time the new rates are expected to be in effect.

For many years our general practice has been to rely on historical test periods without out-of-period adjustments. A major concern with out-of-period adjustments is the possible bias and lack of complete information about offsetting adjustments. Additional concerns discussed in the order in Docket No. 92-049-05 include the Company's unequalled access to financial and accounting information and the shifting of risks to ratepayers of the uncertain future as management action may offset the effects of regulatory adjustments. Our concerns with future test periods include the diminished economic examination and accountability, replacement of actual results of operations data with difficult-to-analyze projections, ability of parties to effectively analyze the Company's forecasts, dampening of the efficiency incentive of regulatory lag, playing to the Company's strength from control of critical information and shifting of the risks of the future to ratepayers.

PacifiCorp testifies that negotiations, open to all parties, began in June 2004 before the Company filed its case. As a result of these discussions, the Company made changes to its proposed filing, including the use of a more recent base period (twelve months ending March 2004) in the determination of its forecast test period. PacifiCorp testifies that test period negotiations between the parties continued on August 11 and 24, September 7, 22 and 28 and October 4 and finally resulted in the Test Period Stipulation filed with the Commission. PacifiCorp testifies that the Test Period Stipulation includes the following safeguard provisions: 1) parties can challenge any aspect of the forecast, 2) establishment of a

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Task Force to address test period procedural issues, 3) filing by the Company of information to allow comparisons with the forecast and 4) opportunity for the Company to seek deferral of excess power costs due to a major facility failure. PacifiCorp testifies that the Test Period Stipulation is consistent with the amended Utah statute in that rates in this case are expected to go into effect on April 1, 2005, the beginning date of the projected test period. The Company testifies that with the rapid growth of the system, the implementation of new approaches to asset management and the implementation of recommendations from the Storm Report, the forecast test period best reflects the costs the Company must incur in the rate effective period to provide the planned level of service. The Company testifies that it needs a fair opportunity to earn its authorized rate of return to attract funding, at competitive rates for its planned substantial investments. The Company further testifies that an historical test period with known and measurable changes outside the test period could result in significant mismatches, the use of a forecast test period is most compelling when costs are changing dramatically from historic levels and PacifiCorp is in a period where both capital and operation and maintenance costs are increasing significantly to meet growing customer demand for electricity.

The Division testifies in support of the Test Period Stipulation stating it resulted from many meetings of the parties over the past few months, it represents the best balance of the interests of the ratepayers and the Company, PacifiCorp has major plant investments in the future, the Test Period Stipulation does not establish any precedent, the Company's next general rate case cannot be filed before January 1, 2006, the Company agreed to various reporting requirements, the Division is working on additional safeguards that it plans to present in later testimony, the key cost differences between an historical test period and the forecast test period are pensions and generation and distribution plant. The Division considered using 20 months of known and measurable changes to an historical test period, but concluded that a forecast test period was best, that the Division had confidence it could work with the forecast test period, and finally that a forecast test period, while better in this case, raises other concerns cited in the Commission's order in Docket No. 92-049-05.

In support of the Test Year Stipulation, the Committee testifies that it provides for information filings by the Company needed to make comparisons with actuals and earlier forecasts, the Company must not file a new general rate case before January 1, 2006, that PacifiCorp's burden of proof should be greater with a forecast test period, and that the Committee's consultants have experience with rate cases based on forecast test periods. The Committee pointed out that the Utah Code 54-4-4(3) requires known and measurable adjustments to an historical test period to occur during a time period that is close in time to the test period and they believe that time period would not be 20 months.

UAE states that it supports the Test Period Stipulation because of the establishment of the Task Force, PacifiCorp's information filing requirements, and the

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delay before the Company can file a new general rate case.

In response to questions from the Commission regarding the joint numerical exhibit mentioned in the Test Period Stipulation, PacifiCorp and the Division committed to providing the required information.

Utah Code 54-7-1 encourages settlement of matters before the Commission. The Test Period Stipulation was unopposed at the hearing. The Test Year Stipulation states that parties continue to have disagreements over the appropriate test period to be used in future rate cases and that there is no future binding effect. The Test Year Stipulation further states that the recommendation for a Test Year Task Force results from the difficulties some parties encountered in trying to determine the best test period in this case. In summary, parties to the Test Year Stipulation support it as a fair and workable compromise of differing party views for the purposes of this case, but reserve the right to study the issues via the Test Year Task Force and make independent test period recommendations in future rate cases. We conclude that the Test Year Stipulation is fair and reasonable for the purposes of this case and is in the public interest.

#### ORDER

Wherefore, pursuant to our discussions, findings and conclusions made herein, we order the Test Period Stipulation is approved.

This Order constitutes final agency action on Party's October 8, 2004, Petition. Pursuant to U.C.A. § 63-46b-12, an aggrieved party may file, within 30 days after the date of this Order, a written request for rehearing/reconsideration by the Commission. Pursuant to U.C.A. § 54-7-15, failure to file such a request precludes judicial review of the Order. If the Commission fails to issue an order within 20 days after the filing of such request, the request shall be considered denied. Judicial review of this Report and Order may be sought pursuant to the Utah Administrative Procedures Act (U.C.A. §§ 63-46b-1 et seq.) and the Utah Rules of Appellate Procedure.

DATED at Salt Lake City, Utah, this 20th day of October, 2004.

Ric Campbell, Chairman Constance B. White, Commissioner Ted Boyer, Commissioner

#### ATTACHMENT

##### TEST PERIOD STIPULATION

1. This Stipulation ('Stipulation') is entered into by and among the parties whose signatures appear on the signature pages hereof (collectively referred to as the 'Parties').

#### INTRODUCTION

(Publication page references are not available for this document.)

The terms and conditions of this Stipulation are set forth herein. The Parties represent that this Stipulation is in the public interest and recommend that the Public Service Commission (the 'Commission') approve the Stipulation and all of its terms and conditions.

#### *Background*

On August 4, 2004, PacifiCorp filed a general rate case application and supporting testimony in the above-referenced docket. Through this filing, PacifiCorp requested a revenue requirement increase of approximately \$111 million, based on a future test period that began on April 1, 2005 and ended March 31, 2006.

Since this general rate case filing, the Parties have engaged in settlement discussions regarding PacifiCorp's proposed test period. As a result of those discussions, the Parties have reached the agreement set forth herein.

#### TERMS of the stipulation

*Test Period.* The Parties agree that the test period to be used for purposes of determining the Utah revenue requirement in this case consists of normalized, forecasted results for PacifiCorp's 2006 Fiscal Year, April 1, 2005 through March 31, 2006 ('Test Period'), which is the test period filed by PacifiCorp as Exhibit JTW-1 in this case. The Parties stipulate and agree that this Test Period, as defined and qualified by this Stipulation, represents a fair and workable compromise of differing Party views for purposes of this case. The Parties also stipulate and agree that, notwithstanding their differing views on the appropriate test period, the use of this Test Period in this case satisfies the requirements of UCA § 54-4-4(3), allows the Parties, pursuant to paragraph 12 of this Stipulation, to challenge any aspect of PacifiCorp's forecasts of its Test Period revenue requirement, and otherwise permits the presentation of evidence which will enable the Commission to set just and reasonable rates in this rate case.

*No Precedent.* The Parties continue to have disagreements over the appropriate test period to be used in future rate cases. The Parties agree that the terms of this Stipulation should have no future binding effect on any of the Parties or the Commission with respect to establishing which test period 'best reflects' rate effective conditions in future proceedings and that the Parties have not waived any arguments in that regard in future proceedings.

*Test Year Taskforce.* The Parties hereby agree and recommend that the Commission should promptly establish a taskforce with a separate generic docket number to develop and propose rules to establish timing, evidentiary and procedural requirements to implement the provisions of UCA § 54-4-4(3) regarding selection of a test period. This recommendation results from the difficulties some Parties encountered in trying to determine the best test period in this case. The Parties recommend

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that the Commission order the Taskforce to consider, without limitation, issues such as: (1) the evidence that is necessary and sufficient in order for the Commission to be able to properly determine the test year in a particular rate case; (2) the need for and timing of a test year hearing; (3) how to develop a sufficient record such that the Commission can 'select a test period that, on the basis of evidence, [it] finds best reflects the conditions' in the new rate effective period (UCA § 54-4-4(3)(a)); and (4) how the Commission should interpret and implement the factors to be considered in selecting a test period. The Parties recommend the Commission order that the Taskforce first convene no later than November 1, 2004, and meet thereafter as often as necessary in order to finalize and present to the Commission no later than April 1, 2005, a consensus report and proposed rules regarding the implementation of UCA § 54-4-4(3). If the Taskforce does not reach a consensus position, Parties who elect to do so shall file individual proposed rules and/or reports with the Commission no later than April 1, 2005.

8. *Filing Obligation In Next Rate Case.* In the event the Commission has not resolved all of the issues described in paragraph 7 by October 1, 2005, PacifiCorp, the Division of Public Utilities, the Committee of Consumer Services and other interested parties will meet to discuss the information to be filed and the test year to be used in PacifiCorp's next Utah general rate case. If PacifiCorp and the parties participating in these discussions are unable to reach agreement on a test year on which to file the next Utah general rate case, PacifiCorp agrees it will file with its general rate case filing the following data: (a) a historical 12-month period ending September 30, 2005 (or ending March 31, 2006, if PacifiCorp files its next general rate case after July 31, 2006) with in-period annualization and normalization adjustments; (b) adjustments to the historical data to reflect a forecast for the period that ends approximately but no more than 12 months from the date of filing; and (c) adjustments to the historical data to reflect a forecast for the period that ends no more than 20 months from the date of filing. PacifiCorp agrees to provide information, data and supporting documentation and models, including net power cost calculations, for the periods identified in paragraph 8 (a), (b) and (c) above.

9. *Reporting.* PacifiCorp agrees to file with the Parties by December 1, 2005 actual FY2006 revenue, expense, capital, customer loads and net power cost information (without normalizing, annualizing or Commission-ordered adjustments) for the first six months of FY 2006 (April 1, 2005 to September 30, 2005). The above information will be provided to the Parties on both a total company and Utah-allocated basis. PacifiCorp also agrees to file with all Parties by December 15, 2005, a report for the following functional categories: steam, hydro, other production, power supply, transmission, distribution, customer service, customer accounting and administrative and general expenses. The report will compare PacifiCorp's 6 months actual results (April through September 2005) and 6 month forecast (October 2005 through March 2006) with the Commission's Joint Numerical Exhibit and PacifiCorp's original filed forecast. Each of these six month periods

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(actual and forecast) will be provided separately and on a 12-month combined basis. The report will also provide an explanation of any variances that exceed 10% between the data provided and PacifiCorp's original filed forecast. PacifiCorp agrees to meet with the Parties to discuss and explain these filings and answer questions relating to the same in December 2005.

10. *Next Rate Case.* In order to give the Parties adequate time to review the information discussed in Paragraphs 8 and 9 prior to the Company's next general rate case filing, PacifiCorp agrees that its next Utah general rate case will be filed no earlier than January 1, 2006.

11. *Force Majeure.* Notwithstanding the provisions of Paragraph 10, the Parties agree that if a major PacifiCorp generation or transmission asset fails due to a *force majeure* event beyond PacifiCorp's reasonable control, PacifiCorp may, prior to January 1, 2006, seek deferral of any additional costs it incurred to acquire electricity to replace lost capacity or energy because of such failure and initiate a proceeding to recover such deferred costs; provided that any such deferred costs exceed \$44 million on a Utah-allocated basis over that which is then being recovered in rates. All Parties reserve all rights with respect to any such filing for recovery including but not limited to the right to challenge whether PacifiCorp was prudent, whether recovery of any such deferred costs is just and reasonable and whether PacifiCorp has made the necessary showing to recover the deferred costs under Utah law.

12. *No Waiver.* By agreeing to the terms of this Stipulation, the Parties do not waive their rights to challenge any aspect of PacifiCorp's forecasts of its Test Period revenue requirement, including any models, price indices, or historical / budgeted cost and revenue data upon which the forecasts are based. Parties to the Stipulation are not precluded from taking any position or advocating for any methodology for calculating values for any account or any amount in the Test Period.

13. *Obligations of the Parties.* The Parties agree that their obligations under this Stipulation are subject to the Commission's approval of this Stipulation.

14. *Recommendation and Support.* The Parties recommend that the Commission approve and adopt this Stipulation in its entirety. If this Stipulation is approved by the Commission in its entirety, no Party shall appeal any portion of this Stipulation and no Party shall oppose the adoption of this Stipulation in any appeal filed by any person not a party to the Stipulation. The Company and the Division shall make witnesses available to testify in support of this Stipulation and other parties may make such witnesses available. In the event other parties introduce witnesses opposing approval of the Stipulation, the Parties agree to cooperate in cross-examination and in providing testimony as necessary to rebut the testimony of opposing witnesses.

15. *Reservation of Right to Withdraw from Stipulation.* In the event the Commis-



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sion rejects any or all of this Stipulation, or imposes any additional material conditions on approval of this Stipulation, or in the event the Commission's approval of this Stipulation is rejected or conditioned in whole or in part by an appellate court, each Party reserves the right, upon written notice to the Commission and the other Parties to this proceeding delivered no later than five (5) business days after the issuance date of the applicable Commission or court order, to withdraw from this Stipulation. In such case, no Party shall be bound or prejudiced by the terms of this Stipulation, and each Party shall be entitled to undertake any steps it deems appropriate.

16. *Public Interest.* The Parties agree that this Stipulation is in the public interest and that all of its terms and conditions, considered together as a whole, will produce fair, just and reasonable results.

17. *Waiver.* No Party is bound by any position asserted in the negotiation of this Stipulation, except to the extent expressly stated herein, nor shall this Stipulation be construed as a waiver of the rights of any Party unless such rights are expressly waived herein. Execution of this Stipulation shall not be deemed to constitute an acknowledgement by any Party of the validity or invalidity of any particular method, theory or principle of regulation or cost recovery, and no Party shall be deemed to have agreed that any method, theory or principle of regulation or cost recovery employed in arriving at this Stipulation is appropriate for resolving any issues in any other proceeding in the future. No findings of fact or conclusions of law other than those stated herein shall be deemed to be implicit in this Stipulation.

Dated this 7th day of October, 2004.

PACIFICORP D. Douglas Larson Vice President, Regulation PacifiCorp

UTAH DIVISION OF PUBLIC UTILITIES Michael Ginsberg Assistant Attorney General

UTAH COMMITTEE OF CONSUMER SERVICES Reed Warnick Assistant Attorney General

FEDERAL EXECUTIVE AGENCIES Craig Paulson, AFLSA/ULT Attorney

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