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ACTION REQUEST RESPONSE

To: *Public Service Commission*

From: Division of Public Utilities
Chris Parker, Director
Artie Powell, Manager
Joni Zenger, Technical Consultant

Date: February 8, 2013

Re: **Docket No. 13-2035-01**, PacifiCorp's 2013 Integrated Resource Plan/Request for Filing Extension

RECOMMENDATION (Grant PacifiCorp a one-month delay, until April 30, 2013, to file its 2013 Integrated Resource Plan)

Based upon the Division of Public Utilities (Division's) review of PacifiCorp's (Company) request for an approximate one-month extension of time for filing its 2013 Integrated Resource Plan (IRP) and the Commission's Standards and Guidelines on the IRP, the Division recommends that the Commission grant the Company a one-month extension to file its 2013 IRP on April 30, 2013.

ISSUE

On January 8, 2013, PacifiCorp (Company) filed a request with the Commission asking for a one-month extension of time to file its 2013 IRP on April 30, 2013. On January 9, 2013, the Commission issued an Action Request to the Division requesting an agency review and recommendations. This memorandum is in response to the Commission's Action Request.

DISCUSSION AND FINDINGS

The Company states that its request for an extension to file the IRP by April 30, 2013 is due to recent actions by the Environmental Protection Agency (EPA) that are beyond the Company's control. Specifically, the EPA was originally scheduled to take final action on the Wyoming Regional Haze Standard Implementation Plan (SIP) by October 15, 2012, but the deadline was moved to December 14, 2012. Because of the initial delay in the EPA's schedule, the Company suspended its modeling efforts in order to update input assumptions in the modeling of the 2013 IRP once the EPA's December 14, 2012 proposal for compliance with the Wyoming Regional Haze Standard Implementation Plan (SIP) was known. However, the United States District Court for the District of Colorado granted the EPA an extension until March 29, 2013 to re-propose a regional haze implementation plan and compliance rule. In its request for extension of time, PacifiCorp indicates that given the recent delay in the EPA's action it will re-initiate its modeling efforts for the 2013 IRP once the EPA's proposed rules are known. The new EPA deadline is just two days prior to the current IRP filing deadline of March 31, 2013.

These delays should have come as no surprise to the Company. The Wyoming regional haze plan has been ongoing for nearly a decade without resolution. Wyoming first submitted a completed State Implementation Plan in 2003, then a revised version in 2008, and now the current version submitted in 2011 is awaiting EPA approval. While on its face it may seem reasonable to allow the Company to point to the court order approving the EPA's agreed upon deadlines for filing a proposed EPA rule and issuing a final order, this is not the first such court order.¹ The previous one was not complied with, and the Division has little indication that the current dates will be followed. Therefore, given the historically slow and litigious process for promulgating EPA regulations in this matter, the Division believes that despite the initial EPA delay, the Company should have continued forward with its IRP modeling runs as planned or in the alternative, timely requested Commission approval for the filing delay prior to halting the IRP modeling work. However, assuming the EPA had taken final action on the SIP on December 14, 2012, and that the EPA's proposed rules substantially altered the Company's

¹ WildEarth Guardians v. Jackson, No. 11-CV-00001-CMA-MEH, 2011 WL 4485964 (D. Colo. Sept. 27, 2011).

compliance, the Division concedes that had the Company ignored the initial delay and proceeded with the 2013 IRP modeling the quality of the 2013 IRP would have been impacted.

In its letter requesting the filing extension, the Company also indicates that Cholla 4 emissions control requirements and associated assumptions will now be captured in its IRP base modeling runs. The Arizona Regional Haze SIP, published on July 20, 2012, requires the installation of selective catalytic reduction equipment of emissions averaging 0.05 pounds per million British thermal unit by the end of 2017 for PacifiCorp's Cholla 4 unit located in Arizona. Again, the Division believes that with a July 20, 2012, notification date, the Company had ample time to model in its 2013 IRP these assumptions, and therefore, the Arizona Regional Haze SIP does not justify the delay in filing the 2013 IRP by its required March 31, 2013 filing date. However, the Division does believe that these assumptions should be captured in the 2013 IRP. For the 2013 IRP the Company states that it will modify its base case Regional Haze compliance assumptions, as well as update the June 2012 official forward price curve with a September 2012 official forward price curve, and update the most current projections of high and low natural gas prices and costs.

The Division notes that this is not the first, second, or even third time that the Company has either filed a late IRP, requested an extension of time to file its IRP, or filed a partial IRP in March and then additional IRP chapters, addendum materials, or errata filing months later.² The Division has stated its preference to have a complete IRP that is filed on time allowing parties sufficient time to comment on the draft IRP, in order for the Company to take note of the comments received from the draft and to file a final IRP that still leaves 30 days for public comments.³ Delays in the filing only serve to render the importance and usefulness of the IRP questionable. The Commission has agreed with the Division, as expressed in a previous scheduling order:

² The 2007 IRP was filed approximately five months late on May 30, 2007. PacifiCorp's 2007 IRP Update was filed on June 11, 2008. The Company notified the Commission that it planned to file its next IRP on May 9, 2009, and only after Commission order, filed its draft IRP on April 8, 2009. PacifiCorp's partial 2011 IRP was filed on March 22, 2011, and the remaining chapters were filed in an addendum on June 27, 2011.

³ Division Memo to the Commission, Docket No. 09-2-35-01, March 25, 2009.

We concur with the concerns expressed by both the Division and the Committee regarding the importance of receiving IRP information in a timely manner. We further concur that starting a formal review of the IRP sooner rather than later will provide useful information to regulators and interested parties, on a going forward basis, as the Company formulates plans to address the significant resource deficits projected in the future.⁴

The Division reiterates its preference and concerns here.

With that said, the Division believes that under the current circumstances a one-month delay in filing the 2013 IRP is reasonable. The Standards and Guidelines state, “The Company will submit its Integrated Resource Plan biennially.”⁵ Therefore, the Company can still meet this guideline if it files its 2013 IRP on April 30, rather than on March 30, 2013. The Standards and Guidelines also state that “the planning process is fluid and strict adherence to deadlines might be detrimental to the quality of the submitted plan.”⁶ With these guidelines in mind, the Division recommends that the Commission allow the Company until April 30, 2013 to file its 2013 IRP. However, this recommendation is conditioned on the assumption that on April 30, 2013, the Company will file its complete 2013 IRP, rather than portions of the 2013 IRP and other portions at a later date.

CONCLUSION

After reviewing the Company’s request for an extension to file its 2013 IRP on April 30, 2013, as well as the IRP Standards and Guidelines, the Division recommends the Commission grant the Company the extension with the caveat that a complete IRP be filed on April 30, 2013. With this memorandum, the Division requests that this action request be closed.

CC Dave Taylor, Rocky Mountain Power

⁴ Order and Notice of Scheduling Conference, Docket No. 09-2035-01, April 7, 2009, p. 4.

⁵ “Report and Order on Standards and Guidelines,” Docket No. 90-2035-01, June 18, 1992, p. 34.

⁶ *Id.* at p. 28.

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