BEFORE THE

PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of Rocky Mountain Power for Authority to Increase its Retail Electric Utility Service Rates in Utah and for Approval of its Proposed Electric Service Schedules and Electric Service Regulations	)	**Docket No. 10-035-124**

Prefiled Direct Testimony of

Dennis E. Peseau

on Revenue Requirement

On behalf of

Utah Industrial Energy Consumers

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Dennis E. Peseau. My business address is Suite 250, 1500 Liberty Street, S.E., Salem, Oregon 97302.

Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?

A. I am President of Utility Resources, Inc. The firm has consulted on a number of economic, financial, and engineering matters for various private and public entities since 1985.

Q. ON WHOSE BEHALF ARE YOU TESTIFYING IN THESE PROCEEDINGS?

A. I am testifying on behalf of the Utah Industrial Energy Consumers ("UIEC").

Q. DOES ATTACHMENT A TO YOUR TESTIMONY ACCURATELY DESCRIBE YOUR QUALIFICATIONS, BACKGROUND, AND EXPERIENCE?

A. Yes.

Q. WHAT IS THE SUBJECT OF YOUR DIRECT TESTIMONY IN THESE PROCEEDINGS?

A. My testimony addresses the following subjects:

- The rapidly changing world of electric transmission expansion in the United States and how that can lead to rate and cost allocation abuses;

- The Commission should protect the Utah rate payers from the Company's attempted abuse of its monopoly position;
- Cost allocation should be based on cost causation; and
- I propose an alternative cost allocation method that considers cost causation.

Q. PLEASE DESCRIBE THE CHANGES IN TRANSMISSION EXPANSION AND HOW THAT MAY LEAD TO RATE AND COST ALLOCATION ABUSES.

A. The potential for such abuses arises because transmission systems are now often designed to meet new and multiple objectives. These objectives include the promotion of individual state public policy decisions such as the transport of renewable power resources from resource-rich geographical regions to distant load centers, the promotion of economic regional exchanges due to load diversity, competitive access for other third party and wholesale customers and retail customers under state jurisdiction. Transmission is no longer built just to connect a generator to the load at the other end.

Q. HOW MIGHT THE COMMISSION PROTECT THE UTAH RATEPAYERS FROM SUCH ABUSES?

A. The Commission in this case needs to act decisively to curb the Company's attempted abuse of its monopoly position to charge only the retail customer of Utah for transmission projects that clearly as planned to benefit a multitude of customers. The

competitive market facing third party developers could normally be expected to curb monopoly abuses. In this case, however, the absence of competition requires regulators to act. The sometimes awkward division of regulation between state and federal transmission jurisdictions raises inevitable market imperfections. In this case, the Commission must step up and address and prevent the abuses that FERC cannot address on behalf of retail ratepayers due to the absence of a Regional Transmission Organization ("RTO"). Regulation is designed to avoid or overcome these market imperfections. Absent competition, the monopolist can charge whatever it can get away with knowing that the captive customer cannot seek an alternative supplier to avoid unfair charges. In this case, Rocky Mountain is doing just that. Despite numerous benefits to several customer groups, the Company chooses to allocate 100% of its revenue requirement associated with the Energy Gateway project to its captive retail customers, with an uncertain promise that in the distant future retail customers may receive some amount of revenue credit. This Commission is urged to protect Utah retail customers by allocating only that portion of the revenue requirement of these facilities that they cause and will benefit from. The economic principle of cost causation in allocating costs and revenue requirement has never been more important.

Q. PLEASE EXPLAIN THE CONCEPT OF COST ALLOCATION BASED ON COST CAUSATION.

A. These numerous objectives of transmission expansion and the resulting potential for abuses have led the Federal Energy Regulatory Commission ("FERC") to propose to alter national rate making concepts away from a system of revenue crediting for captive customers toward a system of economic equity involving cost causation and cost and revenue requirement allocation to all groups of transmission users. But the FERC emphasis on cost causation and allocation is limited to abuses on the federal level. State regulators need to step in and protect retail ratepayers from the same abuses, as retail rate payers will not benefit from the cost causation reforms being implemented by FERC.

Rocky Mountain Power's ("RMP" or "Company") proposed expansive Energy Gateway Transmission Project ("Energy Gateway") is a perfect example of such a new system that, if not anticipated, will lead to various economic and rate equity abuses. This in turn promotes potential "free riders" for all other of its transmission customer groups that would use Energy Gateway for the numerous public policy requirements. Only decisive action by this Commission in this case can avoid these abuses. An analogy would be if a new highway was built to serve what was expected to be a new large development and shopping center in town D. The highway went through towns A, B, and C, and led to town D. Towns A, B, and C were billed for the highway, even though they only had marginal usage and were not the reason that a highway was built

rather than a simple road. Towns A, B, and C are burdened with the costs of the highway and the risk that the large development and new shopping center may never be built.

Q. WHAT DO YOU RECOMMEND?

A. I propose an alternative to the traditional rate making concept for RMP as a transmission provider that instead allocates the rate base, costs and revenue requirement according to established economic rate making principles of benefits and cost causation as reiterated by Judge Posner in the Seventh Circuit decision, *Illinois Commerce Commission v. Federal Energy Regulatory Commission*, 576 F.3d 470 (7th Cir. 2009), wherein he prohibited FERC from socializing transmission costs to those who would realize no or trivial benefits in relation to costs. *Id.* At 476. As I understand, this concept also exists under Utah law whereby assets cannot be included in rates until they provide value to the ratepayer. *See Committee of Consumer Servs. v. Public Serv. Comm'n*, 595 P.2d 871 (Utah 1979); *Utah Power & Light Co. v. Public Serv. Comm'n*, 152 P.2d 542 (Utah 1944).

Along these lines, my testimony demonstrates how RMP's proposal to allocate 100% of its Energy Gateway investment of more than $6 billion exclusively to its retail customers severely abuses its monopoly position. In this case, RMP proposes to exercise an unfair competitive advantage over the other potential private transmission developers by accessing what amounts to a retail rate payer funding bank. RMP would

underwrite and remove all competitive and financial risk of the Energy Gateway project by charging its retail customers alone for its development. This outcome would, of course, deny the normal market competition from third party developers. Most importantly, the Company's proposal leads to unreasonable and excessive retail rates. I urge the Commission to recognize that the absence of competition in this case is allowing RMP to force retail customers to bear the entire risk of non-use of this grand transmission project. The Commission needs to become the surrogate for the market or RTO protection that is developing at the federal level. And, unlike the situation with regional transmission organizations regulated by FERC where competitive outcomes can be preserved by regulation, no protection against monopoly abuses will be possible unless this Commission, acting as the court of last resort, implements a policy designed to cope with this absence of competition.

My testimony addresses the severe impact on the Utah retail customers from RMP's proposal to allocate 100% of the revenue requirement of the Utah portion of its Populus to Terminal transmission project to retail customers only.

Q. HOW SIGNIFICANT WILL THE ENERGY GATEWAY PROJECT'S COSTS BE TO RMP'S RATE BASE?

A. RMP and FERC have indicated that Energy Gateway will increase the Company's total existing transmission rate base by more than 330%.[1] This massive increase in rate base must be anticipated by regulators with a careful examination of how the revenue requirement associated with Energy Gateway, and Populus to Terminal in particular, should be allocated among RMP's present and future retail and nonretail customers.

Q. WHAT IS THE IMPACT UPON RMP'S UTAH RETAIL CUSTOMERS FROM THE COMPANY'S REQUEST TO CHARGE ONLY RETAIL CUSTOMERS THE ENTIRE REVENUE REQUIREMENT FOR THE POPULUS TO TERMINAL INVESTMENT?

A. The total project cost of Populus to Terminal is approximately $819 million[2]. On page 9, lines 205-214 of RMP witness Mr. Gerrard's testimony, and in his Exhibit RMP__ (DTG-1), he identifies the additional $575.5 million costs of the project that have been or will be placed into service after June 30, 2010. RMP witness Mr. McDougal calculates the revenue requirement associated with the total $819 million Populus to Terminal rate base addition. If authorized by this Commission, Utah retail customers'

[1] Petition for Declaratory Order of PacifiCorp to Confirm Incentive Rate Treatment for the Energy Gateway Transmission Expansion Project, page 7, July 3, 2008 and FERC October 21, 2008 Order in EL-75-000, page 17.

[2] Represented as total investment, estimated as of January 2011, in RMP's response to data request WIEC 22.4 in Wyoming case No. 20000-384-ER-10.

revenue requirement will be increased by approximately $46.9 million per year by the $819 million Populus to Terminal investment.

Q. WHAT ARE THE EXPECTED RATEPAYER SAVINGS ASSOCIATED WITH POPULUS TO TERMINAL?

A. According to UIEC witness Mr. Mark Widmer, the Populus to Terminal segment may generate an $8.6 million reduction in *total system* net power costs. Total system power costs of the Company are approximately $1.5 billion. This meager level of savings of 0.5% percent pales in comparison with the cost allocation the Company proposes to impose on rate payers. The Utah impact is similarly negligible. As Judge Posner pointed out costs should not be shifted to customers who receive no benefit or whose benefits "are trivial in relation to the costs sought to be shifted." *Illinois*, 576 F.3d at 476.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to expose a fundamental flaw in the Company's approach to rate recovery of its proposed eventual $6 billion Energy Gateway project and its request in this case to allocate 100% of its revenue requirement associated with the Populus to Terminal project entirely to retail customers. RMP's intent to burden retail customers exclusively with the revenue requirement of this vast transmission project would provide the Company with the equivalent of no-risk funding mechanism

from retail ratepayersfor Company investment, its shareholders and non-retail free rider customers. RMP makes clear that this $6 billion effort, of which the $819 million Populus to Terminal is a part, is being built for all of its present and future customers. These customers are not limited to retail ratepayers but include present and future requirements of developers of conventional and renewable resources, all western states with renewable portfolio standards, as well as all other present and future third party or wholesale customers. RMP's intent to charge only retail rate payers has the effect of imposing the socialized costs of the entire western interconnected transmission system upon RMP's retail customers. This is in direct contradiction to the principle that "All approved rates must reflect to some degree the costs actually caused by the customer who must pay them." *Id.* (internal citations omitted).

Q. PLEASE SUMMARIZE YOUR RECOMMENDATIONS AND CONCLUSIONS.

A. I recommend that the Commission conclude that 50% of the Company's revenue requirement associated with the investment in the Populus to Terminal transmission line be allocated to Utah retail rate payers in this case. Given that the Commission has adopted a forecast test period, my recommendation would reduce RMP's total rate base by approximately $409 million (total company) and, therefore, lower the Company's Utah revenue requirement by approximately one-half of the requested $46.9 million revenue requirement, or by $23.45 million.

Q. PLEASE SUMMARIZE WHY YOU RECOMMEND THAT ONLY 50% OF THE REVENUE REQUIREMENT ASSOCIATED WITH THE INVESTMENT IN THE POPULUS TO TERMINAL LINE BE ALLOCATED TO RETAIL CUSTOMERS AT THIS TIME.

A. As presently constructed, the Populus to Terminal line has the ability to reach a capacity rating of 1400 MW. However, until the Gateway West and Gateway South segments are constructed, the Populus to Terminal line must be limited to a capacity rating of 700 MW.[3] In 2008, the original Energy Gateway plan called for the Populus to Terminal line to be constructed in 2010 and to achieve the full 1400 MW capacity rating by 2014. However, for a variety of reasons, RMP has postponed Gateway West and South such that some segments are not anticipated to come on line until 2017-2020, and others have been postponed indefinitely. Since RMP has made an investment in a transmission line that will only be able to operate for the benefit of retail customers at 50% of ultimate capacity, the portion of the investment that is not for the benefit of retail customers during the test period should not be included in the Company's rate base. The Company should look to its other customers for reimbursement of the remaining 50%.

[3] The RMP analysis that calculated the planned capacity on the Populus to Terminal line to be 1400 MW once the Gateway project was done assumed the construction of both Gateway West and South. In response to WIEC Data Request 27.5(c) in Wyoming, RMP explained that it may be possible for the Populus to Terminal line to eventually reach the full 1400 MW planned capacity if only Gateway West is built. However, RMP notes that studies to confirm that statement have not yet been completed.

As shown in RMP responses to data requests in this case, and in other publications, the Company planned the capacity for Populus to Terminal and other Energy Gateway segments to meet its expected sizeable long-term regulatory requirements to serve loads. These regulatory requirements included not only retail loads, but anticipated large loads from nonretail customers. RMP has pointed to nearly 5000MW of expressed interest from third parties at the outset of Energy Gateway planning as support for the magnitude of the project. These interests did not result in signed transmission service agreements. The original high expectations for demand from third parties attributable to new generation resources and growing resource portfolio standards was soon to be reduced due to the competitive uncertainty of power markets and the financial markets and economic chaos of the 2008 recession, which ultimately caused many prospective transmission customers to withdraw their requests.

Q. HOW DOES PACIFICORP DESCRIBE ITS PLANNING ASPECTS FOR THE PROPOSED ENERGY GATEWAY AND GATEWAY CENTRAL PROJECTS?

A. PacifiCorp differentiates this over $6 billion project from its more conventional resource planning. The Company states:

> Unlike the conventional "generation before transmission" approach, this transmission project [Energy Gateway] is a relatively new approach, constructing transmission ahead of specific generation resources. With increasing development of location – constrained renewable resources, one project often can no longer form an anchor for transmission. (parenthetical provided)

"Frequently Asked Questions" at 1, Exhibit__(DEP-1).

In its confidential supplemental response to UIEC 5.7, the Company states:

[redacted] page 1, Summary of Energy Gateway Financial Analysis, November 19, 2009.

PacifiCorp is proposing to construct Energy Gateway in anticipation of future development of generation resources, and future markets for such resources, despite the 2007-2008 pull back from third party subscribers. I do not judge this decision, but I do argue that the attempt now to charge only retail customers for this is unfair and does not attribute reasonable cost causation.

Q. HOW IS THE ENERGY GATEWAY SYSTEM DESIGNED TO FUNCTION ONCE COMPLETED?

A. According to RMP, the Energy Gateway project is designed to provide the entire western U.S. with a backbone transmission capability to serve not only RMP's retail customers, but customers throughout the WECC. RMP's plans for the Energy gateway project were detailed in a FERC order as follows:

> [Energy Gateway] is a backbone transmission project providing a platform for integrating and coordinating future regional and sub-regional electric transmission projects being considered in the Pacific Northwest and the Intermountain West. Its configuration is described as a "hub and spoke" design which is characterized by PacifiCorp as major EHV transmission lines that connect areas with a strong potential for generation resource development (hubs) to an enhanced transmission system (spokes) for delivery to customers throughout the western United States. Under the Project, hubs are planned for

> western Wyoming, south central Wyoming, southwestern Idaho, south central Utah, and southern Oregon. From the hubs, power will be collected and moved in different directions to permit PacifiCorp to efficiently deliver power from a variety of generation sources to load. According to PacifiCorp, the additional transmission infrastructure and the "hub and spoke" design will provide flexibility, improve efficiency and enable development of clean and renewable energy resources and will ensure that PacifiCorp's system will be capable of meeting future regional needs.

FERC Order on Petition for Declaratory Order, Docket No. EL08-75-000 at ¶ 3.

Q. HOW HAS THE COMPANY PROPOSED TO ALLOCATE THE REVENUE REQUIREMENT ASSOCIATED WITH POPULUS TO TERMINAL COST OF SERVICE?

A. The Company proposes to treat the Populus to Terminal investment identically to the treatment of more traditional retail generation, transmission and distribution rate base. The Populus to Terminal project is not, however, constructed exclusively for the purpose of meeting the needs of its present and future retail customers, but rather for a much broader use. This includes the socialization of public policy considerations of individual states such as transporting power to Western states with renewable portfolio standards, reliability and interconnection benefits to all present and future Western U.S. energy developers (both renewable and traditional) and ultimate consumers. Energy Gateway and the Populus to Terminal segment in particular, is not designed solely for retail customers. While RMP recognizes this, it has chosen to request the Commission's permission to have Utah retail rate payers fund the ongoing and carrying

costs of the entire Energy Gateway project. Under RMP's proposal, retail customers are bearing the risk and expense of all present and future unused capacity on the system. This outcome could not, of course, exist were the Energy Gateway project competitively developed. Third party developers do not have the luxury of tapping into such a captive bank of retail customers from which they can acquire the funds to underwrite such projects. Again, this absence of competition is what the Commission should address in this case. The decision will determine whether Utah retail rate payers will be burdened with an excess allocation of the Populus to Terminal revenue requirement as well as the remaining segments of Energy Gateway for decades to come. The Commission can relieve Utah rate payers of this by allocating non-use to others, thus allowing competitive forces and private banking to be simulated. This is a superior outcome compared with forcing retail rate payers to fund the portion of Populus to Terminal that might develop once Energy Gateway is completed.

Q. COULDN'T A REVENUE CREDITING MECHANISM ASSOCIATED WITH THE POPULUS TO TERMINAL LINE BE COMPENSATORY TO RETAIL RATEPAYERS IF THIS RISK OF NON-USE IS IMPOSED UPON THEM?

A. No. First, there is a controlling economic principle here that should not be intentionally ignored in favor of an inferior revenue crediting mechanism. The economic principle is that costs and risks should be allocated according to the causers of these costs and risks. "All approved rates must reflect to some degree the costs actually caused by the

customer who must pay them," and "[t]o the extent that a [customer] benefits from the costs of new facilities, it may be said to have 'caused' a part of those costs to be incurred." *Illinois*, 576 F.3d at 476. In this instance, retail customers should bear only the costs and risks associated with the transmission built to serve them—costs should be allocated on the basis of benefits. Under the revenue credit concept, costs and risks of the non-use of Populus to Terminal must be assumed by retail ratepayers in the hope that wholesale uses on this line will one day materialize and produce revenues sufficient to offset those costs. Revenue credits don't work to the good of retail rate payers most of the time because these credits provide no relief from nonuse of the transmission lines. If wholesale and third party users don't use those facilities designed for them, retail ratepayers bear the risks and must pick up the cost burden of this nonuse. FERC is recognizing this at the federal level. My proposal in this case recognizes and overcomes much of this nonuse burden for retail rate payers. Secondly, the levels of revenue credits have proven to be very fickle in Utah. As I understand it, the Company offered in the last case, Docket No 10-035-89, to give Utah a transmission revenue credit of 20%[4] of the bundled revenue associated with off-system sales of power. This was confirmed in this case in response to UIEC Data Request 3.39. Now, however, according to this same data response, these revenue credits appear to have dwindled significantly. Also, according to Exhibit SRM-3, filed with the testimony of RMP witness Mr. Steve McDougal, wholesale revenues are declining.

[4] My understanding is that a system wide $156 million transmission revenue credit was assumed in Docket No. 10-035-89.

Revenue credits cannot be expected to relieve retail customers of this financial burden. Thus, the crediting mechanism will not be compensatory. The ultimate capacity of this Populus to Terminal segment is severely constrained until the later segments of Gateway South and Gateway West are completed in 2017-2020. This means that the present and future capacity designed for third parties cannot generate revenue credits to offset any present Energy Gateway rate base costs imposed on retail rate payers today.

Q. HOW MIGHT TOTAL SYSTEM REVENUE CREDITS BE APPORTIONED TO UTAH RETAIL RATE PAYERS UNDER YOUR PROPOSAL?

A. Like other cost of service and revenue allocators, there is no single best method. One possibility that is straightforward is to reduce the Utah portion of test year transmission load ratio share by the ratio of Utah test year total transmission rate base with 50% of Populus to Terminal investment removed. For example, if the 50% Populous to Terminal adjustment I propose reduces test year rate base otherwise calculated by 20%, then Utah would be apportioned 80% of revenue credits it otherwise would receive.

Q. PLEASE PROVIDE A NUMERICAL EXAMPLE OF THIS CONCEPT.

A. Yes, but again this example may not be the best method. If the pre-Populus to Terminal Utah transmission rate base is $750 million and the Utah allocated Populus to Terminal rate base is $350 million, then the calculation becomes:

($750M + .5*$350M) / ($750M + $350M) = .84

In this example, 84% of the revenue credits otherwise allocated to Utah would be credited to Utah retail customers.

Q. HAVE PROBLEMS WITH POTENTIAL INEQUITIES WITH COST ALLOCATIONS AMONG TRANSMISSION CUSTOMER USER GROUPS BEEN ADDRESSED RECENTLY?

A. Yes. FERC has recently discovered serious problems and inequities with transmission allocations targeted at "captive" rate payers and the inherent unfairness of allowing "free rides" for other transmission users, as shown in my Exhibit __ (DEP-2), which is an excerpt from the June 17, 2010 FERC Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities ("NOPR"), Docket No. RM10-23-000. In recognition of this, FERC granted PacifiCorp a superior return on equity ("ROE") for the Energy Gateway—13%.

Then, PacifiCorp attempted to syndicate the project while explaining to FERC that the Company has reduced or eliminated the shareholder financial risk of Energy Gateway with its intent to request in each of its state jurisdictions to charge its retail customers 100% of the project's revenue requirement.[5] The Company acknowledged to FERC that it recognized that its state regulators may be unwilling to place this burden for the capacity that failed to be syndicated on their respective retail rate payers. In the Affidavit of Mr. John Cupparo to FERC in the Company's Petition for Incentive

[5] Cuparro Affidavit in Petition and FERC Order in Docket No. EL08-75.

Ratemaking, he explains "…PacifiCorp will also face significant financial risks when it seeks rate recovery for its investment in the Project from its state regulators. PacifiCorp will ask all of the transmission investment for the Project to be included in PacifiCorp's rate base for delivered retail electric service. However, PacifiCorp faces a risk that state regulators will not include all of the investment in retail rates if the benefits to retail customers are not proven to be sufficient…." Affidavit page 31.

But, at this same time, PacifiCorp's attempts at syndicating Energy Gateway to third parties failed. PacifiCorp recognized this and Mr. Walje, President of Rocky Mountain Power explained to the Wyoming Infrastructure Authority in July 2008 that "New transmission may have to be a 'build before subscribe' approach." As a result, PacifiCorp is back asking the rate payers to fund the entire project. To be sure, retail customers in Utah will benefit to some degree from the additional reliability and economic and system opportunities afforded by Energy Gateway and Populus to Terminal.[6] As I explained above, however, the magnitude of these benefits from the Populus to Terminal line are limited until the period 2017-2020. In acknowledging these benefits, I recommend that this Commission allocate a substantial portion, but not all, of the Populus to Terminal facilities' revenue requirement to Utah rate payers. RMP is free to collect its remaining Populus to Terminal revenue requirement from all other present and future non-retail customers such that the rate burden is equitably

[6] Judge Posner also acknowledged that there will of course be some benefits "because the network *is* a network and there have been outages." *Illinois*, 576 F.3d at 477. However, the critical question is whether the benefits justify the costs to be shifted to the retail ratepayers. *See id.*

distributed to all benefitting state and federal jurisdictional customer classes, and free riders are held accountable.

Q. HAS RMP THREATENED TO ADDRESS ITS RECOVERY OF NON-USE BY MARKETING THE ADDITIONAL CAPACITY ELSEWHERE?

A. Yes. In its Petition for Reconsideration in the recent Idaho Docket No. ID PAC-E-10-07, RMP stated in response to the Idaho Commission's reduction of retail customers' Populus to Terminal revenue requirement, that "…the Company will be forced to contract the associated capacity or otherwise seek means to obtain a return on the investment. That would mean that when Idaho needs added transmission capacity, it will be a different (likely higher) cost, if transmission capacity will be available at all…." RMP Petition for Clarification and Reconsideration at 15, Idaho Docket No. ID PAC-E-10-07. Nevertheless, RMP has the obligation to charge retail customers only fair rates, and to attempt to provide a return on investment for its shareholder. This is precisely what would occur in an open, unencumbered market. RMP should be encouraged in this case to do both—contract the associated capacity and, if and when additional capacity is needed for retail, provide that at fair rates.

Q. HAS THE COMPANY SINCE ELABORATED ON ITS PETTION TO THE IDAHO TO THE IDAHO PUBLIC UTILITIES COMMISSION?

A. Yes. RMP has responded recently to UIEC Date Requests 29.9 and 29.10:

UIEC Data Request 29.9

In pleadings in Idaho, PacifiCorp contends that the portion of the transmission system found not to be used and useful on a retail basis may be used for "non-utility purposes." Please explain in detail what those purposes are and the revenue sources for those purposes.

Response to UIEC Data Request 29.9

The purposes are something other than serving PacifiCorp retail customers. The sources of revenue are irrelevant since the investment would not be dedicated to PacifiCorp retail service.

UIEC Data Request 29.10

In its pleadings in Idaho, PacifiCorp contends that if a portion of the transmission system were to become used for non-utility purposes it would then not be available for utility purposes. Please explain that meaning of that statement and the consequences of that result.

Response to UIEC Data Request 29.10

Please refer to the Company's response to UIEC Data Request 29.9. In its simplest forms, either the capacity in the portion of the transmission line would be sold to another user or the ownership in the portion of the transmission line would be sold/transferred to another entity. In any form, the transmission capacity is no longer dedicated to PacifiCorp retail public service and is not available for retail use by PacifiCorp customers.

Q. DOES THIS RESPONSE BY THE COMPANY CAUSE YOU CONCERN?

A. No it does not. I interpret this response to mean that RMP intends to utilize this nonuse portion of the line exactly as originally planned at the outset of Energy Gateway planning in 2007. That is, the capacity of the line not used by its retail customers will be marketed to third parties as it intended. Parties would be free to use the line for, as RMP puts it "non-utility purposes', such as the transporting of renewable energy from

Wyoming to the west coast. This is a good outcome. The difference now is that retail customers would not be on the hook as a captive retail bank of last resort for the portion of Populus to Terminal that was not syndicated to third parties as originally planned. This is a step closer to the theme of overcoming abuses from the absence of competition that I introduced above.

Q. HAS FERC BEGUN TO DEVELOP POLICIES THAT APPEAR TO ENCOURAGE AN EFFICIENT ALLOCATION OF TRANSMISSION LINES NOT NEEDED BY CAPTIVE CUSTOMERS?

A. This appears to be the case. In its order issued May 20, 2011, FERC authorized SunZia Transmission, LLC to reserve up to 50% of its respective shares of the transmission line's capacity for anchor customers on a long-term basis. The remaining 50% of capacity would be treated more normally and would be available to any prospective customers through open seasons. To the extent that FERC continues this new policy, up to 50% of the Populus to Terminal as well as other Gateway Energy segments could be requested by the Company to be treated similarly.

Q. CAN UTAH RATE PAYERS EXPECT FERC TO BRING EQUITY TO THIS FREE RIDER PROBLEM?

A. No. As I understand Energy Gateway, FERC will establish wholesale transmission rates. However, unless encouraged to do otherwise, RMP will include the entire cost of

the project in retail rate base, which is determined at the state commission level. This makes the Utah Commission the court of last resort for defending its retail rate payers.

Q. ARE THERE GUIDELINES THAT THE COMMISSION SHOULD CONSIDER IN CORRECTING THE FREE RIDER PROBLEM?

A. Yes. Transmission costs should always be tied to benefits, otherwise subsidies and discriminatory rates result. My Exhibit__ (DEP-2) provides a useful summary of transmission cost allocation considerations designed to bring about equity and fairness in charging users and causers of the new transmission systems that are designed to integrate and meet national trends toward cooperatively developed transmission expansion. FERC is concerned that transmission customers cannot be expected to support the construction of new transmission unless they understand who pays the associated costs.[7] In laying out the principles for who should pay for new transmission systems, FERC relies heavily on the economic cost allocation principle of cost causation.[8] "Causers" according to FERC are those prospective regional users that in some way benefit from the new transmission facilities' ability to improve overall system reliability, reduced production costs and the meeting of public policy requirements (such as renewable energy and diversification away from coal).

[7] NOPR paragraph 121.
[8] NOPR paragraphs 139-147.

Q. WHO WILL BENEFIT FROM THE COMPLETION OF ENERGY GATEWAY AND POPULUS TO TERMINAL?

A. Numerous groups of present and future customers of RMP that I have identified stand to benefit in the manner FERC has described. RMP shareholders will similarly benefit. Accordingly, all such user groups must be allocated the transmission costs they have caused. While a specific cost attribution and allocation study is beyond the scope of my testimony, I have estimated that an allocation of 50% of the revenue requirement of Populus to Terminal to retail customers is fair and reasonable based on the limited benefit they will receive and the fact that they are not the primary cost causers.

Q. WOULD YOUR PROPOSAL CAUSE THE REMAINING REVENUE REQUIREMENT OF POPULUS TO TERMINAL TO BE ALLOCATED TO OTHER STATES?

A. No. The retail customers of all states in which RMP operates should similarly only be responsible for their respective jurisdiction allocations of 50% of the aggregate Populus to Terminal revenue requirement.

Q. DO YOU QUESTION THE PRUDENCY OF POPULUS TO TERMINAL FROM ENGINEERING, SCALE AND RELIABILITY PERSPECTIVES?

A. No, I have indicated in prior testimony that I do not challenge the veracity of these facilities on these bases. I state this because in other RMP state jurisdictions where I

have raised this same equity issue, RMP has gone to great lengths to argue that Populus to Terminal and other segments of the larger Energy Gateway project make sense from engineering, scale and reliability perspectives. I don't disagree.

What I challenge is RMP's apparent shell game wherein the overall engineering of Populus to Terminal was done in the context of the potential completion of Energy Gateway for the benefit of several transmission user groups, but its allocation of revenue requirement is allocated fully to present retail customers. Fairness as well as economic principles should be adhered to by ensuring that all those that benefit pay. This principle is one of the bedrock principles of utility regulation and helps ensure that the regulated monopoly price is similar to a price that would be achieved in a competitive market.

Q. ARE YOU ASKING THE COMMISSION TO DISALLOW ANY PORTION OF THE COSTS OF THE POPULUS TO TERMINAL LINE BECAUSE OF IMPRUDENCE?

A. No. It is true that the cost of the Populus to Terminal segment is very expensive compared to the rest of Energy Gateway – specifically, approximately $6.1 million per mile for this segment compared to the estimated approximately $2.8 million per mile

for the rest of Energy Gateway.[9] However, I am not proposing that the Commission determine that any portion of the Populus to Terminal line is imprudent.

Q. PLEASE DESCRIBE THE ENERGY GATEWAY PROJECT?

A. A more detailed description of the Energy Gateway Project is found in Appendix I, "Brief Overview of Energy Gateway Development". That description demonstrates that the various segments have had, and continue to have, significant delays and postponements.

Q. PLEASE DESCRIBE THE POPULUS TO TERMINAL TRANSMISSION LINE.

A. The line is a double-circuit 345 kV transmission line that runs approximately 135 miles between the Populus substation in southern Idaho and the Terminal substation in northern Utah. The line is part of what is known as Path C. In 2005, PacifiCorp agreed to upgrade Path C to address congestion issues as a condition of the merger with Mid-American Energy Holding Company.

[9] The $6.1 million per mile is derived by dividing the $819.3 million investment by the 135 mile distance of the line ($819.3/135=$6.1 million). The $2.8 million per mile per mile is derived by dividing the remaining $6 billion minus $819.3 million and dividing by the remaining 1865 miles of Gateway ($5181/1863=$2.8 million).

Q. WHAT WAS THE ANTICIPATED CAPACITY OF THE UPGRADED LINE AT THE TIME OF THE MEHC ACQUISITION?

A. Merger Commitment 34, as attached to the Utah merger Docket No. 05-035-54, required MEHC and PacifiCorp to upgrade Path C by 300 MW to relieve congestion, enhance reliability, and facilitate the receipt of renewable resources. The Path C upgrade was important to customers because Path C was identified as a potentially congested transmission path. However, prior to the conception of the Energy Gateway project, a 300 MW upgrade to Path C was seen as sufficient to meet system and customer needs. A copy of Merger Commitment 34 is attached as my Exhibit __ (DEP-3).

Q. HOW MUCH WAS THE ORIGINAL PATH C UPGRADE ESTIMATED TO COST?

A. The Company estimated that the Path C upgrade, as contemplated in the Merger Commitments, would cost approximately $78 million. By comparison, the Populus to Terminal line addition to Path C has a cost $819.3 million to construct.[10]

[10] Response to WIEC Data Request 22.4.

Q. WHY DID PACIFICORP BUILD THE POPULUS TO TERMINAL LINE WITH SO MUCH MORE CAPACITY THAN THE ORIGINAL MERGER COMMITMENT CONTEMPLATED?

A. As I alluded to above, as PacifiCorp conceived and designed the Energy Gateway project, it became important for this segment to have a much higher capacity to allow it to complement and work in conjunction with the other large transmission lines that make up Energy Gateway. As originally conceived, the transition from its MEHC commitment to ratepayers of the 300MW Path C upgrade to up to a 6,000MW complete transmission expansion began as a joint venture to bring 3,000 MW from Wyoming to Mona and 3,000MW from the Mona area into the desert southwest, as contained in my Exhibit__(DEP-4). The co-development took shape among four parties PacifiCorp, APS, National Grid and Wyoming Infrastructure Authority as described in my Exhibit __(DEP-5). Shortly thereafter, in July, 2008, PacifiCorp indicated its intention to proceed with essentially the same project on its own. Energy Gateway was born as a transmission expansion designed as PacifiCorp's first "build before subscribe" Exhibit__(DEP-6) project and "a relatively new approach, constructing transmission ahead of specific generation resources."Exhibit__(DEP-1). This concept of building ahead of known users introduced an element of risk that RMP attempted to eliminate by expressing to FERC and others that it would be requesting that it be permitted to charge retail customers for 100% of Energy Gateway. This gave RMP a financial advantage over other transmission builders for funding, a reduced risk

to shareholders, and a distinct competitive advantage over competitors vying for the same market.[11] To the extent that RMP is successful in laying off the burden of non-use of Energy Gateway to retail rate payers, it will continue to enjoy a competitive advantage over private transmission developers that must obtain some degree of certainty from nominating users in order to finance their projects.

Q. WHAT IS THE CAPACITY OF THE POPULUS TO TERMINAL LINE, AS CONSTRUCTED?

A. This segment has a planned rating of 700 MW as it has been initially put into service.[12] Subsequently, when, and if, Gateway West and South are completed, the planned rating will go up to 1400 MW.[13] Importantly, this increase to the planned rating is not related to any additional or new construction or any significant alteration of the Populus to Terminal line. Rather, this increase in the planned capacity rating is because of the completion of Gateway West and South. That means that the line, as initially constructed, could have a planned rating of 1400 MW today but for the fact that Gateway West and South are not yet built. Again, given these facts, I conclude that only 50% (700 MW/1400 MW) of the line is for the benefit of retail ratepayers. At least 50% is for the benefit of other users. These other users should bear at least 50% of the risk of non-use by bearing at least 50% of the costs.

[11] The developer of Transwest continued its plans to construct its line from Wyoming to the west coast after the original co-development with RMP failed.

[12] PacifiCorp 2008 IRP, p. 283.

[13] Id.

Q. DOES THIS CONCLUDE YOUR TESTIMONY AT THIS TIME?

A. Yes.

APPENDIX I

Brief Overview of Energy Gateway Development

Energy Gateway was first unveiled in 2007. The project, in total, contemplates PacifiCorp investing over $6 billion for approximately 2,000 miles of high voltage transmission lines, primarily 500 kV, throughout the western United States. If completed as originally planned, the project would have a total capacity of up to 6,000 MW with the intention of transmitting electricity generated in Wyoming and elsewhere, to markets in California, southern Nevada, Utah and the Pacific Northwest. Energy Gateway is often described in three major parts – Gateway West, Gateway South, and Gateway Central.

Gateway West includes Segments A, D, E, and H. Segment A is currently planned to be a line from Wallula substation (WA) to McNary substation (WA). Segment A was originally estimated to be in service in late 2011 but now the estimated in service date for this segment is 2012-2013.[14] Segment A also originally included a segment from Walla Walla substation to Wallula substation but that portion of the line is no longer scheduled to go forward.[15] Segment D is a line from Windstar substation (WY) to Populus. Segment D was originally estimated to be in service in 2014 but is now scheduled for 2015-2017.[16] Segment E is a line from Populus to Hemingway substation (ID). The in-service date for this segment has been changed from 2016 to perhaps as late as 2018.[17] Gateway West generally is designed to improve the export capacity from generation facilities in Wyoming and Idaho to loads in

[14] PacifiCorp 2008 IRP Update at p. 24 and PacifiCorp 2011 IRP at p. 283.
[15] PacifiCorp 2011 IRP at p. 283.
[16] PacifiCorp 2008 IRP at p. 281 and PacifiCorp 2011 IRP at p. 286.
[17] PacifiCorp 2008 IRP at p. 281 and PacifiCorp 2011 IRP at p. 287.

Utah, Idaho, Oregon, and Washington – a transmission path that currently experiences severe transmission constraints.[18] Gateway West, as originally conceived, included Segment H – a line from Hemingway to Captain Jack substation (OR). However, according to the 2011 IRP, PacifiCorp is currently reconsidering the prudence of that line in light of other proposed lines in the area and it is unclear whether that line will ever come into existence.[19]

Gateway South was originally conceived as a system to wheel power from Aeolus substation in central Wyoming, through Utah, to Crystal substation in Las Vegas, NV. Gateway South began with Segment F from Aeolus to Mona substation (UT). Segment F was originally supposed to come in service in 2017.[20] However, according to the 2011 IRP that segment has been delayed to 2017-2019.[21] Segment G is a line from Sigurd substation (UT) south of Mona to Red Butte substation (UT). Segment G was originally scheduled to come on line in 2013.[22] Currently, PacifiCorp "hopes" to bring Segment G into service in 2014.[23] Finally, Gateway South also originally included a segment to connect Red Butte to Crystal. That segment was also originally scheduled to come on line in 2013.[24] However, according to the 2011 IRP, PacifiCorp informed the Nevada Public Utilities Commission in January 2011 that the Company was postponing the construction of that segment indefinitely.[25]

[18] Id. at p. 286.
[19] Id. at p. 288.
[20] PacifiCorp 2008 IRP at p. 281.
[21] PacifiCorp 2011 IRP at p. 287.
[22] Energy Gateway Status Update (June 2008).
[23] PacifiCorp 2011 IRP at p. 285.
[24] Energy Gateway Status Update (June 2008).
[25] PacifiCorp 2011 IRP at p. 287.

Finally, Gateway Central has two components. Segment B is the Populus to Terminal line. Segment C is a line from Mona to Oquirrh substation (UT) and from Oquirrh to Terminal. Segment C is anticipated to come on line in 2014.[26] Gateway Central is designed, in large part, to interconnect Gateway West and Gateway South.

[26] PacifiCorp 2011 IRP at p. 284.

APPENDIX A

QUALIFICATIONS OF DENNIS E. PESEAU

1985 – Present	President of Utility Resources, Inc., a firm that provides consulting and technical services on economic and financial matters. Dr. Peseau has conducted numerous studies on economic, energy and competitive and regulated markets, including complex litigation. His regulatory experience includes studies and testifying on a number of cost of service, rate of return and rate design issues in more than 100 civil and administrative proceedings.
1978 – 1985	Vice President, Zinder Companies, Inc. Dennis headed the west coast office of the national consulting organization headquartered in Washington, D.C. His primary responsibilities included marginal and incremental cost of service studies, rate of return and rate design for a number of public utilities companies.
1974 – 1978	Senior Economist, Oregon Public Utility Commissioner. Dr. Peseau conducted numerous studies on behalf of the Commissioner's staff on various financial capital structure, rate of return, econometric and forecasting issues.
1972 – 1974	Senior Economic Analyst, Southern California Edison Company. Dennis worked in Southern California Edison's economics department on matters of economic growth and energy pricing, cost of service and econometric and statistical analysis.

Education

PhD, M.A., Claremont Graduate School

B.A., California State University, Chico

Dr. Peseau has conducted studies on regulatory revenue requirements, cost of service, rate of return, system planning and resource plans and general financial feasibility analyses in the states of:

Alaska	Minnesota	Virginia
California	Montana	Washington
Colorado	Nevada	Washington, DC
Idaho	New York	Wyoming
Maryland	Oregon	

In addition, Dr. Peseau has testified or provided analysis before the Federal Energy Regulatory Commission, and the federal Bonneville Power Administration, and in Alberta, Canada and Pemex in Mexico City.

CERTIFICATE OF SERVICE
(Docket No. Docket No. 10-035-124)

I hereby certify that on this 26th day of May 2011, I caused to be e-mailed, a true and correct copy of the foregoing **PREFILED DIRECT TESTIMONY & EXHIBITS OF DENNIS E. PESEAU ON REVENUE REQUIREMENT ON BEHALF OF UIEC** to the parties below. For those who have signed the protective order and would like a copy of the confidential version, please email a copy of your execution of the agreement and we will in turn send you a copy of the confidential testimony.

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